



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM CHAMBER**

**Ce-File Number: UI-2022-  
003688**

**First-tier Tribunal No:  
HU/54443/2021  
IA/11235/2021**

**THE IMMIGRATION ACTS**

**Heard at Field House IAC  
On the 11<sup>th</sup> November 2022**

**Decision & Reasons Promulgated  
On the 22 February 2023**

**Before**

**UPPER TRIBUNAL JUDGE RIMINGTON**

**Between**

**MS LEONA GEBÄ EDER  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr N Paramjorthy instructed by FA Legal Ltd

For the Respondent: Mr Steven Walker, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant appeals against the decision of First-tier Tribunal ("the FtT") Judge C M Chapman ("the judge") promulgated on 1<sup>st</sup> June 2022 dismissing the appellant's appeal against the respondent's refusal of her application

for leave to remain in the UK on human rights grounds on the basis of her family and private life. The application is based on the appellant's claimed family life with her partner, Mr Jeremy Charles Harrison, and on 18<sup>th</sup> June 2021 the respondent refused the application which generated this appeal.

### The grounds of appeal

2. The appellant appealed on the following grounds.
3. Ground 1 - that there was a failure to consider and make findings in relation to Section 117B of the 2002 Act in that "at no point within the learned First Tier Judge's findings does the learned Judge attempt a balancing exercise". The judge failed in his assessment of the respective evidence provided by the couple.
4. Ground 2 - there was a failure to make findings on private life. The judge did not accept that the appellant had established a private life and failed to take into account the evidence contained in the appellant's bundle.
5. Ground 3 - the judge failed to consider Article 8 outside the Rules and failed to make a reasoned proportionality assessment. It is submitted that if any application failed to meet the requirements of the Rules it would only be in genuinely exceptional circumstances that refusing leave to remove the appellant would amount to a breach of Article 8. Exceptional reasons did not mean unusual or unique.

### The hearing

6. At the hearing before me Mr Steven Walker relied on the Secretary of State's Rule 24 response which opposed the appeal and submitted that the complaints raised by the grounds were not borne out by a proper reading of the judge's decision.
7. Mr Paramjorthy accepted that there was a dearth of evidence to corroborate a decade of the appellant and sponsor being together but nonetheless did not concede or withdraw the grounds.

### **Analysis**

8. On a careful reading of the decision, it is clear that the judge did set out the documentary evidence from [23] to [31] and made particular reference to the oral evidence from [32] to [35]. The judge also carefully set out the submissions made by the representatives.
9. It is simply not arguable that the judge failed to consider Sections 117B. At [75] the judge clearly stated that he needed to consider the public interest under Section 117B(1). The judge carefully addressed the relevant factors under Section 117B and noted that the appellant spoke English (which in itself is a neutral factor) but at [77(iii)] was not satisfied that the appellant had the financial means to support herself. Even if there was no clear indication that the appellant relied on the state for

financial support this overall was a neutral factor and, that said, it does not appear that the lack of finance was taken against the appellant. It was open to the judge to find that little weight could be attached to the appellant's private life because her immigration status had always been precarious. The appellant entered the United Kingdom from the Philippines on a visit visa in 2006.

10. In relation to ground 2 it is wholly unsustainable to assert that the judge failed to consider the appellant's private life. The judge specifically made note of the appellant's private life from [67] to [70] in relation to the Immigration Rules and at [73] in relation to Article 8. Indeed it is evident that the judge referred to the private life of the appellant from [77(v)] where he referred to attaching little weight to the appellant's private life because her immigration status had always been precarious. The judge clearly accepted that she had established a private life in the UK because of the length of time she had spent here.
11. In relation to ground 3 and an Article 8 balancing exercise outside the Immigration Rules that has evidently been undertaken by the judge and approached on the basis of a "balance sheet" basis at [79] to [84]. It is quite clear from the concluding paragraph that the judge weighed all the relevant factors but concluded that the public interest in immigration control outweighed the appellant's private life having already found the appellant did not fall within the provisions, and on a reasoned basis, on the evidence, found that there was no family life with her said partner.
12. I note that Mr Paramjorthy stated that there was in fact a wealth of evidence which could have been provided but that is not relevant for consideration of whether there was an error of law in this particular decision. I therefore find that the grounds of appeal cannot be sustained and there is no material error of law of the decision and the appeal remains dismissed.

No anonymity direction is made.

Signed Helen Rimington

Date 21<sup>st</sup> December 2022

Upper Tribunal Judge Rimington