



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

Appeal Number: EA/12675/2016

THE IMMIGRATION ACTS

**Heard at Field House
On 5th October 2018**

**Decision and Reasons Promulgated
On 10th October 2018**

Before

UPPER TRIBUNAL JUDGE COKER

Between

**PEKI FAIROUSE AMADOU
(anonymity direction not made)**

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr A Maqsood

For the Respondent: Ms Z Kiss

DETERMINATION AND REASONS

1. The appellant, a citizen of Togo, appealed the decision of the respondent to refuse her a residence card as the spouse and family member of Mr Yacoubou, an EEA national from Sweden. The respondent refused the application because the appellant had failed, he said, to provide sufficient evidence to demonstrate that her husband was a qualified person.
2. In a decision promulgated on 22nd March 2018, the First-tier Tribunal judge considered the evidence before him in the context of the regulations and the

decision the subject of the appeal and dismissed the appeal. Permission to appeal to the Upper Tribunal was granted because it was arguable the First-tier Tribunal judge had considered the evidence as at the date of the respondent's decision rather than at the date of hearing, and that he had considered the application as an application for permanent residence rather than as an application for a residence card.

3. The First-tier Tribunal hearing took place on 20th February and the decision was promulgated on 22nd March 2018. Although the First-tier Tribunal judge refers in [18] of his decision to being able to consider evidence relating to issues arising after the date of the decision, he unfortunately fails to have any regard to the fact that the appellant produced evidence of her husband's employment with Mundo Mobile Holding Limited since 4th July 2016 and then to his employment with STM and payslips for his employment up to February 2018.
4. The appellant's husband was plainly exercising Treaty rights such as to entitle the appellant to a residence card. Ms Kiss did not disagree.

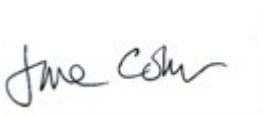
Conclusions:

The making of the decision of the First-tier Tribunal did involve the making of an error on a point of law.

I set aside the decision

I re-make the decision in the appeal by allowing it.

Date 5th October 2018



Upper Tribunal Judge Coker