



**Upper Tribunal  
(Immigration and Asylum  
Chamber)**

**Appeal Number: UI-2022-001097  
On appeal from EA/11833/2021**

**THE IMMIGRATION ACTS**

**Heard at Field House  
On the 18 August 2022**

**Decision & Reasons Promulgated  
On the 31 October 2022**

**Before**

**UPPER TRIBUNAL JUDGE FRANCES**

**Between**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Appellant

**and**

**DHARAM VIR  
(ANONYMITY DIRECTION NOT MADE)**

Respondent

**Representation:**

For the Appellant: Ms S Cunha, Home Office Presenting Officer

For the Respondent: Ms S Akinbolu, instructed by London Imperial Immigration Services

**DECISION AND REASONS**

1. Although this is an appeal by the Secretary of State for the Home Department, I shall refer to the parties as in the First-tier Tribunal. The appellant is a citizen of the United States of America born on 8 May 1973. His appeal against the respondent's decision to refuse him pre-settled

status under the EU Settlement Scheme ('EUSS') was allowed by First-tier Tribunal Judge Latta on 12 January 2022.

2. The Secretary of State appealed on the grounds that the First-tier Tribunal Judge ('the judge') had materially erred in law by failing to properly consider the provisions of Appendix EU contained within the immigration rules. The appellant's application for status under the EUSS was as a family member of a relevant EEA national. The application was considered under the durable partner route where it was bound to fail. The rule required a 'relevant document' as evidence that residence had been facilitated under the Immigration (EEA) Regulations 2016 ('the 2016 Regulations') which had transposed Article 3.2(b) of Directive 2004/38/EC ('the 2004 Directive'). No such document was held as no application for facilitation had ever been made by the appellant prior to the UK's exit from the European Union on 31 December 2020.
3. The question of whether and how the relationship was in fact 'durable' at any relevant date, as is found by the judge at [29] of the decision, was of no consequence. The EUSS rules could simply not be met by a durable partner whose residence had not been facilitated. This is reflected in Article 10(2) of the Withdrawal Agreement ('WA') permitting the continued residence of a former documented 'extended family member' ('EFM'), with an additional transitional provision in Article 10(3) for those who had applied for such facilitation before 31 December 2020. This appellant had not made any such application and therefore could not satisfy the requirements of Appendix EU.
4. It was further submitted that the judge misapplied the requirements of the Immigration (Citizens' Rights Appeals) (EU Exit) Regulations 2020 ('the 2020 Exit Regulations') and the WA when allowing the appellant's appeal. An appeal under the 2020 Exit Regulations could be brought on two grounds: either the decision was not in accordance with EUSS rules or the decision breached rights under the WA. The WA provided no applicable rights to a person in the appellant's circumstances. Article 10(1)(e) WA confirmed that beneficiaries are those who were residing in accordance with EU law as of 31 December 2020. The appellant was not, and therefore did not come within the scope of the WA. Accordingly, there was no entitlement to the Article 18(1)(r) requirement that the decision was proportionate and there was no conceivable breach of rights. Therefore, the judge erred in finding that the respondent's refusal decision breached the WA.
5. In the alternative, the judge's consideration of proportionality was wholly inadequate in the context of an appellant who did not meet the applicable immigration rules. At [33] of the decision, the judge found that the refusal to facilitate the rights of an unfacilitated durable partner, after the UK has left the EU is disproportionate notwithstanding the appellant had not acquired any protected rights under EU law prior to 31 December 2020. In any event, the Appellant would have been fully aware of the significance of the specified date when the UK left the EU and the need to be

documented prior to that date. The judge therefore failed to provide any valid reasons for why the decision to refuse leave to remain under Appendix EU was disproportionate under the WA.

6. Permission to appeal was granted by Upper Tribunal Judge Grubb on 27 May 2022 for the following reasons:

“It is arguable that the appellant did not meet the requirement of Appendix EU and, in particular, Annex A1 of Appendix EU based upon his ‘durable relationship’. He did not satisfy the definition of a ‘durable partner’ under (b)(i) (‘durable partner’) as he did not have a “relevant document” issued under the EEA Regulations. The judge did not rely upon the alternative definition in (b)(ii) where the individual does not have that document and which it is arguable did not apply in any event. Further, the reliance upon the Withdrawal Agreement was also arguable wrong as the appellant was arguably not a beneficiary as, absent a document issued under the EEA Regulations, he was not residing in the UK in accordance with EU law before 31 December 2020.”

