



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: UI-2022-001372
EA/10865/2021**

THE IMMIGRATION ACTS

**Heard at Birmingham
On 17 November 2022**

**Decision & Reasons Promulgated
On the 24 January 2023**

Before

UPPER TRIBUNAL JUDGE HANSON

Between

FAKHRA IKHLAQ
(Anonymity direction not made)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Howorth of Immigration Joss Ltd

For the Respondent: Mr C Bates, a Senior Home Office Presenting Officer.

DECISION AND REASONS

1. The appellant appeals with permission a decision of First-tier Tribunal Judge Hussain (the Judge) promulgated on 10 January 2022 in which the Judge dismissed the appellant's appeal against the refusal by an

- Entry Clearance Officer (ECO) of her application for an EEA Family Permit to enable her to join her brother, her sponsor, in the UK.
2. The Judge considered the matters on the papers without attendance from either the appellants representative or a Presenting Officer.
 3. The Judge sets out findings of fact from [10] of the decision under challenge.
 4. The first issue was the question of whether the appellant is related to her sponsor which the Judge finds, albeit in what is said to be “on the narrowest of margins” that the documents presented showed that the appellant is the sister of her sponsor [15]. That decision is not challenged before me.
 5. The second issue the Judge was required to consider was the question of whether the appellant was dependent upon her sponsor for her essential needs.
 6. The Judge finds that in the grounds of appeal it is persuasively argued that she is [16], that the appellant has no income because she is a full-time student at college, part and parcel of her parents family, and that she and her parents need the financial support of the sponsor including payment of the rent of the property in which they reside [17].
 7. At [19] the Judge writes: *“Taking the above in isolation, as I commented, the appellant persuasively makes the case that she and her parents are entirely dependent for all their needs. Therefore, he must also be responsible for their essential needs.”*
 8. The application for permission to appeal to the Upper Tribunal arises as a result of the following paragraphs in the determination [20]:
 20. Having taken the above into account, I have had to balance against that the bank statements in the appellant’s father’s name with the UBL, United Bank Limited, which shows regular transfers of large sums of money in six figures. The appellant has not accounted for where these funds come from into her father’s account. The impression I get from this, is that the father has an alternative source of income, in addition to any funds he receives from the sponsor.
 21. The fact of the appellant’s father receiving substantial transfers of funds into his account, which have not been accounted for, undermines the otherwise neat story that the appellant presented as to how the sponsor is responsible for her essential needs.
 9. The Judge was not satisfied the appellant had presented a “coherent picture” which supported the narrative she had presented resulting in the appeal being dismissed.
 10. The application for permission to appeal relied on one main ground; that in finding as the Judge did at [20] the Judge made material legal error, as the appellant had provided evidence from the Sponsor showing that the funds the Judge claimed were from an alternative source were in fact those the Sponsor paid to the appellant’s father.
 11. The evidence shows the appellant’s father had two different bank accounts, one a Euro bank account with Bank Alfalah and secondly a Pakistani Rupee account with United Bank Limited. The evidence

showed transfers in euros from 26 September 2017 until 30 March 2020 and from 27 May 2020 onwards in Pakistani Rupees.

12. Evidence is available showing receipts into the appellant's father's bank accounts but also payments out from the sponsor's bank account of corresponding amounts.
13. Having considered the material as a whole I accept that the evidence before the Judge did support the submission made in the grounds of appeal in relation to the source of the funds paid to the appellant's father's bank account. Although the Judge refers to six-figure sums, which was correct, there is a transfer of 100,000 Pakistani Rupees which equates to just over £400, but the source of that funding is still the Sponsor on the evidence.
14. I find the appellant has made out that the Judges made a mistake of fact in relation to the source of the funding material to the decision to dismiss the appeal. It is clear that the source of the funds paid into the appellant's father's bank account, for which the appellant's essential needs are met, is from the UK based sponsor.
15. I find the Judge made a materially error of law. I set the decision of the Judge aside.
16. In light of the evidence now available which clearly supports the appellant's contention regarding the source of the funding to meet her essential needs, namely the UK based EU national sponsor, I find the appellant has established the required level of dependency and accordingly substitute a decision to allow the appeal.

Decision

17. **The Judge materially erred in law. I set the decision aside.**
18. **I substitute a decision to allow the appeal.**

Anonymity.

19. The First-tier Tribunal made no order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005.

I make no such order pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008.

Signed.....
Upper Tribunal Judge Hanson

Dated 17 November 2022