



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

**Case Nos: UI-2022-002847**  
**UI-2022-002846**  
**First-tier Tribunal Nos:**  
**EA/15765/2021**  
**EA/15768/2021**

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**  
**On the 21 September 2023**

**Before**

**UPPER TRIBUNAL JUDGE NORTON-TAYLOR**

**Between**

**MS NUHA NAWAF MOHAMMED AL-RAMAHY (FIRST APPELLANT)**  
**MR GHALIB KADHIM GHALI AL-SAABARAWI (SECOND APPELLANT)**  
**(NO ANONYMITY ORDER MADE)**

Appellants

**and**

**ENTRY CLEARANCE OFFICER**

Respondent

**DECIDED WITHOUT A HEARING AND WITHOUT PROVIDING**  
**SUBSTANTIVE REASONS PURSUANT TO RULES 34 AND 40 OF THE**  
**TRIBUNAL PROCEDURE (UPPER TRIBUNAL) RULES 2008**

## **DECISION**

1. This error of law decision is brief and does not contain substantive reasons. It is agreed between the parties that the First-tier Tribunal made material errors of law when dismissing the appellants' appeals against the respondent's refusal of their applications made under Appendix EU(FP). In addition, the parties have consented that the error of law issue be determined without a hearing. In these circumstances, I am satisfied that rules 34 and 40(3) of the 2008 Rules are to be applied.
2. The First-tier Tribunal decided the appellants' without a hearing. DNA evidence, the judge accepted that the appellants were related to their claimed daughter, who resides in United Kingdom. However, the judge was not satisfied as to the daughter's status and connection to the named sponsor, nor in respect of whether the sponsor was in fact an EEA national. The grounds of appeal asserted that relevant documents had been provided to the First-tier Tribunal in advance and this evidence had been overlooked by the judge. Permission to appeal was originally refused by the First-tier Tribunal, but subsequently granted by the Upper Tribunal.
3. By a rule 24 response dated 16 February 2023, the respondent confirmed that she did not oppose the appellants' appeals and suggested that the First-tier Tribunal's decision could be set aside and the appeals remitted for a re-hearing.
4. On reviewing the case, I directed the appellants to confirm whether they consented to their appeals being decided about the hearing and whether they also agreed to the course of action proposed in the rule 24 response. By an email dated 29 August 2023, the appellants' representatives confirmed their agreement to both matters.
5. I am satisfied that the appellants did in fact provide documentary evidence in addition to the DNA report. This evidence was relevant to the daughter's status and the nationality of the named sponsor (who appears to be a Dutch citizen). I am satisfied that, as set out in the grounds of

appeal, the judge either overlooked this evidence or failed to adequately address it in her decision.

6. I set aside the judge's decision in full. This is the case where it is appropriate to remit the appeals to the First-tier Tribunal because there needs to be a complete re-assessment of the evidence.

### **Anonymity**

7. No anonymity direction was made by the First-tier Tribunal and there is no need for one to be made at this stage.

### **Notice of Decision**

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

**I exercise my discretion under section 12(2)(a) of the Tribunals, Courts and Enforcement Act 2007 and set aside the decision of the First-tier Tribunal.**

**I remit the appeals to the First-tier Tribunal.**

### **Directions to the First-tier Tribunal**

- (1) These appeals are remitted to the First-tier Tribunal to be re-heard by a judge other than Judge S Rodger;
- (2) The First-tier Tribunal will issue any further case management directions it deems appropriate.

### **Directions to the parties**

- (1) The appellants must send into the First-tier Tribunal a single bundle of all evidence relied on (including an index and clear pagination) and this must be done as soon as possible and no later than 28 days after this error of law decision is sent out.

**H Norton-Taylor**  
**Judge of the Upper Tribunal**  
**Immigration and Asylum Chamber**  
**Dated: 15 September 2023**