



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

**Ce-File Number: UI-2022-
003699**
**First-tier Tribunal No:
EA/16064/2021**

THE IMMIGRATION ACTS

**Heard at Field House IAC
On the 18 November 2022**

**Decision & Reasons Promulgated
On the 10 March 2023**

Before

**UPPER TRIBUNAL JUDGE PERKINS
DEPUTY UPPER TRIBUNAL JUDGE HUTCHINSON**

Between

MOHAMMAD SAJID RAMJAN
(anonymity direction not made)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr R Subramanian, instructed by Lambeth Solicitors
For the Respondent: Mr C Avery, Senior Home Office Presenting Officer

DECISION AND REASONS

(extempore)

1. This is an appeal by a national of Mauritius against a decision of the First-tier Tribunal dismissing his appeal against a decision of the Secretary of State to refuse him an EU permit under the EU Settlement Scheme.
2. It is an important feature of this case that the sponsor is an Irish citizen. The Secretary of State's refusal made it plain that the application was refused because the Secretary of State was not satisfied about the nationality of the sponsor or the subsistence of the relationship. These matters were resolved by the First-tier Tribunal in the appellant's favour and the findings have not been challenged by the Secretary of State.
3. For reasons that were not plain to us the First-tier Tribunal, having made those favourable findings, dismissed the appeal, and the appellant was given permission to appeal to the Upper Tribunal.
4. Mr Avery, for the Secretary of State, has considered the position and he suggests that the First-tier Tribunal wrongly thought that the appellant's sponsor had to prove by relying on specific documents the relationship in a way that would probably have been appropriate were it not for the fact that the sponsor is an Irish citizen who, as a consequence, has special privileges within the Rules.
5. The fundamental point is that the appellant's sponsor is a "person of Northern Ireland" and has rights in that capacity which are in addition to and for these purposes unconnected with any rights he may have under EU provisions as an Irish citizen.
6. Mr Avery suggested that the First-tier Tribunal had not appreciated that a person of Northern Ireland is in this different position and had not appreciated that findings about the relationship and citizenship do not require specific documents in a way that would be required in a case that depended on a person being an EU national.
7. Mr Avery's position was clear. He accepted that the First-tier Tribunal erred in law and should have allowed the appeal on the findings that it made. He also made it plain that the findings, as far as the Secretary of State was concerned, were clearly open to the judge and not subject to any kind of challenge. Given that that is what Mr Avery wants us to do, there is very little for the appellant's representative to do and Mr Subramanian, wisely, did not do anything except agree.

Notice of Decision

8. In the circumstances we find the First-tier Tribunal did err in law. We set aside the decision and we substitute a decision allowing the appeal against the Secretary of State's refusal.

Jonathan Perkins

Signed
Jonathan Perkins
Judge of the Upper Tribunal

Dated 10 January 2023