



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2023-004016
UI-2023-004017
UI-2023-004018

First-tier Tribunal No: EA/11341/2022
EA/11345/2022
EA/11349/2022

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On 13th of December 2023

Before

DEPUTY UPPER TRIBUNAL JUDGE L MURRAY

Between

**RACHID ADDI
ZOUBIDA KADI
WISSAM ADDI
(NO ANONYMITY ORDER MADE)**

Appellant

and

Entry Clearance Officer

Respondent

Representation:

For the Appellant: Ms Faran of Counsel, instructed by Amicus Solicitors London

For the Respondent: Ms Gilmour, Senior Home Office Presenting Officer

Heard at Field House on 15 November 2023

DECISION OF THE UPPER TRIBUNAL
PURSUANT TO RULE 40 (3) (a)
OF THE TRIBUNAL PROCEDURE (UPPER TRIBUNAL) RULES 2008

1. The Appellants are Moroccan nationals born on 1 January 1960, 21 March 1968 and 6 February 2002 respectively. The first two Appellants are husband and wife and the third Appellant is their daughter. They applied on 21 March 2022 for an EU Settlement Scheme (EUSS) Family Permit under Appendix EU (Family Permit) of the Immigration Rules on the basis that they were family members of a relevant EEA national. The Respondent refused the applications of the first and second Appellants as it was considered that they had not provided adequate

evidence to show dependency. The third Appellant's application was refused on the grounds that she did not meet the definition of 'family member' for the purpose of Appendix EU (Family Permit) to the Immigration Rules.

2. Their appeals against the Respondent's decisions were dismissed by First-tier Tribunal Judge Suffield-Thompson in a determination promulgated on 6 July 2023.
3. Permission to appeal was granted on 11 October 2023 by Upper Tribunal Judge Perkins on the basis that it was arguable that the First-tier Judge had erred in law in failing to give adequate reasons for her decision. In granting permission, he expressed a particular concern that the Judge must have rejected oral evidence, some of which was directed to overcoming possible deficiencies in the case, without giving adequate reasons.
4. The Respondent conceded in a Rule 24 notice that the First-tier Tribunal did not provide adequate reasons why the oral evidence of the sponsor was not credible or found to be unreliable. I clarified with the representatives what evidence had been before the First-tier Tribunal as the Appellants and the Respondent were unrepresented and it was unclear from the decision.
5. Although the First-tier Tribunal Judge referred in her decision to having before her "full written submissions" from the Respondent, she also stated that she only had one of the three refusal notices in respect of the three Appellants. Ms Gilmour confirmed that there had been no submissions from the Respondent and she also accepted that the money transfers, referred to in the Respondent's decisions, were not in the Respondent's bundle. She also accepted that although the Judge stated that there were no money transfers before her, there was an email from the Appellants attaching money transfers pre-dating the hearing.
6. It is common ground therefore that the Judge did materially err in law in failing to give adequate reasons for rejecting the sponsor's evidence, particularly in view of the fact that there was supporting evidence of dependency that was not taken into account.
7. I am satisfied, and the parties agreed, that the decision of the First-tier Tribunal can be set aside without a reasoned decision notice. There were no witness statements from the Appellants in the Appellants' bundle and in light of the nature of the error no findings of fact can be preserved. I have had regard to the guidance in Begum (remaking or remittal) Bangladesh [2023] UKUT 46 (IAC). The parties agreed that

fairness requires a remittal to the First-tier Tribunal for the appeal to be heard afresh.

Decision:

8. The making of the decision of the First-tier Tribunal did involve the making of an error on a point of law.
9. I set aside the decision.
10. The appeals are remitted to the First-tier Tribunal for a fresh hearing with no findings preserved, not before Judge Suffield-Thompson.

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

Deputy Upper Tribunal Judge
Immigration and Asylum Chamber

17 November 2023