



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2023-005221
UI-2023-005222

On appeal from: EA/09447/2022
EA/09449/2022

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On 26th March 2024

Before

UPPER TRIBUNAL JUDGE GLEESON

Between

GJOVALIN DUSHAJ
PAVLINA DUSHAJ
(NO ANONYMITY ORDER MADE)

Appellants

and

THE ENTRY CLEARANCE OFFICER

Respondent

Representation:

For the Appellants: Mr Asad Maqsood of Counsel, appearing by Direct Access
For the Respondent: Ms Arifa Ahmed, a Senior Home Office Presenting Officer

Heard at Field House on 14 March 2024

DECISION AND REASONS

Introduction

1. The appellants challenge the decision of the First-tier Tribunal dismissing his appeal against the respondent's decisions on 1 February 2022 (for the first appellant) and 26 January 2022 (for the second appellant) to refuse them entry clearance under the EU Settlement Scheme as the family member and dependant spouse of a relevant EEA citizen.

2. The appellants are citizens of Albania and are husband and wife. They sought to join their daughter Florjana Dushaj, and her partner, Tunde Varga, a Hungarian citizen. Their applications were refused because the respondent did not accept that they were dependent on their daughter.
3. On 11 September 2023, First-tier Judge Beg dismissed the appeals. The applicants appealed to the Upper Tribunal.
4. Permission to appeal was granted on the basis that the First-tier Judge had muddled the facts and may have misunderstood who was the relevant EEA person.

Upper Tribunal hearing

5. The oral and written submissions at the hearing are a matter of record and need not be set out in full here. I had access to all of the documents before the First-tier Tribunal.
6. It was apparent on the face of the decision that the First-tier Judge had not given the applications anxious scrutiny and had not had regard to the bank statements in the bundle, or to the principal appellant's witness statement.

Conclusions

7. I have come to the conclusion that there is no alternative but to set aside the First-tier Tribunal decision and remit the appeal to the First-tier Tribunal for rehearing afresh by a Judge other than First-tier Judge Beg.

Notice of Decision

8. For the foregoing reasons, my decision is as follows:

The making of the previous decision involved the making of an error on a point of law.

I set aside the previous decision. The decision in this appeal will be remade in the First-tier Tribunal.

Judith Gleeson
Judge of the Upper Tribunal
Immigration and Asylum Chamber

Dated: 20 March 2024