



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

**Case No: UI-2023-
002546/002547**

**First tier: EA/05392/2022
/EA/05583/2022**

THE IMMIGRATION ACTS

Decision & Reasons Issued:

On 2nd of February 2024

Before

UPPER TRIBUNAL JUDGE LANE

Between

**SAIMAR MACI OR MATSI
ANILA MACI OR MATSI
(NO ANONYMITY ORDER MADE)**

Appellant

and

Secretary of State for the Home Department

Respondent

Representation:

For the Appellant: Mr Akram
For the Respondent: Mr Tan, Senior Presenting Officer

Heard at Manchester Civil Justice Centre on 13 December 2023

DECISION AND REASONS

1. The appellants are citizens of Greece. They appealed to the First-tier Tribunal against a decisions of the Secretary of State dated 28 May 2022 and 2 June 2022 respectively refusing applications for residence, pursuant to the EU Settlement Scheme in accordance with Appendix EU of the Immigration Rules. They appealed to the First-tier Tribunal which in a decision promulgated on 11 April 2023, dismissed their appeals. The appellants now appeal, with permission, to the Upper Tribunal.
2. The primary challenge to the First-tier Tribunal's decision is that the judge wrongly found that the appellants had to prove dependency on the United Kingdom sponsor in circumstances when, the appellant's assert, dependency was to be assumed under the rules. The appellants rely on Appendix EU Dependent Parent at (b) (i):

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The relevant EEA citizen (or on their spouse or civil partner) at the date of application or, where the date of application is after the specified date, at the specified date, and (unless the relevant EEA citizen is under the age of 18 years at the date of application or, where the date of application is after the specified date, the relevant EEA citizen was under the age of 18 years at the specified date) that dependency is assumed; [my emphasis]

3. The parties agree that the specified date is 31 December 2020. The appellants made their applications on 19 January 2022. The appellants argue that the judge should have 'assumed dependency as at the specified date' subject to paragraph (b) (i).

4. The problem with the appellants' argument is that they enjoyed only pre-settled, as opposed to settled, status; they were:

not eligible for indefinite leave to enter or remain under paragraph EU11 of this Appendix solely because they have completed a continuous qualifying period of less than five years' (EU14 1 (b)).

Moreover, the definition of 'dependent parent' at Annex 1 of Appendix EU provides at (cc) that:

(where the date of application is after the specified date and where the applicant is a joining family member) at the date of application and (unless the relevant EEA citizen is under the age of 18 years at the date of application) that dependency is assumed where the date of application is before 1 July 2021; [my emphasis].

5. The appellants applied after 1 July 2021 so they were required to prove dependency; they were not, as they now assert, entitled to proceed on the basis that dependency would be assumed.

6. Having established that the judge was correct to proceed to consider dependency, I find that his analysis of dependency at [32-37] is thorough and sound in law. The grounds at [4-5] offer nothing more than disagreement with the findings of fact of the judge. I am not satisfied that the judge considered irrelevant matters in his analysis. Indeed, the judge concluded that the evidence which the appellants adduced in support of their claimed dependency on the sponsor was not truthful [46].

7. In the circumstances, the appeals are dismissed.

Notice of Decision

The appeals are dismissed

**C. N.
Lane**

Judge of the Upper Tribunal
Immigration and Asylum Chamber

Dated: 21 January 2024