### **Relevant law**

7. Article 10 of the Withdrawal Agreement states:

“1. Without prejudice to Title III, this Part shall apply to the following persons:

- (a) Union citizens who exercised their right to reside in the United Kingdom in accordance with Union law before the end of the transition period and continue to reside there thereafter;
- (b) United Kingdom nationals who exercised their right to reside in a Member State in accordance with Union law before the end of the transition period and continue to reside there thereafter;
- (c) Union citizens who exercised their right as frontier workers in the United Kingdom in accordance with Union law before the end of the transition period and continue to do so thereafter;
- (d) United Kingdom nationals who exercised their right as frontier workers in one or more Member States in accordance with Union law before the end of the transition period and continue to do so thereafter;
- (e) family members of the persons referred to in points (a) to (d), provided that they fulfil one of the following conditions:
  - (i) they resided in the host State in accordance with Union law before the end of the transition period and continue to reside there thereafter;
  - (ii) they were directly related to a person referred to in points (a) to (d) and resided outside the host State before the end of the transition period, provided that they fulfil the conditions set out in point (2) of Article 2 of Directive 2004/38/EC at the time they seek residence under this Part in order to join the person referred to in points (a) to (d) of this paragraph;

- (iii) they were born to, or legally adopted by, persons referred to in points (a) to (d) after the end of the transition period, whether inside or outside the host State, and fulfil the conditions set out in point (2)(c) of Article 2 of Directive 2004/38/EC at the time they seek residence under this Part in order to join the person referred to in points (a) to (d) of this paragraph and fulfil one of the following conditions:
    - both parents are persons referred to in points (a) to (d);
    - one parent is a person referred to in points (a) to (d) and the other is a national of the host State; or
    - one parent is a person referred to in points (a) to (d) and has sole or joint rights of custody of the child, in accordance with the applicable rules of family law of a Member State or of the United Kingdom, including applicable rules of private international law under which rights of custody established under the law of a third State are recognised in the Member State or in the United Kingdom, in particular as regards the best interests of the child, and without prejudice to the normal operation of such applicable rules of private international law;
  - (f) family members who resided in the host State in accordance with Articles 12 and 13, Article 16(2) and Articles 17 and 18 of Directive 2004/38/EC before the end of the transition period and continue to reside there thereafter.
2. Persons falling under points (a) and (b) of Article 3(2) of Directive 2004/38/EC whose residence was facilitated by the host State in accordance with its national legislation before the end of the transition period in accordance with Article 3(2) of that Directive shall retain their right of residence in the host State in accordance with this Part, provided that they continue to reside in the host State thereafter.
  3. Paragraph 2 shall also apply to persons falling under points (a) and (b) of Article 3(2) of Directive 2004/38/EC who have applied for facilitation of entry and residence before the end of the transition period, and whose residence is being facilitated by the host State in accordance with its national legislation thereafter.
  4. Without prejudice to any right to residence which the persons concerned may have in their own right, the host State shall, in accordance with its national legislation and in accordance with point (b) of Article 3(2) of Directive 2004/38/EC, facilitate entry and residence for the partner with whom the person referred to in points (a) to (d) of paragraph 1 of this Article has a durable relationship, duly attested, where that partner resided outside the host State before the end of the transition period, provided that the relationship was durable before the end of the transition period and continues at the time the partner seeks residence under this Part.
  5. In the cases referred to in paragraphs 3 and 4, the host State shall undertake an extensive examination of the personal circumstances of the persons concerned and shall justify any denial of entry or residence to such persons.

8. Immigration Rules Appendix EU paragraph EU14A states:

“Persons eligible for limited leave to enter or remain as a joining family member of a relevant sponsor

EU14A. The applicant meets the eligibility requirements for limited leave to enter or remain as a joining family member of a relevant sponsor where the Secretary of State is satisfied, including by the required evidence of family relationship, that, at the date of application and in an application made after the specified date and by the required date, the condition set out in the following table is met:

- (a) The applicant is:
  - (i) a joining family member of a relevant sponsor; or
  - (ii) a family member who has retained the right of residence by virtue of a relationship with a relevant sponsor; and
- (b) The applicant is:
  - (i) not eligible for indefinite leave to enter under paragraph EU11A of this Appendix, where the application is made outside the UK; or
  - (ii) not eligible for indefinite leave to remain under paragraph EU11A of this Appendix, where the application is made within the UK, solely because they have completed a continuous qualifying period of less than five years which began after the specified date; and
- (c) Where the applicant is a joining family member of a relevant sponsor, there has been no supervening event in respect of the relevant sponsor.

