



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

**Appeal Number: UI-2022-001973
[EA/50411/2021]; IA/04258/2021**

THE IMMIGRATION ACTS

**Heard at Field House
On the 8 September 2022**

**Decision & Reasons Promulgated
On the 11 October 2022**

Before

UPPER TRIBUNAL JUDGE KOPIECZEK

Between

**SHKELZEN CELAJ
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr A. Pipe, Counsel instructed by M & K Solicitors
For the Respondent: Ms A. Everett, Senior Home Office Presenting Officer

**DECISION PURSUANT TO RULE 40(3)(a) OF THE TRIBUNAL PROCEDURE
(UPPER TRIBUNAL) RULES 2008**

1. The appellant, a citizen of Albania, appealed to the First-tier Tribunal (“FtT”) against a decision made under the Immigration (European Economic Area) Regulations 2016 to refuse a family permit as an extended family member (durable partner). The FtT dismissed the appeal.
2. Permission to appeal the decision of the FtT having been granted, the appeal came before me. At that hearing it was agreed between the parties that the FtT had erred in law in its decision in terms of the fairness of the

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proceedings in the light of matters having been found against the appellant, and which were not otherwise part of the respondent's case, which were not put to the appellant or the sponsor at the hearing, albeit that the respondent was not represented at the hearing before the FtT.

3. It was further agreed between the parties that the error of law is such as to require the decision of the FtT to be set aside and for the appeal to be remitted to the FtT for a hearing *de novo*.
4. In the circumstances, I set aside the decision of the FtT for error of law and remit the appeal to the FtT for a hearing *de novo*, on all grounds, before a judge other than First-tier Tribunal Judge V. Fox, with no findings of fact preserved.
5. In remitting the appeal I have had regard to paragraph 7.2 of the Practice Statement of the Senior President of Tribunals.
6. Pursuant to rule 40(3)(a) of the Tribunal Procedure (Upper Tribunal) Rules 2008, no reasons (or further reasons) are required, the decision being made with the consent of the parties.

A.M. Kopieczek
Upper Tribunal Judge Kopieczek

08/09/22