



**Upper Tribunal
(Immigration and Asylum Chamber)
Appeal Number:**

**UI-2022-003582, EA/13432/2021
UI-2022-003583, EA/13439/2021**

THE IMMIGRATION ACTS

**Heard at Field House IAC
On the 21 November 2022**

**Decision & Reasons Promulgated
On the 24 January 2023**

Before

UPPER TRIBUNAL JUDGE PITT

Between

**BYLRE HYSI
IZET HYSI
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

DECISION AND REASONS

1. The appellants are nationals of Albania. They were born on 15 January 1959 and 15 December 1964 respectively. They are husband and wife.
2. On 6 August 2021 the respondent refused their applications for permits for leave to enter the UK under the EU Settlement Scheme as set out in Appendix EU of the Immigration Rules. The appellants appealed the refusal to the First-tier Tribunal. The sole issue before the First-tier Tribunal

concerned the EEA national sponsor's presence in the UK prior to 31 December 2020.

3. The appeal was refused by First-tier Tribunal Judge Chana in a decision dated 24 June 2022 but on the basis of the Immigration (European Economic Area) Regulations 2016 and not Appendix EU. The appellants were granted permission to appeal to the Upper Tribunal.
4. The parties have now provided a consent order dated 15 November 2022 which agreed that the decision of First-tier Tribunal Chana dated 24 June 2022 disclosed a material error of law and should be set aside to be remade, the remaking allowing the appeal under the Immigration Rules.
5. The consent order also indicated that the parties were content for the appeal to be disposed of without a hearing. The Upper Tribunal therefore reflects the contents of the consent order in this decision, made without a hearing, as provided under the provisions of Rule 38 of the Tribunal Procedure Rules.

Notice of Decision

6. The decision of the First-Tier Tribunal discloses an error of law and is set aside.
7. The appeal is re-made as allowed.

Signed: S Pitt
Upper Tribunal Judge Pitt

Dated: 21 November 2022