9. The definition of joining family member, relevant to durable partners, is as follows:

“a person who has satisfied the Secretary of State, including by the required evidence of family relationship, that they are (and for the relevant period have been), or (as the case may be) for the relevant period (or at the relevant time) they were:

...

- (c) the durable partner of a relevant sponsor, and:
  - (i) the partnership was formed and was durable before the specified date; and
  - (ii) (aa) (unless the applicant relies on meeting condition 1 or condition 3 of paragraph EU11A of this Appendix, or on being a family member who has retained the right of residence by virtue of a relationship with a relevant sponsor) the partnership remains durable at the date of application; or  
(bb) (where the applicant relies on meeting condition 1 of paragraph EU11A of this Appendix) the partnership remained durable for the relevant period; or  
(cc) (where the applicant relies on meeting condition 3 of paragraph EU11A of this Appendix) the partnership remained durable immediately before the death of the relevant sponsor;

...

in addition, the person meets one of the following requirements:

- (a) (where sub-paragraph (c) or (d) below does not apply) they were not resident in the UK and Islands on a basis which met the definition of 'family member of a relevant EEA citizen' in this table (where that relevant EEA citizen is their relevant sponsor) at any time before the specified date; or
- (b) (where sub-paragraph (c) or (d) below does not apply) they were resident in the UK and Islands before the specified date, and:
  - (i) one of the events referred to in sub-paragraph (b)(i) or (b)(ii) in the definition of 'continuous qualifying period' in this table has occurred, and after that event occurred they were not resident in the UK and Islands again before the specified date; or
  - (ii) the event referred to in sub-paragraph (a) in the definition of 'supervening event' in this table has occurred, and after that event occurred they were not resident in the UK and Islands again before the specified date; ...[(c) and (d) refer to children and are not relevant here].

10. The definition of durable partner in Annex 1 of Appendix EU is as follows:

- “(a) the person is, or (as the case may be) for the relevant period was, in a durable relationship with a relevant EEA citizen (or, as the case may be, with a qualifying British citizen or with a relevant sponsor), with the couple having lived together in a relationship akin to a marriage or civil partnership for at least two years (unless there is other significant evidence of the durable relationship); and
- (b) (i) the person holds a relevant document as the durable partner of the relevant EEA citizen (or, as the case may be, of the qualifying British citizen or of the relevant sponsor) for the period of residence relied upon; for the purposes of this provision, where the person applies for a relevant document (as described in sub-paragraph (a)(i)(aa) or (a)(ii) of that entry in this table) as the durable partner of the relevant EEA citizen or, as the case may be, of the qualifying British citizen before the specified date and their relevant document is issued on that basis after the specified date, they are deemed to have held the relevant document since immediately before the specified date; or
- (ii) where the person is applying as the durable partner of a relevant sponsor (or, as the case may be, of a qualifying British citizen), or as the spouse or civil partner of a relevant sponsor (as described in sub-paragraph (a)(i)(bb) of the entry for 'joining family member of a relevant sponsor' in this table), and does not hold a document of the type to which sub-paragraph (b)(i) above applies, and where:
  - (aa) the date of application is after the specified date; and
  - (bb) the person:
    - (aaa) was not resident in the UK and Islands as the durable partner of a relevant EEA citizen (where that relevant EEA citizen is their relevant sponsor) on a basis which met the definition of 'family member of a relevant EEA citizen' in this table, or, as the

case may be, as the durable partner of the qualifying British citizen, at (in either case) any time before the specified date, unless the reason why, in the former case, they were not so resident is that they did not hold a relevant document as the durable partner of a relevant EEA citizen for that period (where their relevant sponsor is that relevant EEA citizen) and they did not otherwise have a lawful basis of stay in the UK and Islands for that period; or

(bbb) was resident in the UK and Islands before the specified date, and one of the events referred to in sub-paragraph (b)(i) or (b)(ii) in the definition of 'continuous qualifying period' in this table has occurred and after that event occurred they were not resident in the UK and Islands again before the specified date; or

(ccc) was resident in the UK and Islands before the specified date, and the event referred to in sub-paragraph (a) in the definition of 'supervening event' in this table has occurred and after that event occurred they were not resident in the UK and Islands again before the specified date,

the Secretary of State is satisfied by evidence provided by the person that the partnership was formed and was durable before (in the case of a family member of a qualifying British citizen as described in sub-paragraph (a)(i)(bb) or (a)(iii) of that entry in this table) the date and time of withdrawal and otherwise before the specified date; ....

