



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

**Case Nos: UI-2022-001295**  
**UI-2022-001296, UI-2022-001297**  
**& UI-2022-001298**

**First-tier Tribunal Nos:**  
**EA/52336/2021- IA/09509/2021**  
**EA/52335/2021- IA/09512/2021**  
**EA/52337/2021- IA/09508/2021**  
**EA/52339/2021- IA/09496/2021**

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**  
**On the 24 July 2023**

**Before**

**UPPER TRIBUNAL JUDGE KEBEDE**

**Between**

**FATIMA BIBI**  
**AMROZIA KALEEM**  
**HASNAIN KALEEM**  
**JAWARIA KALEEM**  
**(no anonymity order made)**

Appellants

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Ms G Patel, instructed by Maxwell Solicitors  
For the Respondent: Mr A McVeety, Senior Home Office Presenting Officer

**Heard at Manchester Civil Justice Centre on 11 July 2023**

**DECISION AND REASONS**

1. The appellants appeal, with permission, against the decision of the First-tier Tribunal dismissing their appeals against the respondent's refusal to issue them with an EEA Family Permit under the Immigration (European Economic Area) Regulations 2016 ("EEA Regulations").

2. The appellants are nationals of Pakistan. The first appellant is the mother of the other three appellants. They applied for EEA Family Permits on 18 December 2020, as the extended family members of the first appellant's brother, Rab Nawaz, a Swedish national living and exercising treaty rights in the UK. The first appellant's application was refused on 2 March 2021 and the other three appellants' applications were refused on 30 March 2021.

3. The respondent noted that the appellants were claiming to have been financially dependent upon the EEA national sponsor since the first appellant's husband (and the second, third and fourth appellants' father) passed away in July 2018. The respondent did not consider that the supporting evidence relied upon by the appellants, namely money transfer receipts from December 2019, were sufficient to demonstrate that they were financially dependent upon the sponsor. The respondent noted that the bank statements produced showed that the first appellant was also in receipt of an income from Mahmood Dairy and Poultry Farm which led the respondent to believe that the appellants were not dependent upon the sponsor. The respondent was not satisfied, on the evidence provided, that the appellants were related to the sponsor as claimed and was not satisfied that they were dependent upon the sponsor. The respondent was accordingly not satisfied that the appellants were extended family members for the purposes of the EEA Regulations and, as such, their applications for an EEA family permit were refused.

4. The appellants appealed against the respondent's decisions. The appeals came before First-tier Tribunal GR Williams on 21 January 2022. The respondent was not represented at the hearing. The sponsor gave oral evidence before the judge. His evidence was that prior to December 2019 he had taken money to Pakistan and given it to directly to his sister, but that he had been unable to travel due to the pandemic and so had arranged for her to open a bank account so that he could transfer money to her that way. The account was opened in March 2020. The sponsor explained that Mahmood Dairy and Poultry Farm was a business which had been set up by his brother. The business had borrowed money from the first appellant's husband when he was alive and following his death the company arranged to repay the money to the first appellant. The business was no longer in existence. The sponsor explained that the money he sent was used by the first appellant for food, school fees, medication, clothing and ordinary household expenses and that she did not have any other source of income or savings. The sponsor explained to the judge that the property in which the appellants lived belonged to the first appellant's father-in-law. The first appellant did not pay anything for living there and used the money from the sponsor for utilities. Her husband's family were not able to provide her with any financial support as they lived in poverty themselves.

5. The judge noted that the respondent no longer disputed the relationship between the sponsor and the appellants and he accepted that they were related as claimed. The judge found that the sponsor was, in general terms, a credible and reliable witness. The judge noted the evidence of payments made by the sponsor to the first appellant consisting of 25 payment receipts covering a period from December 2019 to September 2021 and noted that they matched payments into the first appellant's bank account, at least from March 2020 onwards. The judge accepted that payments had been made since July 2018 as claimed and that the sponsor was in a position financially to make the payments. However the judge noted that the first appellant's bank statements showed incoming credits from Mahmood Dairy and Poultry Farm on 2 June 2020, 30 June 2020 and 3 September 2020, for 60,000, 40,000 and 100,000 PKR. The judge noted an accompanying letter from Mahmood Dairy and Poultry Farm explaining that the payments were the return of a loan from the company to the first appellant's husband, but he also referred to the fact that a similar letter had been produced and that one letter only referred to one of the three payments. The judge also noted that there were other payments into the first appellant's bank account from another of the sponsor's and first appellant's siblings, Banda Nawaz, on 24 January 2021 and 20 August 2021, which had not been mentioned by the first appellant or the sponsor. The judge concluded that, in the absence of an explanation as to why that money had been provided, there was an incomplete picture of the appellants' finances. The judge noted that there was insufficient evidence of the appellants' financial circumstances in Pakistan to show that the sponsor's money was required for

their basic necessities. There was no breakdown of the appellants' finances and no evidence of how the money from the sponsor was spent. The judge noted that one of the appellants' financial needs was met from their ability to live in a property which they did not own or pay rent. The judge considered that overall, it was not possible to discern whether the money from the sponsor met the appellants' basic needs or whether it was simply part of an overall financial benefit that they received from numerous sources. He was not satisfied that a real situation of dependency existed and was not satisfied that the appellants were financially dependent upon the sponsor for their essential needs. The judge accordingly dismissed the appeals.

