



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

Appeal Number: UI-2022-002917
(EA/14657/2021)

THE IMMIGRATION ACTS

**Heard at: Field House
On: 12th October 2022**

**Decision & Reasons Promulgated
On: 27th November 2022**

Before

UPPER TRIBUNAL JUDGE BRUCE

Between

Secretary of State for the Home Department

Appellant

And

Juljan Meta

Respondents

**For the Appellant: Mrs Nolan, Senior Home Office Presenting Officer
For the Respondents: no appearance**

DECISION AND REASONS

1. The Respondent is a national of Albania who seeks permission to remain in the United Kingdom with his EEA national spouse. On the 19th April 2022 the First-tier Tribunal allowed his appeal. The Secretary of State now has permission to appeal against that decision.
2. The background facts can be shortly stated. In June 2021 Mr Meta applied for pre-settled status under the EU Settlement Scheme. He asserted that he was the durable partner of an EEA national living in the UK, a Ms Jana Huskova. They had been together since July 2019;

and they had become engaged to be married on the 30th September 2020.

3. His application was refused by the Secretary of State on the 27th September 2021 on the basis that Mr Meta could not meet the requirements set out in Appendix EU of the Immigration Rules. Specifically he could not demonstrate that he was the durable partner of Ms Huskova because he had not been recognised as such by the Home Office, ie he had not been issued with a family permit or confirmation of his right to reside.
4. Mr Meta appealed to the First-tier Tribunal under the Immigration (Citizens' Rights Appeals) Regulations 2020. He argued that the decision against him was unfair because the Secretary of State had not taken into account the delays caused by the Covid-19 pandemic which meant that he and his partner had not been able to marry before the end of the Brexit transition period on the 31st December 2020. The first available date they could get to marry was the 12th October 2021. But for those delays they would have married sooner and he would have become Ms Huskova's 'family member' before the end of the transition period, thus entitling him to pre-settled status. Mr Meta submitted that these factors could be brought into the Tribunal's deliberations by way of Article 18 (1)(r) of the Withdrawal Agreement which provides "such redress procedures shall ensure that the decision is not disproportionate". He further relied upon Article 10(5) which provides that there must be an "extensive examination of the Appellant's personal circumstances".
5. The Tribunal accepted these arguments and allowed the appeal.
6. The Secretary of State now appeals on the grounds that the arguments accepted by the First-tier Tribunal were misconceived. It is not necessary to set out the particulars of the grounds save to say they advance the arguments that were subsequently accepted by a Presidential panel of this Tribunal in the reported decision of Celik (EU Exit, marriage, human rights) [2022] UKUT 00220 (IAC).
7. I received no Rule 24 notice from the Respondent and he did not attend the hearing. My clerk managed to get hold of him by telephone. He provided the telephone number of someone he described as his new representative. In the presence of Mrs Nolan I called this number and spoke with a Ms Oliverta Mediu of Waterstones Legal who informed me that she is not instructed in this matter. The Respondent has however instructed her to make a fresh application, on human rights grounds, to the Home Office, and she was in the process of preparing that application. I understood from what Ms Mediu told me that the Respondent would not be attending this hearing and had no submissions to make. It was on that basis that I proceeded with the hearing.

8. I am satisfied, on the basis of the findings in Celik, that the First-tier Tribunal erred in law and that the decision must be set aside.

Decisions and Directions

9. The decision of the First-tier Tribunal is set aside.
10. The decision in the appeal is remade as follows: the appeal is dismissed.

Upper Tribunal Judge Bruce
18th October 2022