



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

Appeal Number: IA/25236/2012

THE IMMIGRATION ACTS

**Determined without a hearing
at Field House
on 10th September 2013**

**Determination promulgated
On 18th September 2013**

Before

UPPER TRIBUNAL JUDGE SPENCER

Between

NERITAN KAMBO

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

DETERMINATION AND REASONS

1. The appellant is a citizen of Albania, born on 4th August 1979. His appeal against the decision of the respondent, made on 19th October 2012, refusing his application for permanent residence in the United Kingdom under regulation 15(1)(f) of the Immigration (European Economic area) Regulations 2006, as a person who had resided in the United Kingdom for a period of 5 years and who at the end of that period was a family member who had retained the right of residence in accordance with regulation 10(5), was dismissed under the regulations, after a hearing before First-tier Tribunal Judge Hague, in a determination promulgated on 14th March 2013.

2. On 29th April 2013 I granted permission to appeal on the following grounds:

“It is arguable that the First-tier Tribunal judge made an error of law in stating that because a decision to remove the appellant had not been made article 8 of the ECHR was not engaged. Since the appellant expressly raised human rights grounds of appeal in the statement attached to his notice of appeal and in response to a request to state additional grounds, it is arguable that the First-tier Tribunal judge made an error of law in failing to determine them, see the decisions of the Court of Appeal in JM v Secretary of State for the Home Department [2006] EWCA Civ 1402 and Lamichhane v Secretary of State for the Home Department [2012] EWCA Civ 260.”

3. I indicated that for the reasons which I had given I had taken the provisional view that the appeal to the Upper Tribunal in respect of the failure of the First-tier Tribunal judge to consider the appellant’s human rights grounds of appeal under article 8 of the ECHR should be allowed without a hearing and that the appeal should be remitted to First-tier Tribunal Judge Hague in order for him to re-make his decision by considering these grounds. I invited submissions to the contrary to be made to the Upper Tribunal within 21 days of the date of the order. No submissions to the contrary have been received by the Upper Tribunal.
4. In these circumstances without a hearing, pursuant to rule 34 of the Tribunal Procedure (Upper Tribunal) Rules 2008, I set aside the determination of the First-tier Tribunal on the grounds that, as indicated in the grant of permission to appeal, the First-tier Tribunal judge made an error on a point of law in his determination of the appeal. I remit the appeal to First-tier Tribunal Judge Hague in the First-tier Tribunal for him to re-make the decision after consideration of the appellant’s human rights grounds of appeal under article 8 of the ECHR, pursuant to section 12(2) of the Tribunals, Courts and Enforcement Act 2007 and paragraph 7.2(a) of the Senior President’s Practice Statements.

Signed

Dated

P A Spencer
Judge of the Upper Tribunal