



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

UI-2023-000514 & UI-2023-000515

FtT No's: EA/03752 & 05566/2022

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On 10th of October 2023

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

L & F SHKIRA
(no anonymity order)

Appellants

and

S S H D

Respondent

Heard at Edinburgh on 4 October 2023

For the Appellant: Mr H Ndubuisi, of Drummond Miller, Solicitors
For the Respondent: Mr M Diwyncz, Senior Home Office Presenting Officer

DECISION AND REASONS

1. This is an appeal against the decision of FtT Judge Prudham, promulgated on 19 January 2023.
2. Case law has moved on since then. Mr Ndubuisi founded on *Rexhaj* (dependent parents, assumed dependency) [2023] UKUT 00161, which is headnoted thus:

1. Where an applicant:

- a. has been granted entry clearance as a dependent parent under Appendix EU (Family Permit); and
- b. is subsequently granted limited leave to enter at the border as a dependent parent,

the operative basis upon which the individual was granted leave to enter at the border is to be found within Appendix EU.

2. It follows that such an applicant will already have been granted leave as a dependent parent under Appendix EU (c.f. "under this Appendix") and, pursuant to the definition of "dependent

parent" in Annex 1 to Appendix EU at paragraph (c)(i), will not be subject to the requirement to establish dependency.

3. Mr Diwyncz offered no argument against the application of that decision.
4. It is unnecessary to decide whether there was any error by the FtT in resolving the case as it was presented to it, and as the law was then understood. It is now clear that, although on subsequent authority, the decision should have turned on the prior grants of entry clearance and of limited leave to enter.
5. The decision of the FtT is set aside. The appeals, as originally brought to the FtT, are allowed.
6. No anonymity order has been requested or made.

Hugh Macleman
Judge of the Upper Tribunal, Immigration and Asylum Chamber
4 October 2023