11. In Batool and others (other family members: EU exit) [2022] UKUT 00219 (IAC), the Upper Tribunal held:

- “(1) An extended (oka other) family member whose entry and residence was not being facilitated by the United Kingdom before 11pm GMT on 31 December 2020 and who had not applied for facilitation of entry and residence before that time, cannot rely upon the Withdrawal Agreement or the immigration rules in order to succeed in an appeal under the Immigration (Citizens’ Rights Appeals) (EU Exit) Regulations 2020.
- (2) Such a person has no right to have any application they have made for settlement as a family member treated as an application for facilitation and residence as an extended/other family member.”

12. In Celik (EU exit; marriage; human rights) [2022] UKUT 00220 (IAC), the Upper Tribunal held:

- “(1) A person (P) in a durable relationship in the United Kingdom with an EU citizen has as such no substantive rights under the EU Withdrawal Agreement, unless P’s entry and residence were being facilitated before 11pm GMT on 31 December 2020 or P had applied for such facilitation before that time.
- (2) Where P has no such substantive right, P cannot invoke the concept of proportionality in Article 18.1(r) of the Withdrawal Agreement or the principle of fairness, in order to succeed in an appeal under the Immigration (Citizens’ Rights) (EU Exit) Regulations 2020 (“the 2020 Regulations”). That includes the situation where it is likely that P would have been able to secure a date to marry the EU citizen before the

time mentioned in paragraph (1) above, but for the Covid-19 pandemic.

- (3) Regulation 9(4) of the 2020 Regulations confers a power on the First-tier Tribunal to consider a human rights ground of appeal, subject to the prohibition imposed by regulation 9(5) upon the Tribunal considering a new matter without the consent of the Secretary of State.”

### **The hearing**

13. The appellant submitted a rule 24 response. Ms Akinbolu did not concede the error of law, but accepted the Upper Tribunal would follow the decisions of the Presidential panels and set aside the decision of the First-tier Tribunal. She reserved her position on the basis that Celik was wrongly decided.
14. I indicated that following Batool and Celik, I was of the view the judge had erred in law and the decision should be set aside and remade. Both parties agreed to this course and made submissions.

### **Appellant's submissions**

15. Ms Akinbolu relied on paragraphs 18 to 20 of the rule 24 response in which she submitted the appellant met the requirements of paragraph EU14A as a joining family member. She submitted that the decision of Celik was relevant to this appeal. Batool could be distinguished on its facts because there was a clear distinction between ‘durable partner’ and ‘dependent relative’ in Appendix EU. Durable partners were not excluded from relying on Appendix EU after the specified date of 31 December 2020 and there was no dispute the appellant and EEA sponsor were durable partners.
16. The focus in the First-tier Tribunal was lack of a ‘relevant document’. There was no dispute on that issue. However, the appellant had some other basis for being in the UK and therefore he was entitled to make an in-country application. The appellant entered the UK on 15 November 2020 during a ‘lockdown’ and was granted leave to enter as a visitor for six months. The application was made before his leave ended and therefore he satisfied b(ii) of the definition of durable partner in Annex 1 of Appendix EU. Ms Akinbolu accepted this point was not taken before the First-tier Tribunal.

### **Respondent's submissions**

17. Ms Cunha submitted that under Article 10(1)(a) WA, the appellant had to show that his sponsor had exercised Treaty rights and continued to do so post ‘Brexit’. Article 10(4) WA required the respondent to facilitate entry



and residence where the partner resided outside the UK before the end of the transition period. However, the appellant had entered the UK. Following Celik, the appellant could only bring himself within Article 10(4) if he had applied for facilitation and entry as a durable partner before the end of the transition period. Article 3(2) of Directive 2004/38/EC distinguished an EFM durable partner from a direct relative and dependant. The appellant was not a family member under regulation 7 of the 2016 Regulations.

18. Following SSHD v Rahman [2012] EUECJ C-83/11 (5 September 2012); [2013] QB 249; [2013] Imm AR 73, the respondent had a wide discretion to interpret facilitation and the factors to take into account. Ms Cunha submitted that, notwithstanding the appellant was in a durable relationship, the appellant was not recognised as a durable partner prior to 'Brexit' and could not benefit from Appendix EU: Mascatena v SSHD [2018] EWCA Civ 1558; [2019] Imm AR 28. The appellant was not a joining family member and the respondent had never accepted the appellant as a durable partner. The appellant was not subject to removal and could make an Article 8 application.
19. In response, Ms Akinbolu submitted the appellant satisfied EU14A of Appendix EU and there was no need for recognition of the durable relationship. A joining family member included a durable partner. The relationship was formed before the relevant date and was not disputed. The appellant had another lawful basis of stay in the UK as a visitor. He was entitled to pre-settled status.

