



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

Case No: UI-2022-004363

First-tier Tribunal No: EA/06522/2021

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:  
On 1 September 2023**

**Before**

**UPPER TRIBUNAL JUDGE HANSON**

**Between**

**ISHRAT FAISAL  
(NO ANONYMITY ORDER MADE)**

Appellant

**and**

**AN ENTRY CLEARANCE OFFICER**

Respondent

**Representation:**

For the Appellant: Mr Sundhoe, the EU national sponsor.

For the Respondent: Mr Tan, a Senior Home Office Presenting Officer.

**Heard at Manchester Civil Justice Centre on 27 June 2023**

**DECISION AND REASONS**

1. In a decision promulgated following a hearing at the Manchester Civil Justice Centre on 17 April 2023 the Upper Tribunal found the First-tier Tribunal had erred in law when dismissing the appeal of the above appellant and gave directions of the future management of the appeal. The matter returns to Upper Tribunal today to enable it to substitute a decision to either allow or dismiss the appeal.

**Discussion and analysis**

2. The appellant is a citizen of Pakistan born on the 5 May 1996. Her sponsor, Mr Sundhoe ('the Sponsor'), an Italian citizen, is her father.
3. The First-tier Tribunal accepted the relationship between the appellant and Sponsor was as claimed. It is not disputed the Sponsor has settled or pre-settled status under the EUSS leaving the remaining issue to be determined that of the question of the dependency of the appellant upon the EU national, an issue raised as being of specific concern to the Entry Clearance Officer (ECO) in the refusal dated 8 April 2021, but not dealt with by the First-tier Tribunal.

4. In accordance with the directions a number of additional documents have been provided in support of the appellant's claim. The Sponsor attended and gave oral evidence with the benefit of an Urdu interpreter.
5. The Sponsor has been assisted throughout by one of his UK-based relatives. It became clear during the course of the hearing that the Sponsor may not have full knowledge of what is occurring and what is being presented, and on two occasions the relative who accompanied him had to be warned not to speak to him/prompt him during the time the Sponsor was giving his oral evidence.
6. All the evidence has been considered in detail.
7. The appellant asserts that she has provided money transfer receipts from her sponsor who she states has been supporting her for two consecutive years with all the money being sent in her sponsor's name. The appellant acknowledges that one money transfer slip is in the name of the sponsor's wife, but states this was because he was ill and could not send any money so his wife sent the money. The appellant claims she has attached money transfer collection slips showing she received the money. The appellant claims she has also attached receipts showing where she spent the money on groceries, medical, shopping, and that as she does not have a bank account in Pakistan she could not disclose this document. The appellant also claims to have provided evidence to the Embassy in support of the application, but it is the evidence that is before this Tribunal that is being considered.
8. It is not disputed before me that remittances have been sent to Pakistan, but it is settled law that sending such remittances is not sufficient in isolation. It is common practice for many who have relatives who are settled outside their home state, including in the UK, to receive remittances from abroad which are used to enable them to have better lives, meet the costs of education, and enjoy a higher standard of living than they may otherwise have. It is a common view that all the large villas in Sylhet, Bangladesh, for example have been built with remittances from abroad.
9. The evidence provided shows the existence of other family members in Pakistan. Various documents have been provided from an advocate in Pakistan addressed to the Assistant Commissioner of the Inland Revenue, as well as from Municipal Corporation offices, and elsewhere.
10. Mr Tan in his submission stated there was no evidence of the sponsor financial needs or of those of the appellant, or of the correct information relating to the income being received and outgoings.
11. The Sponsor was asked if he had documents concerning named individuals, which he did not have. Concerns were expressed as the money transfers appears to be a mix of remittances some in the name of the Sponsor and others in the name of other family members. The Sponsor confirmed he had nothing to add to the evidence which had been provided.
12. In relation to the documents sent concerning the Sponsor's son-in-law, Faisal Rana, the Sponsor confirmed that the documents had been sent in by both he and his daughter. Mr Tan referred him to a letter from Advocate in Pakistan to the Board of Revenue, purportedly relating to Faisal Rana, and asked the Sponsor why the letter referred to a name and Pakistan national identity number the same as his son-in-law Khuram Rafiq. The Sponsor's reply was that he might put the same in the letter, but they could not be the same. When asked if he knew how his son-in-law and daughter got the letter he claimed he did not.
13. Mr Tan asked the Sponsor about a further discrepancy arising from the documentary evidence in that money transfer receipts appeared to be relate to an individual residing at a different address than the relevant address in this appeal for the appellant. The Sponsor claimed that the appellant would stay at

- somebody's house implying that it will be different from the address that she claimed she was staying in, to which the evidence of dependency presumably related.
14. The Sponsor was asked if he sent the money through which he stated he did when he could afford to do so.
  15. The Sponsor is not a wealthy man and his comment that he would make payments when he is able to do so I accept is an honest answer. The difficulty with this reply, bearing in mind remittance have been sent in the name of third parties, not the Sponsor, is that it means that support is provided other than by the EEA national. Although it is claimed family members send remittances when the Sponsor cannot do so it was not suggested he would have the resources to pay them back.
  16. There are also the anomalies in the evidence identified by Mr Tan. The letter from the Advocate in Pakistan raises serious questions about the weight that may be attached to it. It appears to refer to one named individual yet contains the name and identification number of a completely different individual who is said to have registered the relevant company referred to in correspondence. The subject of the letter is said to be "close of business" and appears to have been provided to corroborate the claim that relatives in Pakistan have no source of income of their own but I do not find weight can be placed upon this document to prove this point. The use of what appears to be a false document undermines the credibility of the claim the family in Pakistan have insufficient income of their own to meet their essential needs.
  17. A further document dated 27<sup>th</sup> May 2021, purportedly from the Federal Board of Revenue in Pakistan referring to Faisal Rana has been provided, stating there is no record of him paying any wealth/income or agricultural tax. This appears to have been produced to corroborate the same point as the Advocates letter but has to be considered in line with all the other available evidence.
  18. In addition to the different names on the payment slips, there is the issue at the address to which the remittances appear to have been paid which contradict the claim that the appellant has lived at one address where the dependency arises.
  19. Even though some payments are made by the Sponsor, I do not accept the appellant has discharged the burden of proof upon her to the required standard to show that the test of dependency has been made out on the evidence. That required the appellant to prove she needed the contribution made by the EU national to meet her essential needs and that without such contribution those needs could not be met. As Mr Tan submitted, there is insufficient evidence of the sponsor's own financial needs, or even which address she is actually living at and with whom and the costs associated with the same, or complete picture of the Sponsor's circumstances enabling it to be concluded that he has sufficient resources to be able to fund the payments which, on his own evidence, he does not.
  20. Having sat back and considered all the available evidence and the requisite legal test, as the appellant has not discharged the burden of proof upon her to the required standard to establish that the required element of dependency has been made out I must dismiss the appeal.

### **Notice of Decision**

21. Appeal dismissed.

**C J Hanson**

Judge of the Upper Tribunal

Appeal Number: UI-2022-004363

Immigration and Asylum Chamber

**22 August 2023**