



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM**  
**CHAMBER**

**Case No: UI-2022-002967**  
**First-tier Tribunal No: EA/04715/2021**

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**  
**On the 23 March 2023**

**Before**

**UPPER TRIBUNAL JUDGE FRANCES**

**Between**

**RUBINA NAZAR**  
**(NO ANONYMITY ORDER MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr M F Nazar, the sponsor attended remotely  
For the Respondent: Ms S Cunha, Senior Home Office Presenting Officer

**Heard at Field House on 9 January 2023**

**DECISION AND REASONS**

1. The appellant is a citizen of Pakistan born on 16 September 1974. She appeals against the decision of First-tier Tribunal Judge Mackenzie, promulgated on 4 February 2022, dismissing her appeal against the refusal of a family permit to enter the UK as an extended family member under the Immigration (EEA) Regulations 2016 ('2016 Regulations'). The appeal was decided on the papers at the appellant's request.
2. It is not in dispute the sponsor, a Finnish national, is the appellant's brother and he has pre-settled status in the UK under the EU Settlement Scheme. He is living in Finland where his wife is receiving medical treatment.

**The judge's findings**

3. In deciding the appeal on the papers, the judge took into account the documentary evidence at [4] and properly directed himself in law at [5] to [11]. He considered the appellant's evidence in her witness statement at [15] to [17] and found the appellant was not emotionally dependant on the sponsor at [18]. He then went on to consider whether the appellant was financially dependent on the sponsor. At [20] the judge concluded:

“The Tribunal does not, I find, have information upon which a proper assessment of the Appellant's financial circumstances and her claimed need for financial assistance can be made.”

4. It was the appellant's case that the sponsor had been sending her money since 2010. Before March 2020, the appellant received cash in hand from the sponsor or cash from the sponsor brought by someone travelling from Finland to Pakistan. The appellant lived with her mother and the money sent by the sponsor supported them both. There were no receipts for her living expenses because Pakistan was an 'undocumented economy' and any receipts were normally discarded. At [19] the judge found:

“While a number of money transfer receipts have been produced, I do not find that the appellant has discharged the burden on her of establishing that she is financially dependent on the sponsor to meet her essential living needs. She lives with her mother in a family home. It is unclear whether the appellant has any inherited interest in this property. While the appellant has produced a list of approximate monthly expenses, the utility bills for the family home are not in her name and no documents have been produced. Although it is claimed that most transactions in Pakistan are completed in cash, I find it surprising that no receipts are produced. Even if it is the case that most people, as is claimed, discard receipts, it seems surprising that the appellant has not made an effort to retain some documentation to verify to the Tribunal her essential living expenses.”

5. The judge considered the refusal letter at [21] and the evidence in the appellant's witness statement that the sponsor's wife was receiving medical treatment in Finland. The judge stated:

“However, it is stated that the sponsor's wife is receiving medical treatment in Finland 'and it would last for a few more months ... '. She stated that when the treatment is finished, and the covid-19 situation improved 'then he would start the job and business in UK'. Although the appellant has produced bank statements for the sponsor from Finland, I find it surprising that no direct evidence has been produced from the sponsor confirming his current personal circumstances and detailing his plans to return to the United Kingdom.”

6. In conclusion, the judge found there was insufficient evidence to show, on the balance of probabilities, that the appellant was dependent on the sponsor to meet her essential living needs under Regulation 8(2) of the Immigration (EEA) Regulations 2016.

### **Grounds of appeal**

7. The appellant appealed on the grounds she was emotionally dependent on the sponsor and she used the money sent by the sponsor 'to fulfil her daily life needs

to survive'. The appellant stated she could provide receipts and had misunderstood that she could only rely on receipts in her name. She could not get a job and had no other source of income. There was sufficient evidence of her family members and the circumstances of the sponsor. She stated the court could have requested further information and she attached a statement of the sponsor to the grounds. She submitted there was no detailed guidance on the Home Office website of the evidence required.

