



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2024-000411
First-tier Tribunal No: EU/51068/2023

THE IMMIGRATION ACTS

Decision and Reasons Issued:

On 9th of May 2024

Before

DEPUTY UPPER TRIBUNAL JUDGE MALIK KC

Between

**CLAUDIA DA CONCEICAO DA COSTS NUNES
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

**SECRETARY OF STATE
FOR THE HOME DEPARTMENT**

Respondent

Representation

For the Appellant: Ms Amanda Jones, Counsel, instructed UK Migration Lawyers

For the Respondent: Mr Esen Tufan, Senior Presenting Officer

Heard at Field House on 15 April 2024

DECISION AND REASONS

Introduction

1. This is an appeal by the Appellant from the decision of First-tier Tribunal Judge Moffatt promulgated on 25 October 2023. By that decision, the Judge dismissed the Appellant's appeal from the Secretary of State's decision to refuse her application under the European Union Settlement Scheme as a family member of a qualifying British citizen.

Discussion

2. I am grateful to Ms Amanda Jones, who appeared for the Appellant, and Mr Esen Tufan, who appeared for the Secretary of State, for their assistance and able submissions. The short point made by Ms Jones in this appeal is that the Judge has not considered and determined whether the Appellant meets the requirements in Paragraph EU14 of Appendix EU to the Immigration Rules. Mr Tufan, with his characteristic candour and fairness, accepts that the Judge's decision is entirely focused on Paragraph EU12 of Appendix EU to the Immigration Rules and contains no decision or reasons as to Paragraph EU14 of Appendix EU to the Immigration Rules. The Appellant expressly relied on Paragraph EU14 of Appendix EU to the Immigration Rules before the Judge and, indeed, the Secretary of State had considered that provision in his decision. In the circumstances, with consent of Ms Jones and Mr Tufan, I find that the Judge's failure to consider and determine the key issue amounts to an error of law. I set-aside the Judge's decision and, having regard to paragraph 7.2 of the Senior President's Practice Statement for the Immigration and Asylum Chambers, and the extent of the fact-finding which is required, remit the appeal to the First-tier Tribunal to be heard afresh by a different judge.

Decision

3. The First-tier Tribunal's decision is set aside and the appeal is remitted to the First-tier Tribunal for a fresh hearing.

Anonymity

4. I consider that an anonymity order is not justified in the circumstances of this case having regard to the Presidential Guidance Note No 2 of 2022, *Anonymity Orders and Hearing in Private*, and the overriding objective. I make no order under Rule 14(1) of the Tribunal Procedure (Upper Tribunal) Rules 2008.

Zane Malik KC
**Deputy Judge of Upper Tribunal
Immigration and Asylum Chamber
Date: 7 May 2024**