6. The appellants sought permission to appeal to the Upper Tribunal against Judge Williams' decision on three grounds. Firstly, that the judge failed to consider that the appellants did not have to be wholly reliant upon the sponsor for their financial support, and failed to consider that the other sources of income in the first appellant's bank statements were not regular like the sponsor's payments and that the judge should have relied upon the sponsor's evidence, having found his evidence to be credible. Secondly, that the judge, in the absence of a representative for the respondent, ought to have raised any matters of concern with the appellants' representative at the hearing rather than making adverse findings on various matters without the appellants being given an opportunity to explain. Thirdly, that the judge failed to have regard to the respondent's guidance to entry clearance officers and failed to consider that it did not matter that the appellants may have received additional financial support.

7. The First-tier Tribunal granted permission to appeal on all grounds, although with particular reference to the first ground. The respondent served a Rule 24 reply.

8. The appeal initially came before Upper Tribunal Judge Plimmer for a hearing on 15 August 2022, but it was adjourned in order for Ms Patel to provide her note of proceedings in support of the second ground. Ms Patel then served a bundle of documents including a statement from herself, her handwritten note of the hearing before Judge Williams, a skeleton argument, additional witness statements from the appellant and sponsor and further evidence. By way of an email, Mr McVeety advised the Tribunal that Ms Patel's statement was accepted as accurate.

9. The appeal was then re-listed for hearing and came before me.

10. Both parties made submissions before me. I shall address the submissions in the discussion below.

## **Discussion**

11. It was Ms Patel's submission, with regard to the first ground, that the judge failed to consider that the appellant did not have to be wholly reliant upon the sponsor for financial support and that total dependency was not required. She submitted that the judge, having accepted that the sponsor made regular, persistent and frequent payments to the appellants, was wrong to consider that other smaller and irregular sources of income meant that the appellants were not dependent upon the sponsor for their essential needs. She submitted that, having found the sponsor to be a credible and reliable witness, the judge ought to have accepted his evidence, as set out in his statement of 19 October 2021 at [4] and [5] and his oral evidence, and as confirmed in the first appellant's statement at [4] and [5], that the appellants' only source of income was from himself and that he was responsible for all their daily living and other expenses including school fees, and that he ought to have allowed the appeal on that basis.

12. However, as Mr McVeety submitted, it was one matter to accept the evidence that the sponsor sent money to the appellants, but it was another matter to accept that

that money provided for their essential needs. The judge did not accept that the money sent by the sponsor was to provide for the appellants' essential needs because there were other sources of income and because it was not the sponsor who was providing the appellants with the roof over their heads. The judge properly identified, at [47], that having additional sources of income did not preclude a finding of dependency upon the sponsor, but what essentially concerned him was that he could not be satisfied that he had been provided with a reliable account of the appellants' financial circumstances. The judge was clearly concerned about the evidence relating to the Mahmood Dairy and Poultry Farm and the explanation for the funds received in that regard, noting that there were two letters seemingly produced on the same day with an identically handwritten date and reference number but providing different details of the repayments said to have been made to the first appellant. The judge also noted further payments made into the first appellant's bank account which neither the sponsor nor the first appellant had mentioned. In addition, the judge was not satisfied that the evidence showed how the money received from the sponsor was spent since, aside from some receipts for groceries, clothes and additional school tuition, no other financial information had been provided nor evidence of items such as utility bills or normal school fees. Accordingly, it was not the case that the judge took the evidence of additional sources of income as disproving the dependency upon the sponsor, as Ms Patel suggested, but the judge simply could not be satisfied that he had an accurate picture of the appellants' financial circumstances and thus could not accept that the money sent by the sponsor was in fact required by the appellants to meet their essential needs. Having set out his concerns clearly with reference to the evidence before him, it seems to me that the judge was perfectly entitled to make the adverse findings that he did.

13. In so far as it is asserted that there was unfairness in the judge's approach in making adverse findings on matters which were not put to the sponsor and with which he was provided no opportunity to explain, I have to agree with Mr McVeety that the judge was not required to put each and every concern to the sponsor or appellant and that he was perfectly entitled to make the findings that he did from the evidence before him. It is Ms Patel's submission that the judge ought to have enquired about, and given the sponsor an opportunity to explain, the matters which concerned him, namely the two letters from Mahmood Dairy and Poultry Farm, the money provided from the first appellant's other brother Banda Nawaz, the fact that the grocery receipts produced were vastly less than the amounts provided by the sponsor and the fact that the appellants were living rent-free in the property of the first appellant's husband's family. However all those matters arose from evidence which had been produced by the appellants and which they and their representative were fully aware of. The judge was perfectly entitled to consider the evidence when making his decision and I see no basis for concluding that any procedural unfairness or irregularity arose in such circumstances.

14. The third ground is essentially a repeat of the first ground which, as I have found above, did not identify any error in the judge's decision. The judge gave detailed and careful consideration to the documentary evidence and had full regard to the money paid to the appellants by the sponsor but was fully and properly entitled to conclude that the appellants had failed to demonstrate that that money was required to meet their essential needs and was used for that purpose. The judge's decision was entirely consistent with the respondent's guidance and relevant caselaw and was based upon a proper application of the relevant legal principles.

15. On the evidence available, it was accordingly entirely open to the judge to conclude that the appellants had failed to show that the requirements of the EEA Regulations 2016 were met and to dismiss the appeals on the basis that he did.

### **Notice of Decision**

Appeal Numbers: UI-2022-001295, UI-2022-001296, UI-2022-001297 & UI-2022-001298  
(EA/52336/2021, EA/52335/2021, EA/52337/2021 & EA/52339/2021)

16. The making of the decision of the First-tier Tribunal did not involve a material error on a point of law requiring it to be set aside. The decision to dismiss the appeals stands.

Signed: S Kebede  
Upper Tribunal Judge Kebede

Judge of the Upper Tribunal  
Immigration and Asylum Chamber

20 July 2023