



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

Appeal Number: IA/03579/2013

THE IMMIGRATION ACTS

Heard at Field House

On 13 January 2014

Determination

Promulgated

On 23 January 2014

Before

UPPER TRIBUNAL JUDGE ALLEN

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

GULZAR UMER

Respondent

Representation:

For the Appellant: Mr S Walker, Home Office Presenting Officer

For the Respondent: Mr A Rahman, Counsel, instructed by Mayfair Solicitors

DETERMINATION AND REASONS

1. The respondent appealed to a Judge of the First-tier Tribunal against the decision of the appellant of 8 January 2013 refusing to vary leave to enter the United Kingdom, on the basis that he had not provided all the evidence listed on the Confirmation of Acceptance for Studies in support of

his application. The judge took into account the determination of the Upper Tribunal in Rodriguez [2013] UKUT 42 (IAC) and concluded, applying the evidential flexibility policy considered in that determination that the appellant, as he was before the judge, qualified for the leave sought.

2. The Secretary of State sought permission to appeal against that decision on the basis that the judge had not given adequate reasons why the documents provided showed that Mr Umer met the requirements of the Rules and the respondent had not had the opportunity of giving detailed consideration to the documents. Permission was granted on that basis.
3. At an earlier hearing before me on 31 October 2013, the matter was adjourned on the basis that the Secretary of State would make submissions on the authenticity of the documents and, in light of that the respondent might make further submissions.
4. I listed the matter for mention since I had had no response. I was assisted by Mr Walker on behalf of the appellant who provided documentary evidence to show that the documents had been sent by the Presenting Officers Unit to the Entry Clearance Officer who was asked to give a view on them. The response was that according to the Immigration Liaison Adviser's experience the documents were in the standard formats in which they are normally received and "seemed" to be genuine.
5. On that basis, Mr Walker accepted that the appeal of Mr Umer should succeed, and Mr Rahman, from Mayfair Solicitors, who appeared on behalf of Mr Umer, was entirely content with that outcome.
6. Accordingly, the decision of the judge allowing the appeal in this case is maintained, albeit on the somewhat different basis that Mr Umer's appeal succeeds under the Immigration Rules.

Signed

Date

Upper Tribunal Judge Allen