



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

Case No: UI-2022-003292

First-tier Tribunal No: EA/16822/2021

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**  
**On 22 September 2023**

**Before**

**UPPER TRIBUNAL JUDGE KAMARA**

**Between**

Noor Asmat Latif  
**(NO ANONYMITY ORDER MADE)**

Appellant

**and**

**The Entry Clearance Officer**

Respondent

**Representation:**

For the Appellant: No appearance

For the Respondent: Mr M Waine, Senior Home Office Presenting Officer

**Heard at Field House on 22 August 2023**

**DECISION AND REASONS**

Introduction

1. The Secretary of State has been granted permission to appeal the decision of First-tier Tribunal Judge OR Williams promulgated on 23 May 2022.
2. However, for ease of reference hereafter the parties will be referred to as they were before the First-tier Tribunal.
3. Permission to appeal was granted by First-tier Tribunal Judge ID Boyes on 22 June 2022.

Anonymity

4. No anonymity direction was made previously, and there is no reason for one now.

#### Factual Background

5. The appellant is a national of Pakistan, now aged sixty. On 28 June 2021, the appellant applied for an EUSS Family Permit in order to join her daughter and son-in-law, the latter being the EEA citizen sponsor. That application was refused on 29 November 2021 for the following reasons.

On 28 June 2021 you made an application for an EU Settlement Scheme (EUSS) Family Permit under Appendix EU (Family Permit) to the Immigration Rules on the basis you are a 'family member of a relevant EEA citizen'.

I have considered whether you meet the validity, eligibility and suitability requirements for a EUSS Family Permit, which are set out in Appendix EU (Family Permit) to the Immigration Rules (<https://www.gov.uk/guidance/immigration-rules/appendix-eu-familypermit>). You can also find out more about the requirements in the guidance on GOV.UK (<https://www.gov.uk/family-permit/eu-settlement-scheme-family-permit>).

You have stated that the family relationship of the EEA citizen sponsor to yourself is dependant parent in law. As evidence of this relationship you have provided a marriage certificate for your EEA sponsor and your claimed daughter.

However, there were a number of inconsistencies with this evidence. We need to see your daughter's original birth certificate issued by the competent authorities furthermore it is noted that your sponsor does not have EUSS status in the UK.

I am not satisfied, based on the evidence you have provided in isolation, that you are a 'family member of a relevant EEA Citizen'.

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

6. The hearing before the First-tier Tribunal was considered on the papers. Prior to the hearing, it had been agreed by the parties that the appellant could rely upon her relationship to her daughter in place of her son-in-law. Based on the additional documentary evidence submitted with the appeal, the judge accepted that the appellant was related to the 'EEA Sponsor/her daughter.' In addition, the judge was not satisfied, that the appellant was a family member of a relevant EEA Citizen owing to the fact that the sponsor had only pre-settled status, but nonetheless, the appeal was allowed.

#### The grounds of appeal

7. The grounds of appeal argued that the appeal ought not to have been allowed on the basis that the appellant's daughter was the sponsor because the latter did not have settled status.
8. Permission to appeal was granted on the basis sought.

#### The error of law hearing

9. There was no appearance by or on behalf of the appellant. Nor did the sponsors attend. I noted that there had been no communications received by the Upper Tribunal from the appellant or sponsors and no cross-appeal had been received.

10. I further noted that this appeal had been considered on the papers at the First-tier Tribunal. In these circumstances, I considered it fair to proceed with the hearing in the absence of the appellant, a representative or sponsors. I heard brief submissions from Mr Waine. At the end of the hearing, I set aside the decision allowing the appeal, with all findings preserved. I remade the decision by substituting a decision dismissing the appeal.

#### Decision on error of law

11. The First Tier Tribunal Judge inadvertently erred in law by allowing this appeal, notwithstanding their finding that the appellant was not a family member of a relevant EEA citizen. The judge rightly found that the appellant's application could succeed as the appellant's daughter Ms Shahzadi did not have settled status. At [9] the judge notes:

I have considered the documentary evidence - a letter dated 10 July 2020 (reference 3434 -0382 - 8651 -7855) from the Home Office addressed to Ms. Iram Shahzadi, the appellant's daughter, confirming that the appellant's daughter Ms. Iram Shahzadi has limited leave in the United Kingdom under EUSS /pre settled status. I am not satisfied, therefore, based on the evidence provided that the appellant is a 'family member of a relevant EEA Citizen.

12. As indicated above, no argument has been received on behalf of the appellant to indicate that the judge's findings were erroneous. The judge's decision to allow this appeal was inconsistent with the earlier findings and accordingly, the judge erred in law, such that the decision should be set aside and remade to reflect the intention of the judge, which was clearly, to dismiss the appeal.

#### Conclusions

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

I set aside the decision to be re-made.

I substitute a decision dismissing the appeal on the basis that the appellant is not a Family Member of a relevant EEA national.

T Kamara

Judge of the Upper Tribunal  
Immigration and Asylum Chamber

**23 August 2023**