



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

Appeal Number: OA/14843/2013

**THE IMMIGRATION ACTS**

**Heard at Field House**

**On 18 August 2014  
Prepared 18 August 2014**

**Determination  
Promulgated  
On 3 September 2014**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE DAVEY**

**Between**

**ENTRY CLEARANCE OFFICER - BEIRUT**

**and**

**SAMIRA YOUSIF MAREEB**

Appellant

Respondent

**Representation:**

For the Appellant: Mr L Tarlow, Senior Presenting Officer  
For the Respondent: Mr C McIndoe, Solicitor of Latitude Law

**DETERMINATION AND REASONS**

1. In this determination the Appellant is referred to as the ECO and the Respondent is referred to as the Claimant.

2. The Claimant, a national of Iraq, date of birth 1 July 1948, appealed against the Respondent's decision, dated 17 August 2012, to refuse entry clearance as a dependent relative with reference to paragraph 317 of the Immigration Rules HC 395 as amended (the Rules).
3. Refusal was with reference to whether or not the Claimant was mainly or wholly financially dependent upon the Sponsor, her son, present and settled in the United Kingdom, with reference to paragraph 317(iii) and as to her age, with reference to paragraph 317(i)(e).
4. The Entry Clearance Officer's decision was appealed and that appeal came before First-tier Tribunal Judge R Callender Smith who, on 6 May 2014, allowed the appeal under the Immigration Rules.
5. The issue of the Appellant's age was resolved and therefore no longer remained an issue as a result of Entry Clearance Manager's review. The only issue remaining was whether or not the Claimant was wholly or mainly dependent upon the UK Sponsor.
6. The judge found as a fact that approximately 70% of the Claimant's financial support came from or was sourced from a foundation called Al-Khoie and that the balance of 30% or thereabouts came from the pocket of the UK Sponsor. Nevertheless for other reasons the outcome is the same.
7. For reasons which the judge gave, with which I do not agree, he concluded that although the money was sourced and the percentages identified, they were to be treated as funds from the UK Sponsor.
8. The grounds in the skeleton argument correctly analyse the position and Mr Tarlow accepts it, although he does not have formal instructions to do so and maintains reliance upon the reasons given in the notice of immigration decision.

9. The case law relied upon is the decision in *Ahmed Mahad and Others v ECO* [2009] UKSC 16 in which the Supreme Court set out the following conclusions at paragraph 35:

“This paragraph is concerned simply to establish the financial link between the dependent relative abroad and the relative settled here. Provided only that the relative abroad is getting funds on which he is wholly or mainly dependent and which he would not be getting save for his relative present and settled in the UK that is sufficient. It is not necessary for the funds ever to have been part of the settled relative’s own personal resources.”

10. And at paragraph 56 it was stated:

“Financial dependency for the purposes of the Rule (paragraph 317(iii)) is established by the fact of the payment by the resident relative. It is not displaced from that condition simply because the money for the payment comes from a different source.”

11. It was accepted by the judge that the Al-Khoie foundation could no longer make payments to the Claimant in Syria where she lives because they had been forced to withdraw for safety reasons from the country. They therefore used the present and settled relative in the United Kingdom to be the conduit of financial support for the Appellant which would not have happened if the Sponsor had not been present in UK.
12. The judge found at paragraphs 15 and 16 of the Determination and Reasons that: “... The foundation could no longer operate there safely” and “The foundation would supply him with the financial support for his mother and he arranged for people going to Syria to pass this money on to her”. Therefore there is, as is rightly pointed out, nothing to indicate that the foundation’s offer of support was not genuine, would not continue or that it was somehow unreliable.

13. Further relying upon Mahad, Mr McIndoe argued that there is sufficient evidence to show that the Appellant is wholly or mainly financially dependent on the moneys passing through to her by her son. Therefore, relying on Mahad, it was clear that the nature of the funding met the requirements of the Rules. I agree with that submission and it would have been more helpful if the judge had expressed it with reference to that case law.
14. I find that there is no sustainable argument against that evidence. The evidence before the judge was that the foundation were committed to support for the Claimant and that she would not have been and could not have been wholly or mainly financially dependent solely upon the Sponsor's own money.
15. In the light of the judge's findings it seems to me that the judge was entitled to reach the view he did. I find the original Tribunal made no error of law even if the reasoning was not as clear as it could have been.
16. The appeal by the ECO is dismissed.
17. The original Tribunal's decision stands.

**Anonymity Order**

18. No anonymity order was made nor is one requested or necessary.

Signed

Date 27 August 2014

Deputy Upper Tribunal Judge Davey