



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

**Appeal Number:  
EA/02778/2021; UI-2021-001678  
EA/01696/2021; UI-2022-000674**

**THE IMMIGRATION ACTS**

**Heard at Field House  
On the 2 August 2022**

**Decision & Reasons Promulgated  
On the 15 September 2022**

**Before**

**UPPER TRIBUNAL JUDGE FRANCES**

**Between**

**JINAN ALI MOHAMMEDALI AL GHARRAWI  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**THE ENTRY CLEARANCE OFFICER**

Respondent

**Representation:**

For the Appellant: Ms J Smeaton, instructed by Kidd Rapinet Solicitors  
For the Respondent: Mr S Walker, Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant is a citizen of Iraq born on 23 June 1980. She appeals against the decision of First-tier Tribunal Judge Oxlade, dated 30 September 2021, dismissing her appeal against the refusal of entry clearance under the Immigration (EEA) Regulations 2016.
2. Permission was granted by Upper Tribunal Judge Macleman on 12 April 2022 for the following reasons:
  - (i) In the FtT, Judge Oxlade dismissed this appeal, and Judge Komorowski refused permission to appeal to the UT.

- (ii) According to the grounds, the same case was also assigned in the FtT under reference EA/02778/2021 to FtT Judge Wilding, who allowed the appeal, following which Judge Austin granted the ECO permission to appeal to the UT.
  - (iii) There may have been a procedural mishap. Permission is granted in order that the proceedings beginning under FtT references EA/01696/2021 and EA/02778/2021 may be considered together.
3. Judge Oxlade decided the appeal on the papers and her decision was promulgated on 30 September 2021. An administrative error appears to have caused the appellant's appeal to be wrongly allocated a second appeal number and placed before a different judge to be decided on the papers.
  4. The First-tier Tribunal had no jurisdiction to re-make the decision and therefore the decision of Judge Wilding promulgated on 16 December 2021 is null and void. There is no extant appeal against this decision (EA/02278/2021).
  5. Ms Smeaton relied on her skeleton argument dated 28 July 2022. Mr Walker conceded that ground three disclosed a material error of law in Judge Oxlade's decision. The parties agreed the matter should be remitted to the First-tier Tribunal for hearing *de novo*. I agree that in the interests of fairness this is the appropriate course.
  6. Accordingly, I find Judge Oxlade materially erred in law and I set the decision aside. The appeal is remitted to the First-tier Tribunal to be re-heard *de novo* by a judge other than Judge Oxlade and Judge Wilding. None of the judge's findings are preserved.
  7. The appellant requested the appeal still be listed on the papers. The appellant to notify the Tribunal by 4pm on 9 August 2022 if an oral hearing is required.
  8. I direct that the appellant serve any further evidence upon which she intends to rely by 4pm on 6 September 2022. The appeal to be placed before a First-tier Tribunal Judge on the first open date thereafter.

### **Notice of Decision**

#### **Appeal allowed and remitted to the First-tier Tribunal.**

**J Frances**

Signed  
Upper Tribunal Judge Frances

Date: 2 August 2022