



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

Case No: UI-2022-005123  
UI-2022-005125

First-tier Tribunal No: DA/00052/2022  
EA/02085/2022

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:  
On 2 August 2024**

**Before**

**UPPER TRIBUNAL JUDGE LINDSLEY**

**Between**

**CONSTANTIN VALENTIN IONITA  
(ANONYMITY ORDER NOT MADE)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**DECISION AND REASONS**

1. The appellant is a citizen of Romania born in 1968. On 4 December 2019 the respondent made a decision to deport the appellant in the light of his criminal offending, pursuant to the Immigration (European Economic Area) Regulations 2016 ("the EEA Regulations"). There was a supplementary decision letter dated 18 July 2022 maintaining the deportation decision but removing the certification made pursuant to reg 33 of the EEA Regulations. On 14 February 2022 the respondent made a decision to refuse the appellant's application for status under the EU Settlement Scheme ("EUSS"), on the grounds of suitability. The appellant appealed those decisions and his appeal came before First-tier Tribunal Judge Moon at a hearing on 7 September 2022, resulting in his appeals being allowed.

2. Permission to appeal the First-tier Tribunal's decision having been granted by a judge of the Upper Tribunal the matter came before Upper Tribunal Judge Kopieczek who found that the Judge Moon had materially erred in law in both appeals and set aside the decisions allowing the appeals in a decision dated 22<sup>nd</sup> December 2023. Directions were then given for the remaking of the appeal in the Upper Tribunal.
3. The remaking of the appeal was then listed for 3<sup>rd</sup> April 2024 but there was no appearance for or by the appellant. It was unclear whether he was aware of the hearing and it appeared he might have committed a further offence and been given a custodial sentence so the hearing was adjourned. On 3<sup>rd</sup> April 2024 directions were given by Upper Tribunal Judge Kopieczek for the former solicitors to provide their last address for the appellant and for the respondent to provide any details of the appellant's most recent conviction and inform the Upper Tribunal whether he remained in custody and provide his address. Both the solicitors and the respondent provided details of the same address in Waltham Forest and the respondent provided a print out from the police national computer which confirmed that on 13<sup>th</sup> March 2024 the appellant had been convicted of inflicting grievous bodily harm and given a sentence of 9 months imprisonment following a guilty plea on 26<sup>th</sup> August 2023.
4. On 29<sup>th</sup> May 2024 the respondent notified the Upper Tribunal that the appellant had been removed to Romania on 14<sup>th</sup> May 2024, and suggested that the appeal should therefore be treated as abandoned.
5. In a note and directions dated 5<sup>th</sup> July 2024 Judge Kopieczek, which was served to the appellant's last UK address and his email address and on the respondent, found that an appeal was no longer to be treated as abandoned simply because an appellant left the UK following repeal of s.104(4) of the Nationality, Immigration and Asylum Act 2002 in October 2014. Judge Kopieczek noted however that the appellant had not kept in touch with the Upper Tribunal, and had not responded to an email from the Upper Tribunal dated 24<sup>th</sup> May 2024, sent to the email address he had provided to the Tribunal, asking if he wished to pursue his appeal. Judge Kopieczek therefore directed that the appellant had to write to the Upper Tribunal by 5pm on 19<sup>th</sup> July 2024 to confirm whether or not he wished to pursue his appeal, and informing him that if he did not confirm that he wished to continue with his appeal that it would in all probability be dismissed with no further reference to the parties.
6. The appellant has not contacted the Upper Tribunal to confirm that he wishes to pursue his appeal. I therefore remake the appeal by dismissing it on all grounds.

Decision:

1. The making of the decision of the First-tier Tribunal involved the making of an error on a point of law.
2. Upper Tribunal Judge Kopieczek set aside the decisions of the First-tier Tribunal allowing the appeal under the EUSS, under the EEA Regulations.
3. I re-make the decision in the appeal by dismissing it on all grounds.

**Fiona Lindsley**

Judge of the Upper Tribunal  
Immigration and Asylum Chamber

**24<sup>th</sup> July 2024**