8. The sponsor's statement states that bank statements and evidence of direct family members were before the judge. The sponsor needed to stay in Finland for a three to four months while his wife received medical treatment. He had applied for visas for his wife and children and would rent a house in the UK when the family visas were granted. The appellant would be part of the sponsor's household in the UK.
9. Permission to appeal was granted by Upper Tribunal Judge Stephen Smith in the following terms:
  - "1. The judge's decision features a number of arguable errors although it is not entirely clear at this stage whether any of them were material - in other words, whether they made a difference to the outcome of the decision.
  2. The appellant is a litigant in person. She objects to the judge's findings that she is not emotionally dependent upon her brother, the sponsor, and sets the bases for disagreeing with that conclusion. Although she does not seek permission to appeal on this basis, I consider there is a 'Robinson obvious' error, in that emotional dependency is not relevant to claimed 'dependency' under regulation 8 of the Immigration (European Economic Area) Regulations 2016. While the judge provided other reasons to reject the appellant's claimed dependency, it is not clear whether those findings were tainted by the arguably erroneous approach to emotional dependency which the judge gave as the primary reason for rejecting the appellant's claimed dependency.
  3. It is also arguable that the sponsor's location at the time of the hearing, namely Finland, was not fatal to the appellant succeeding in her appeal, since EEA family permits are available to those accompanying as well as joining an EEA national in the UK. Whether this is material will need to be explored; EEA family permits are (were) valid for six months, so the sponsor's stated intention to return after "a few more months" (see para 21) is not necessarily inconsistent with the appellant accompanying him to the UK for him to resume living here."

### **Submissions**

10. The sponsor attended the hearing remotely from Finland with the aid of a court interpreter, also attending remotely. I explained the procedure to the sponsor and he relied on the written grounds of appeal. The sponsor submitted he was in Finland temporarily because of his wife medical treatment and he was coming to the UK soon. He did not have a house in the UK and was waiting for a family visa.

11. The sponsor submitted there was sufficient proof the appellant was dependent on him and she would join his household in the UK. The sponsor had bank accounts in Finland and Pakistan. He had been sending money for a long time and was emotionally connected to the appellant.
12. Ms Cunha submitted that dependency under EEA law included emotional and financial dependency. Any error in relation to emotional dependency was not material because the sponsor was not in the UK and the appellant was not a member of his household in Finland. If the sponsor wished to bring the appellant to the UK she had to be dependent on him in Finland or the sponsor would have to live in the UK.
13. Ms Cunha relied on Sohrab (continued membership of household) [2022] UKUT 157 (IAC) and submitted the appellant had to establish a relevant connection with the sponsor in Finland and in the UK. The appellant needed to produce evidence of support from the UK to Pakistan. On the evidence produced the appellant could not bring herself within the Immigration (EEA) Regulations 2016. There was no material error of law.

### **Conclusions and reasons**

14. Having considered the decision as a whole and the evidence submitted, I find there was no material error of law in the judge's decision for the following reasons. The judge took into account the appellant's evidence in her witness statement and the documentary evidence in support. The appellant accepted there were no receipts of her living expenses before the judge. The judge took into account the money transfer receipts and her evidence of cash payments from the sponsor. He gave adequate reasons for why he attached little weight to the appellant's list of approximate monthly expenses.
15. I find the judge's conclusion at [18] did not taint his finding at [19]. The judge considered financial dependency separately from emotional dependency. Any error in relation to emotional dependency was not material. There was no material error of law in the judge's finding at [19] and [20].
16. The judge applied the correct legal test and concluded there was insufficient evidence to show the appellant was dependent on the sponsor to meet her essential needs. This finding was open to the judge on the evidence before him. The appellant had failed to satisfy the requirements of Regulation 8 of the Immigration (EEA) Regulations 2016.
17. This conclusion is sufficient to uphold the judge's decision to dismiss the appeal. In addition, there was insufficient evidence before the judge to show that the sponsor intended to return to the UK and the appellant would accompany him or join him there. There was no error of law in the judge's finding at [21]. On the evidence before the judge, the appellant had failed to show she was an extended family under Regulation 8.
18. There was no material error in the decision promulgated on 4 February 2022 and I dismiss the appellant's appeal.

### **Notice of Decision**

**Appeal dismissed**

**J Frances**

Judge of the Upper Tribunal  
Immigration and Asylum Chamber

**16 January 2023**