



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

**Case No: UI-2023-001723**  
**On appeal from: EA/12112/2022**

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**  
**On the 09 November 2023**

**Before**

**UPPER TRIBUNAL JUDGE GLEESON**

**Between**

**MUNAWAR BIBI**  
**(NO ANONYMITY ORDER MADE)**

Appellant

**and**

**THE ENTRY CLEARANCE OFFICER**

Respondent

**DECISION AND REASONS**

**Introduction**

1. The appellant has permission to appeal the decision of the First-tier Tribunal dismissing her appeal against the respondent's decision on 3 November 2022 to refuse her application for an EUSS family permit as the family member of a relevant EEA or Swiss citizen, in this case her daughter in law, who is a citizen of the Federal Republic of Germany with EUSS settled status in the UK. The appellant is a Pakistani citizen.
2. For the reasons set out in this decision, I have come to the conclusion that the appellant's appeal should be allowed, and that no further oral hearing is required.

**Background**

3. First-tier Judge Kelly dismissed the appeal principally because he did not accept that the appellant was dependent on her EEA sponsor as asserted.
4. Permission to appeal to the Upper Tribunal was granted by First-tier Judge Athwal for the following reasons:

“2. The grounds assert that the Judge erred in his interpretation of the requirements under FP6(1) Appendix EU- there is no requirement for the appellant to be dependent upon the sponsor before the specified date. Furthermore the Judge did not apply the correct test.

3. It is arguable that the Judge’s interpretation of Appendix EU (FP) is not correct. Pursuant to Annex 1 definition of a dependent parent, where the application is made before 1 July 2021 dependency was assumed. After that date, dependency at the date of application has to be proved.

4. The grounds of appeal raise an arguable error of law.”

5. The appeal came before UTJ Perkins for listing directions. On 13 June 2023, he directed a Rule 24 Reply:

“No later than 14 days after this Memorandum and Directions is received the Respondent is directed to serve on the Tribunal a written Response to the Notice of Appeal.”

6. On 13 July 2023, out of time, the respondent said this:

“...2. The respondent accepts that First-tier Tribunal Judge Kelly has materially erred in law, in the decision and reasons promulgated on 23<sup>rd</sup> March 2023.

3. As noted by First-tier Tribunal Judge Athwal in the grant of permission to appeal dated 15<sup>th</sup> May 2023, pursuant to the definition of ‘dependent parent’ set out in Annex 1 to [Appendix EU](#) of the Immigration Rules, dependency in the present case is assumed to have existed both at the relevant date and at the date of application.

4. The FTT’s findings at [6] are inconsistent with this. It follows that Judge Kelly’s decision should be set aside with no findings preserved.”

7. That is the basis on which this appeal has been referred to me.

## **Conclusions**

8. The only live issue before the First-tier Judge was whether the appellant was a dependent parent as required by Appendix EU. The appellant is a dependent parent as defined in Annex 1 because she is

“(a) the direct relative in the ascending line of a relevant EEA citizen (or, as the case may be, of a qualifying British citizen or of a relevant sponsor) or of their spouse or civil partner;...”

9. The respondent has conceded that under Appendix EU, on the facts of this appeal, dependency is presumed to have existed at all material times.

10. That being the sole question in issue, the decision in this appeal can be remade on the facts already found and conceded, without the need for a further oral hearing.

**Notice of Decision**

11. 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. I remake the decision by allowing the appeal.

**Judith A J C Gleeson**  
Judge of the Upper Tribunal  
Immigration and Asylum Chamber

**Dated: 6 November 2023**