



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

Appeal Number: IA/35144/2014

THE IMMIGRATION ACTS

**Heard at: Field House
On: 13 July 2015**

**Decision & Reasons Promulgated
On 15 July 2015**

Before

DEPUTY JUDGE OF THE UPPER TRIBUNAL CHANA

Between

**DR MARIANNE BRUGGEMANN
(NO ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Appellant in Person

For the Respondent: Ms J Isherwood, Senior Presenting Officer

DECISION AND REASONS

1. The appellant before the Upper Tribunal is the Secretary of State for the Home Department and the respondent is a citizen of Germany born on 29 July 1953. However, for the sake of convenience, I shall refer to the latter as the “appellant” to the Secretary of the State as the “respondent”, which are the designations they had in the proceedings before the First-tier Tribunal.
2. The appellant’s appeal to the First-tier Tribunal was against the decision of the respondent dated 4 September 2014 refusing to issue her with a

Residence Card as confirmation of her right to live in the United Kingdom pursuant to the Immigration (European Economic Area) Regulations 2006 (hereinafter the 2006 regulations).

3. Permission to appeal was at first refused by First-tier Tribunal Judge Wellesley-Cole but was granted by the Upper Tribunal who found that it was arguable that the Judge will determine the application on the papers did not take into account the letter on the file of 12 September 2014 which stated that the Tribunal had returned the appellant her passport and indicating that a photocopy of it had been placed on the file. It is stated that the appellant must be afforded the opportunity to consider the evidence and it is expected that the appellant attends the forthcoming hearing with a passport.
4. At the hearing the appellant attended the hearing and provided her original German passport in her name.
5. This demonstrates that the appellant is an EEA national. The only issue taken by the respondent was that the appellant had not produced her German passport. The Judge regrettably did not consider the letter of 12 September 2014 which was on file, which stated that the appellant's passport had been returned to her and a photocopy of it had been placed on the file. The appellant had requested that the appeal be heard on the papers and therefore did not present her passport at the hearing which led to the appeal being dismissed.
6. The respondent did not take any issue in her refusal letter that the appellant was exercising her treaty rights in the United Kingdom as a worker. It is abundantly clear that the appellant who is a scientist has been working in the United Kingdom for a very long time, exercising her treaty rights.
7. I therefore set aside the First-tier Tribunal's decision and substitute my decision and allow the appellant's appeal pursuant to the 2006 Regulations.

DECISION

Appeal allowed

Signed by a
A Deputy Judge of the Upper Tribunal
Mrs S Chana

This 14th day of July 2014