



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

**Case Nos: UI-2023-0003677**  
**EA/07226/2022**

**THE IMMIGRATION ACTS**

**Directions Issued:**  
**On 01 August 2024**

**Before**

**UPPER TRIBUNAL JUDGE RINTOUL**

**Between**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Appellant

**and**

**ZAHIR RAZIA**  
**(ANONYMITY DIRECTION NOT MADE)**

Respondent

**Determined at Field House on 29 July 2024 without a hearing**

**DECISION AND REASONS**

1. On 10 April 2019 I gave the following directions:-
  1. On 10 July 2024 the Court of Appeal handed down its decision in Vasa and Hasanaj v SSHD [2024] EWCA Civ 777 which would appear to reverse the decision of the Upper Tribunal in Allaraj (EEA EFMs; admission; IO's stamps) [2023] EWCA Civ 277.
  2. It is my preliminary view that this appeal is in fact on all fours with Vasa and Hasanaj. This is because the placing of a stamp in the Respondent's passport granting her permission to enter is identical to what happened in that case, and on the basis of the Court of Appeal's binding decision, that constitutes facilitation for the purposes of article 10.2 of the Withdrawal Agreement and thus the refusal to accept the stamps in her passports as evidencing the decision to admit her to the United Kingdom involved a breach of their rights under Article 18(1)(l)(iv) of the Withdrawal Agreement.

3. Accordingly, it cannot be argued that the decision of the First-tier Tribunal involved the making of an error of law affecting the outcome, and thus falls to be dismissed, albeit that it should have been allowed, albeit on a different basis.
  4. It is also my view that in the circumstances and bearing in mind the overriding objective, that this appeal can be disposed of without a hearing.
  5. Unless within **ten working days** of the issue of these directions there is any written objection to this course of action, supported by cogent argument, the Upper Tribunal will proceed to determine the appeal without an oral hearing and will dismiss the Secretary of State's appeal.
  6. In the absence of a timely response by a party, it will be presumed that it has no objection to the course of action proposed
2. On 23 July 2024 the Secretary of State replied, stating:
- Given the outcome of the decision in *Vasa and Hasanaj v SSHD [2024] EWCA Civ 777*, there is no objection to the Secretary of State's appeal being treated as dismissed and disposed of without a hearing.
3. Accordingly, in the light of the above, and considering the matter for myself, I am satisfied that the determination of the First-tier Tribunal did not involve the making of an error of law and must be upheld, saving for substituting that the appeal is allowed on the basis that the decision was contrary to the Zahir Razia (the respondent)'s rights under the Withdrawal Agreement.

### **Summary of conclusions**

1. The determination of the First-tier Tribunal did not involve the making of an error of law and I uphold it, save for substituting that the appeal is allowed on the basis that the decision was contrary to the respondent's rights under the withdrawal agreement.
2. The hearing on 2 August 2024 is vacated.

Signed

Date: 29 July 2024

Jeremy K H Rintoul  
Upper Tribunal Judge Rintoul