



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

**Case No: UI 2021 001030**  
**First-tier Tribunal No:**  
**EA/02050/2021**

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**  
**On the 11 September 2023**

**Before**

**UPPER TRIBUNAL JUDGE KAMARA**

**Between**

Fariha Begum  
**(NO ANONYMITY ORDER MADE)**

Appellant

**and**

**The Entry Clearance Officer**

Respondent

**Considered on the papers on 29 August 2023**

**DECISION AND REASONS**

1. This is the appellant's appeal against, the respondent's decision dated 5 January, refusing her application for an EEA Family Permit under the 2016 EEA Regulations.

Anonymity

2. No direction has been made previously, and there is no anonymity application nor obvious reason for one now.

Background

3. The respondent, a national of Bangladesh, applied for an EEA Family Permit under the 2016 EEA Regulations on 30 December 2020.
4. In refusing that application, the respondent rejected the respondent's claim to be an extended family member of her brother, namely Md Atikur Rahman who is an Italian national. In short, the ECO noted the lack of evidence regarding the

respondent's financial position and concluded that there was insufficient evidence to show that she was reliant on the financial support of the sponsor to meet her essential living needs. The ECO was also not satisfied that the respondent was related as claimed to the EEA sponsor nor that she was dependent upon them.

#### The decision of the First-tier Tribunal

5. At the hearing before the First-tier Tribunal, the ECO was unrepresented. The judge allowed the appeal, finding that the relationship was no longer in dispute and that the respondent had proved that her essential living needs could not be met without the financial support from the sponsor.

#### The grounds of appeal

6. The grounds of appeal made one point, that being that the Secretary of State had made no concession as to the relationship between the appellant and her sponsor.

#### The error of law hearing

7. Ms Ahmed, for the respondent, relied upon the grounds of appeal as well as the decision notice which clearly indicated that the relationship between the parties was in dispute. Mr Afzal, for the appellant, accepted that the judge was wrong to indicate that the Secretary of State had conceded that the relationship requirement was met when this was not the case.
8. At the end of the hearing, I informed the parties that I was satisfied that the judge's error regarding the non-existent concession was material, however I was unable to proceed to remaking because there was no indication as to what the specific concerns were which the ECO had with the evidence of the relationship. I therefore directed the Secretary of State to produce a skeleton argument addressing the relationship, with particular focus on the evidence of the relationship.
9. There was no challenge to the judge's conclusions in respect of the dependency issue and I preserved those findings.
10. The decision of the First-tier Tribunal was otherwise set aside and a decision to that effect was promulgated on 20 April 2022.

#### The Remaking of the decision

11. This matter was listed for a hearing on 31 August 2023. It transpired that the respondent had complied with the directions by way of a skeleton argument drafted by Hilary Aboni of the Specialist Appeals Team on 5 August 2022. I will set out the relevant sections below.

*The respondent accepts that the ECO gave no specific reasons for rejecting the claimed relationship between the parties.*

*Having reviewed the application, it is clear that the appellant did submit documentary evidence of her relationship with her EEA sponsor, which show that the parties have the same parents and are siblings as claimed.*

*The ECO appears to have overlooked this evidence, although the documents were included in the respondent's bundle, as noted in Judge Kamara's decision (#10).*

*Although no concession was made before the FTT, the respondent now accepts that the appellant is the sister of her EEA national sponsor.*

12. In terms of the disposal of the appellant's appeal, the respondent said the following.

*In light of this concession on the relationship issue and the preserved findings on the dependency issue, the Tribunal is invited to allow the appeal under the EEA Regulations without the need for any further hearing.*

13. Given the respondent's concession that the appellant and her sponsor are related as claimed, this being the only issue in dispute, it is right that the appellant succeeds at appeal.

### Conclusions

The making of the decision of the First-tier Tribunal involved the making of an error on a point of law.

I substitute a decision allowing the appeal on the basis that the appellant met the requirements of the Immigration (European Economic Area) Regulations 2016.

### **Notice of Decision**

The appeal is allowed.

T Kamara

Judge of the Upper Tribunal  
Immigration and Asylum Chamber

**29 August 2023**

### **NOTIFICATION OF APPEAL RIGHTS**

1. A person seeking permission to appeal against this decision must make a written application to the Upper Tribunal. Any such application must be **received** by the Upper Tribunal within the **appropriate period** after this decision was **sent** to the person making the application. The appropriate period varies, as follows, according to the location of the individual and the way in which the Upper Tribunal's decision was sent:

2. Where the person who appealed to the First-tier Tribunal is **in the United Kingdom** at the time that the application for permission to appeal is made, and is not in detention under the Immigration Acts, the appropriate period is **12 working days (10 working days, if the notice of decision is sent electronically)**.

3. Where the person making the application is in detention under the Immigration Acts, **the appropriate period is 7 working days (5 working days, if the notice of decision is sent electronically)**.

4. Where the person who appealed to the First-tier Tribunal is **outside the United Kingdom** at the time that the application for permission to appeal is made, the appropriate period is **38 days (10 working days, if the notice of decision is sent electronically)**.

**5. A “working day” means any day except a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday.**

**6. The date when the decision is “sent’ is that appearing on the covering letter or covering email**