### **Conclusions and reasons**

20. The appellant's partner is a Polish national with pre-settled status under the EUSS. On 15 November 2020 the appellant entered the UK with leave to enter as a visitor valid until 15 May 2021. On 7 May 2021, he applied for pre-settled status under the EUSS and his application was refused on 27 July 2021. The application was made on the basis the appellant was a family member because he is a durable partner.
21. The appellant is not a family member under Article 2(2) of the 2004 Directive and cannot satisfy Article 10(1) WA. It is not in dispute that the appellant did not apply for facilitation of entry or residence before the end of the transition period and his residence in the UK was not facilitated by the respondent prior to 11pm on 31 December 2020. The appellant cannot not satisfy Article 10(2) or 10(3) WA. The appellant entered the UK prior to the end of the transition period and therefore cannot not satisfy Article 10(4).
22. Following Batool and Celik, the appellant cannot rely on the WA and the judge erred in law in finding the refusal of pre-settled status breached the appellant's rights under the WA. Further or alternatively, for the reasons

given below, the judge erred in law at [35] in finding the appellant met the relevant eligibility requirements for pre-settled status under the EUSS. The decision to allow the appeal is set aside and remade as follows.

23. It is accepted the appellant does not meet the requirements of EU14, as a family member. However, it is submitted the appellant meets the requirements of EU14A as a joining family member. Ms Akinbolu submits the appellant satisfies paragraph (b)(ii) of the definition of durable partner under Appendix EU and therefore he is a family member.
24. I find that the appellant does not meet the requirements of EU14A as a joining family member for the following reasons. The appellant was resident in the UK before the specific date having entered as a visitor. Before 6 October 2021, Appendix EU14A included the words: "(i) (in cases where the application is made within the UK) the applicant is not in the UK as a visitor and (ii)". EU14A was amended by Statement of Changes of Immigration Rules HC 617.
25. Following Home Office guidance of 13 April 2022: 'EU Settlement Scheme: EU, other EEA and Swiss citizens and their family members', ('the HO guidance') the appellant could not meet the eligibility requirements of EU14A as a joining family member because the decision was made before 6 October 21 and, therefore, the appellant must not have been in the UK at the date of application as a visitor (page 102):

"Where the application is made within the UK and was decided before 6 October 2021 (the date that relevant changes to Appendix EU made in Statement of Changes in Immigration Rules: HC 617 came into effect), then, to meet the eligibility requirements for indefinite leave to remain (under rule EU11A) or limited leave to remain (under rule EU14A) as a joining family member of a relevant sponsor, the applicant must not have been in the UK at the date of application as a 'visitor', in accordance with the relevant definition then in Annex 1 to Appendix EU. This meant that, subject to limited exceptions, the applicant must not have been granted leave under paragraphs 40-56Z, 75A-M or 82-87 of the Immigration Rules in force before 24 April 2015 or Appendix V on or after 24 April 2015 or Appendix V: Visitor after 9am on 1 December 2020, and was not a person to whom article 4 or 6 of the Immigration (Control of Entry through Republic of Ireland) Order 1972 applied. For applications decided from 6 October 2021, the requirement not to be in the UK as a visitor was removed from Appendix EU (by virtue of the changes made in Statement of Changes in Immigration Rules: HC 617). This means that applicants are no longer required not to be in the UK as a visitor to qualify for leave under Appendix EU as a joining family member of a relevant sponsor. The requirement that, in an application decided before 6 October 2021 (the date that relevant changes to Appendix EU made in Statement of Changes in Immigration Rules: HC 617 came into effect), a person applying as a joining family of a relevant sponsor must not have been in the UK at the date of application as a 'visitor', in accordance with the relevant definition then in Annex 1 to Appendix EU, was disapplied, as a temporary concession outside Appendix EU, where the applicant entered the UK as a visitor on or after 1 January 2021."

