



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: OA/19196/2012

THE IMMIGRATION ACTS

Heard at Field House

On 11 November 2013

Determination

Promulgated

On 25 November 2013

Before

UPPER TRIBUNAL JUDGE CRAIG

Between

MRS SILIANA SUFAJ

Appellant

and

ENTRY CLEARANCE OFFICER - TIRANA

Respondent

Representation:

For the Appellant: No representation, but the sponsor appeared in person

For the Respondent: Mr S Ouseley, Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant is a citizen of Albania who was born on 7 August 1989. She had applied for entry clearance as the spouse of Mr Atur Sufaj, a citizen of the United Kingdom of Albanian origin pursuant to paragraph 281(v) of the

Immigration Rules. The couple have a daughter who is a British citizen, currently living with her mother, the appellant, in Albania.

2. The appellant's appeal was dismissed by First-tier Tribunal Judge Turkington and the appellant appealed against that decision.
3. Permission to appeal was granted, and subsequently, at a hearing before Upper Tribunal Judge Jordan and Deputy Upper Tribunal Judge Woodcraft, that panel found that the First-tier Tribunal's determination had contained a material error of law such that that decision had to be set aside and re-made. The error of law as found by the panel was that the First-tier Tribunal Judge had imported a test into his determination that the sponsor needed to show that he had been able to work for a period of twelve months in order to demonstrate that the maintenance requirements under the Rules were satisfied. As noted by the panel when finding an error of law, there was no such requirement in the Rules.
4. Subsequently, the sponsor submitted further evidence on behalf of the appellant, and the respondent conducted independent investigation, following which the respondent has now accepted (because of information supplied by HM Revenue and Customs) that the sponsor's income was in fact sufficient to satisfy the maintenance requirements applicable at the date of decision. As it has by now been accepted that the other requirements under the Rules have been satisfied, the respondent no longer wishes to contest this appeal.
5. Having given independent consideration to the reasons why the respondent is now satisfied that the requirements under the Rules have been met, I am also so satisfied, and it follows that this appeal must be allowed, and I will so find.

Decision

The determination of the First-tier Tribunal having been found to contain a material error of law, I substitute the following decision:

The appellant's appeal is allowed, under the Immigration Rules.

Signed:

Dated: 20 November 2013

Upper Tribunal Judge Craig