



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

Appeal Number: OA/04528/2014

**THE IMMIGRATION ACTS**

**Heard at Field House**

**Decision and Reasons  
Promulgated**

**On 19<sup>th</sup> January 2015**

**On 20<sup>th</sup> February 2015**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE RIMINGTON**

**Between**

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

Appellant

**and**

**Mrs Saiqa AMTAL  
(NO Anonymity Direction Made)**

Respondent

**Representation:**

For the Appellant: None.

For the Respondent: Ms J Isherwood, Home Office Presenting Officer

**DECISION AND REASONS**

**The Appellant**

1. The application for permission to appeal was made by the Secretary of State but nonetheless for the purposes of this decision I shall refer to the parties as they were described before the First Tier Tribunal, that is Mrs Amtal as the appellant and the Secretary of State as the respondent.
2. The appellant is a citizen of Pakistan born on 3<sup>rd</sup> February 1981 and she appealed against the respondent's decision dated 25<sup>th</sup> March 2014 to

refuse her application for a family permit to the United Kingdom under the Immigration (European Economic Area) Regulations 2006 as the spouse of a Greek national who was stated to be taking a holiday with her.

3. In a determination dated 20<sup>th</sup> October 2014 Judge of the First Tier Tribunal C M Phillips allowed the appellant's appeal.
4. An application for permission to appeal was made by the respondent contending that the Tribunal erred in allowing the appeal under Regulations 7 and 12(a) of the EEA regulations as there was confusion in relation to the sponsors of which there were two, each playing a separate role. A residence permit was issued to Mr Amtal Aziz, the appellant's husband in Greece, the EEA national and sponsor, and with whom she normally resided in Greece. He became a Greek citizen on 27<sup>th</sup> September 2013. However, the appellant intended to visit her uncle Mr Muhammad Afzal. It was contended that the appellant was not a family member of Mr Afzal.
5. Permission to appeal was granted by First Tier Tribunal Judge Chohan on the basis that the appellant's uncle was not the spouse.
6. At the hearing, Ms Isherwood conceded that both the application for permission to appeal and the grant of permission were misconceived. The appellant was accepted by the Greek authorities to be the spouse and family member of an EEA national. The marriage certificate and family certificate showing that the appellant had been registered in Greece was produced at the hearing. She was a family member under Regulation 7 [17]. She does not need to be a family member of the sponsor or uncle in the United Kingdom.
7. The judge accepted that there was unchallenged evidence that the appellant's husband (the EEA national) had been granted a short period of leave by his employer for the purpose of visiting the UK and appeared to accept that the appellant and her husband would be travelling together. Further to **Boodhoo (EEA Regs: relevant evidence)** [2013] UKUT 00346 the judge was entitled to take note of this evidence at the date of the hearing. The uncle in the UK was the person inviting the appellant and her husband for the purposes of a holiday (and as pointed out by the judge the husband did not require an invitation). The judge addressed the question of the omission of tickets as 'not inherently incredible'. The judge allowed the appeal under Regulation 12(a) of the EEA Regulations.
8. I can accept that this was an appeal decided on the papers only and the ECO had not had sight of the marriage certificate but no challenge was raised by the respondent that an oral hearing was required or in relation to the documentation itself.
9. In essence the judge accepted that the appellant was married to an EEA national at the date of decision and that further to Regulation 12(1)(a) they intended to travel to the UK within six months of the date of the

application and would be residing in the UK in accordance with the EEA Regulations on arrival in the UK and (b) the family member would be accompanying the EA national to the UK.

10. The issue under the EEA Regulations is in relation to the appellant and her EEA national spouse, rather than the uncle in the UK. This was addressed by the judge,.
11. I therefore find no error of law and the determination will stand.

Signed

Date 19<sup>th</sup> January 2015

Deputy Upper Tribunal Judge Rimington