26. Alternatively, the appellant is not a joining family member because he will need to break the continuity of his residence by leaving the UK (page 97 of the HO guidance. See also [29] of Celik).
27. On the facts asserted, the appellant cannot bring himself within page 119 of the HO guidance which states as follows:

“Joining on or after 1 January 2021

Where the applicant is applying after the specified date as a joining family member who is the durable partner of a relevant sponsor (or of a qualifying British citizen), they can provide a relevant document as the durable partner of the relevant sponsor (or qualifying British citizen) for the period of residence relied upon, and evidence which satisfies you that the durable partnership remains durable at the date of application (or did so for the period of residence relied upon). Otherwise, the applicant must either:

- not have been resident in the UK and Islands in any capacity before the specified date
- not have been resident in the UK and Islands as the durable partner of the relevant EEA citizen (where that relevant EEA citizen is their relevant sponsor) on a basis which met the definition of ‘family member of a relevant EEA citizen’ in Annex 1 to Appendix EU (or as the durable partner of the qualifying British citizen), at (in either case) any time before the specified date, unless the reason why, in the former case, they were not so resident is that they did not hold a relevant document as the durable partner of a relevant EEA citizen for that period (where their relevant sponsor is that relevant EEA citizen) and they did not otherwise have a lawful basis of stay in the UK and Islands (for example as a student) for that period – this means that a durable partner who did not hold a relevant document as the durable partner of a relevant EEA citizen (where their relevant sponsor is that relevant EEA citizen) for a period of residence in the UK and Islands before the specified date, and who did not otherwise have a lawful basis of stay in the UK and Islands for that period, cannot qualify as a joining family member on this basis
- have been resident in the UK and Islands before the specified date, but their continuous qualifying period was interrupted by one of the following events, after which they were not resident in the UK and Islands again before the specified date, either:
  - absence(s) from the UK and Islands which exceeded a total of 6 months in any 12-month period, unless the absence(s) fell within one or more of the specified exceptions or
  - the applicant served a sentence of imprisonment of any length in the UK and Islands
- have been resident in the UK and Islands before the specified date, and the applicant has then been absent from the UK and Islands for a period of more than 5 consecutive years (at any point since they last acquired the right of permanent residence in the UK under regulation 15 of the EEA Regulations, or the right of permanent residence in the Islands through the application there of section 7(1) of the Immigration Act 1988 or under the Immigration (European Economic Area) Regulations of the Isle of Man, or since they last completed a

continuous qualifying period of 5 years) and, after that, they were not resident in the UK and Islands again before the specified date. When considering whether a person with another lawful basis of stay in the UK and Islands before the specified date was the durable partner of a relevant EEA citizen before the specified date, only the period for which the person had another lawful basis of stay in the UK and Islands before that date can be considered for the purposes of assessing whether the partnership was durable before that date.

28. Following Batool, the appellant cannot rely on the immigration rules or the WA to succeed on an appeal under the 2020 Exit Regulations. The appellant had no right to have the application treated as an application for facilitation and residence as a durable partner.
29. I find the appellant does not satisfy the requirements of the EUSS and I dismiss his appeal under the 2020 Exit Regulations.

### **Notice of Decision**

**The respondent's appeal is allowed.**

**The decision of 12 January 2022 is set aside and remade.**

**The appellant's appeal is dismissed.**

**J Frances**

Signed  
Upper Tribunal Judge Frances

Date: 16 September 2022

### **TO THE RESPONDENT** **FEE AWARD**

As I have dismissed the appeal, I make no fee award.

**J Frances**

Signed  
Upper Tribunal Judge Frances

Date: 16 September 2022

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### **NOTIFICATION OF APPEAL RIGHTS**

1. A person seeking permission to appeal against this decision must make a written application to the Upper Tribunal. Any such application must be **received** by the Upper Tribunal within the

**appropriate period** after this decision was **sent** to the person making the application. The appropriate period varies, as follows, according to the location of the individual and the way in which the Upper Tribunal's decision was sent:

2. Where the person who appealed to the First-tier Tribunal is **in the United Kingdom** at the time that the application for permission to appeal is made, and is not in detention under the Immigration Acts, the appropriate period is **12 working days (10 working days, if the notice of decision is sent electronically)**.

3. Where the person making the application is in detention under the Immigration Acts, **the appropriate period is 7 working days (5 working days, if the notice of decision is sent electronically)**.

4. Where the person who appealed to the First-tier Tribunal is **outside the United Kingdom** at the time that the application for permission to appeal is made, the appropriate period is **38 days (10 working days, if the notice of decision is sent electronically)**.

**5. A "working day" means any day except a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday.**

**6. The date when the decision is "sent" is that appearing on the covering letter or covering email.**