



**Upper Tribunal  
(Immigration and Asylum Chamber)**

Appeal Number: IA/47388/2013

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 3 September 2014**

**Determination  
Promulgated  
On 8 September 2014**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE DAVEY**

**Between**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Appellant

**and**

**ILIA KROJ**

Respondent

**Representation:**

For the Appellant: Mr G Jack, Senior Presenting Officer  
For the Respondent: No appearance

**DETERMINATION AND REASONS**

1. In this determination the Secretary of State is referred to as the Secretary of State and the Respondent is referred as the Claimant.

2. The Claimant, a national of Albania, date of birth 13 May 1977, appealed against the Respondent's decision dated 30 October 2013 to refuse to issue a permanent residence permit under Regulation 15(1)(b) of the Immigration (European Economic Area) Regulations 2006 (the 2006 Regulations). Refusal was on the basis that the Claimant had not adduced sufficient evidence to show that his EEA national Sponsor had for the purposes of the 2006 Regulations, exercised treaty rights as a qualified person because the Claimant's Sponsor did not have comprehensive medical insurance to cover the period of time required under the Regulations.
3. An appeal against that decision by the Claimant led to the matter being heard by First-tier Tribunal Judge N Paul who, on 22 April 2014, promulgated a decision whereby he allowed the appeal under the EEA Regulations 2006.
4. The Secretary of State appealed against that decision and permission to appeal was given by First-tier Tribunal Judge Foudy on 29 May 2014.
5. By a letter dated 2 February 2014 the claimant's representatives, Kilby Jones, wrote to the Tribunal in connection with the intended hearing today, 3 September 2014, to indicate that "... the Appellant concedes the appeal in this instance in view of the findings in the recent case of Ahmad v SSHD [2014] EWCA Civ 988 (16 July 2014)." In the light of that they indicated that the Claimant and his representatives would not be attending the hearing today. Standard directions had in fact been sent out in connection with this matter on 12 June 2014 and no additional documentation had been forthcoming from either party.
6. In the circumstances I agree with the Respondent that the judge's reasoning does not properly address the issue of the necessary comprehensive private medical insurance and the fact that in the absence

of such evidence the appeal could not succeed, contrary to what the judge had concluded by reason of later arising events.

7. I find the original Tribunal's decision cannot stand and the decision will have to be remade. I considered whether or not it was necessary or appropriate for the case to be adjourned for a resumed hearing or, in the alternative, remitted to the First-tier Tribunal to be remade. In the absence of the evidence required to show that the EEA national did have the required insurance cover, which has not been improved upon or added to by events since the date of the judge's decision, I find that there is no purpose served in having a resumed hearing or remitting this matter to the First-tier Tribunal.
8. The facts that the Claimant's Sponsor did not have the necessary comprehensive medical insurance for the duration of her time spent in the UK as a student. Accordingly the fact that the EEA national obtained cover between 17 February 2014 and 1 April 2014 simply demonstrates that the appeal would in those circumstances have failed in any event. Be that as it may, I find that the Claimant has not discharged the burden of proof upon a balance of probabilities at either the date of application or the date of decision that the requirements of the Rules had been met.
9. The appeal of Mr Ilia Kroj on immigration grounds is dismissed.
10. No anonymity order was previously made nor is one appropriate or necessary.
11. The appeal has failed and therefore a fee award in those circumstances has not been made.

Signed

Date 6 September 2014

Deputy Upper Tribunal Judge Davey

