



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

Appeal Number: IA/53927/2013

THE IMMIGRATION ACTS

Heard at Field House

On 16th July 2014

Determination

Promulgated

On 25th July 2014

Before

UPPER TRIBUNAL JUDGE POOLE

Between

**PAULINA GEORGIEVA TODOROVA
(ANONYMITY DIRECTION NOT GIVEN)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: No appearance

For the Respondent: Mr E Tufan, Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant is a female citizen of Bulgaria born 15 July 1991. The appellant made an application for the issue a Registration Certificate under the Immigration (EEA) Regulations 2006. The application was refused on 27 November 2013 upon the basis that the appellant had not provided evidence that her family member was supporting her financially whilst she was in UK. In addition the respondent was not satisfied that the appellant continued to be financially dependent upon her family member.

2. The appellant appealed against that decision. She did not request an oral hearing and the appeal was determined by a Judge of the First-Tier Tribunal Hutchinson on 16 April 2014. In a written determination of that date the judge accepted that evidence indicated that the appellant was dependent upon her mother whilst living and studying in Bulgaria but “there was no adequate evidence provided to indicate that this dependency has continued since the appellant arrived in the United Kingdom on 20 May 2013”. The judge went onto comment as to the lack of a witness statement from the appellant’s mother and at paragraph 12 the judge found that the appellant had failed to demonstrate that she was currently a family member of a qualified person. The appeal was dismissed.
3. The appellant sought leave to appeal in a letter dated 6 May in which she referred to supporting documentation that she had submitted including reference to bank statements as proof of her dependency.
4. The application for leave was considered by another judge of the First-Tier Tribunal who noted that the appellant had opted to have her appeal considered “on the papers” and that although Judge Hutchinson had indicated that all evidence had been taken into account bank statements might have been overlooked. It was also considered that Judge Hutchinson had found that the appellant had failed to show that she was a family member of a qualified person which was a point that had not been in issue with the respondent. Arguable errors of law were therefore found.
5. Following the grant of leave the respondent filed a written response under Rule 24 of the Procedure Rules. It was indicated that the respondent had not had sight of any bank statements but it was submitted that it was not clear that any evidence had been overlooked. The judge had said that there was no “adequate” evidence and that accordingly the respondent was not able to conclude that errors of law rendered the determination fatally flawed.
6. Hence the matter came before me in the Upper Tribunal. The respondent was represented. The appellant did not attend. I note that notice of the hearing was sent to the appellant at her last known address. I therefore conclude that she was notified of the hearing. I consider it in the interests of justice to proceed with the hearing by reason of Rule 38 of the Tribunal Procedure (Upper Tribunal) Rules 2008.
7. Mr Tufan supported the contents of the Rule 24 response and invited me to dismiss the appeal.
8. I note that there was indeed a bundle of documents before Judge Hutchinson. There is no indication that this bundle was served upon the respondent.
9. The bundle does contain copy bank statements and these appear to be in the name of the appellant’s mother and there is nothing there to connect

any of the payments out (or indeed in) with the appellant herself. Other documents include invoices and statements again relating to the appellant's mother and with no obvious connection with payment to the appellant herself.

10. Under separate cover the appellant subsequently forwarded bank statements in her own name with a letter of explanation that she had, with some difficulty, managed to open a bank account. The statements cover the period from January to March 2014 and do show some payments from (presumably) her mother. It is not clear if this additional information was before Judge Hutchinson. However this subsequent information relates to aspects following the respondent's initial decision. Because of the nature of the appeal it is possible for such information to be taken into account in certain circumstances.
11. Paragraph 7 of the determination refers to the documents including the appellants grounds of appeal and "supporting documents". The judge also says "I confirm that I have carefully taken into account all the evidence (even if not specifically referred to in this determination) prior to determining the appeal". In the absence of any contrary evidence the judge must be believed. Whilst specific mention of bank statements has not been made there is not an obligation on the judge's part to name them individually and indeed the judge refers at paragraph 9 to "no adequate evidence" with regard to the claimed dependency. As the judge says there was no supporting witness statement from the appellant's mother and no explanation from the appellant herself.
12. In these circumstances I consider the judge was entitled to reach the conclusions that he did and that no error of law exists. It was a question of adequacy of the evidence. The judge considered that the evidence was lacking.
13. Paragraph 12 of the determination makes reference to whether or not the appellant has shown that she is a family member of a qualified person. It is correct to say that that was not an issue before the judge and whilst he may well have made an error in setting out that finding I do not consider it is material to the overall outcome of the appeal bearing in mind the findings made by the judge with regard to maintenance.
14. In all the circumstances I find that no material error of law is contained within the determination of Judge Hutchinson and his conclusions must stand.
15. The appellant's appeal is dismissed.
16. No application for an anonymity direction has been made and accordingly I do not now make one.

Signed

Date: 23/7/14

Upper Tribunal Judge Poole