



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

Case No: UI-2023-001366

First-tier Tribunal No: EA/16244/2021

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**

31<sup>st</sup> October 2023

**Before**

**UPPER TRIBUNAL JUDGE BLUNDELL**

**Between**

**MS ADMINA**  
**(NO ANONYMITY ORDER MADE)**

Appellant

**and**

**ENTRY CLEARANCE OFFICER**

Respondent

**Representation:**

For the Appellant:

The sponsor

For the Respondent:

Mr Clarke, Senior Presenting Officer

**Heard at Field House on 19 October 2023**

**DECISION AND REASONS**

1. On 11 July 2023, the Upper Tribunal issued my first decision in this appeal. I found that the judge in the First-tier Tribunal had made a procedural error in determining the appeal adversely to the appellant. I set aside the FtT's decision insofar as it had concluded that the appellant was not dependent on the sponsor. I preserved the finding that the appellant is the sponsor's mother. I ordered that the question of dependency would be reconsidered at a further hearing in the Upper Tribunal.
2. The sponsor appeared before me today. She appeared with her husband. An Urdu interpreter assisted the sponsor.
3. It was only necessary for me to hear from Mr Clarke, who appeared for the respondent. He asked me to allow the appellant's appeal. He noted that her application for a family permit

under Appendix EU (FP) had been made on 20 June 2021 and that it was now accepted on all sides that she was related as claimed to her daughter, Noreen Khan, a national of the Netherlands who has pre-settled status in the UK. He accepted, in those circumstances, that the question of dependency does not arise. As he noted, dependency is actually assumed by the Immigration Rules for a person in this position. That is because the appellant applied after the specified date and the definition of a 'dependent parent' in Annex 1 to Appendix EU (FP) provides that:

(cc) (where the date of application is after the specified date and where the applicant is a joining family member) at the date of application and (unless the relevant EEA citizen is under the age of 18 years at the date of application) that dependency is assumed where the date of application is before 1 July 2021; or

4. Mr Clarke also referred to pages 123-124 of the respondent's published guidance entitled *EU Settlement Scheme: EU, other EEA and Swiss citizens and their family members, version 14*, which also states that dependency in these circumstances 'is assumed, and the applicant is not required to provide evidence of this'.
5. In the circumstances, Mr Clarke submitted that the law did not require the applicant to establish dependency as a matter of fact and that the appeal should be allowed without more. I accept those submissions.

### **Notice of Decision**

The decision of the First-tier Tribunal having been set aside, I remake the decision on the appeal by allowing it under Appendix EU (FP).

*M.J. Blundell*

Judge of the Upper Tribunal  
Immigration and Asylum Chamber

19 October 2023