



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

Case No: UI-2024-001077

First-tier Tribunal No: EA/50112/2023  
LE/01664/2023

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**

On 14<sup>th</sup> October 2024

**Before**

**UPPER TRIBUNAL JUDGE MEAH**

**Between**

**Liza Akhtar**  
**(ANONYMITY ORDER NOT MADE)**

Appellant

**and**

**Secretary of State for the Home Department**

Respondent

**Representation:**

For the Appellant: Mr M West, Counsel, instructed by M P Solicitors

For the Respondent: Mr A McVeety, Senior Home Office Presenting Officer

**Heard at Field House on 10 October 2024**

**DECISION AND REASONS**

**Introduction and Background**

1. The appellant, born on 02 March 1993, appeals against the decision of First-tier Tribunal Judge Howarth promulgated on 12 December 2023 (“the decision”). By the decision, the Judge dismissed the appellant’s appeal against the respondent’s decision dated 04 January 2023, refusing her application for entry clearance under the EU Settlement Scheme as the dependent of her father, an Irish national by the name of Mr Rokib Ali, and his wife, Mrs Salina Begom who is also an Irish national (The Sponsors’).

**The Hearing**

2. The hearing was conducted with myself sitting at Field House, whilst the representatives attended via Cloud Video Platform.

### **The Grounds**

3. The grounds raised challenging the decision are that the Judge had failed to properly evaluate the evidence of dependency whereby the Judge's approach to money transfer receipts relied upon was flawed. It was also argued that the Judge's failure to consider evidence relating to money transfers post-dating the date of application on 22 July 2022, was also flawed.
4. Permission to appeal was granted by Upper Tribunal Judge Hoffman on 24 July 2024, in the following terms:

“(1) The appellant seeks to appeal the decision of First-tier Tribunal Judge Howorth dated 12 December 2023 dismissing her appeal against the respondent's decision dated 4 January 2023 refusing her application for a family permit under Appendix EU (Family Permit) to the Immigration Rules.

(2) Ground 1: I am satisfied that it is arguable that the First-tier Tribunal judge erred in law by focussing on the frequency of the payments made by the sponsor to the appellant rather than the amounts of money sent to her when considering whether the appellant is dependent on her sponsor to meet her essential living needs.

(3) Ground 2: The appellant also argues that the First-tier Tribunal judge erred in law by failing to have regard to evidence of money transfers post-dating the date of application. In doing so, she relies on the case of *Elais (fairness and extended family members)* [2022] UKUT 00300 (IAC). While I find that this ground is less strong than Ground 1, I nevertheless accept that it is arguable and is deserving of further exploration at an error of law hearing.....”

5. A Rule 24 response was received from respondent dated 14 August 2024.
6. That is the basis on which this appeal came before the Upper Tribunal.

### **Submissions**

7. Both representatives made submissions which I have taken into account and these are set out in the Record of Proceedings and need not be repeated here.

### **Discussion and Conclusions**

8. Following preliminary discussions at the outset of the hearing, Mr McVeety stated that the respondent conceded the grounds of challenge and accepted the errors highlighted therein. This was primarily on the ground that the assessment of dependency was as at the date of application, and it was not disputed that the appellant had shown, at the very least, dependency from 2020 onwards. It was also acknowledged that the Judge may have failed to

attach proper weight to the amounts sent to the appellant in the money transfers that were evidenced in her application and appeal.

9. I am satisfied Mr McVeety's concession was fairly and sensibly made. I informed the parties that I did not seek to go behind the respondent's concession, and I accept that there were material errors of law in the Judge's decision as argued in the grounds seeking permission.
10. I therefore set aside the decision of the Judge.
11. I have accordingly considered whether to retain the matter for remaking in the Upper Tribunal, in line with the general principle set out in statement 7 of the Senior President's Practice Statement and **Begum (Remaking or remittal) Bangladesh [2023] UKUT 46 (IAC)**.
12. There is no merit in remitting this matter to the First-tier Tribunal and I see no good reason why it needs to be relisted on a separate occasion to come before the Upper Tribunal again, given the nature of the material error, and the unchallenged evidence by the respondent, all of which I have seen. It is therefore fair and reasonable for me to remake the decision here.
13. Both parties were in agreement and Mr McVeety also accepted, in recognition of the undisputed documentary evidence of dependency from 2020 onwards in particular, and given that the assessment of dependency was one to be considered at the date of application, that he was content for me to allow the appeal.
14. I accordingly find that the appellant provided sufficient evidence to show that she was genuinely financially dependent on the sponsors to meet her essential living needs at the date of her application. I therefore remake the decision and allow her appeal.

### **Notice of Decision**

15. The making of the previous decision by the First-tier Tribunal involved the making of an error on a point of law.
16. I set aside the previous decision. I remake the decision by allowing the appeal.

***S Meah***  
**Judge of the Upper Tribunal**  
**Immigration and Asylum Chamber**

**14 October 2024**