



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

Appeal Number: UI-2022-003470
[EA/00276/2022]

THE IMMIGRATION ACTS

**Field House
On 18 December 2023**

**Decision & Reasons Issued:
On 28 December 2023**

Before

**UPPER TRIBUNAL JUDGE KOPIECZEK
DEPUTY UPPER TRIBUNAL JUDGE SHEPHERD**

Between

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**RACHED HALEB
(ANONYMITY DIRECTION NOT MADE)**

Respondent

Representation:

For the Appellant: Ms A. Everett, Senior Home Office Presenting Officer
For the Respondent: Mr R. Ahmed, Counsel instructed by Radleys Solicitors

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

1. Although the appellant in the proceedings before us is the Secretary of State, we refer to the parties as they were before the First-tier Tribunal ("FtT").

EA/14088/2016

2. The appellant, a citizen of Tunisia, appealed to the FtT against a decision to refuse his application for settled status under the EU Settlement Scheme (“EUSS”). In a decision promulgated on 24 April 2022 the FtT allowed the appeal with reference to the EU Withdrawal Agreement.
3. Permission to appeal the decision of the FtT having been granted, the appeal came before us for hearing. At that hearing it was agreed between the parties that the FtT had erred in law in allowing the appeal, in the light of the decision in *Celik (EU exit; marriage; human rights)* [2022] UKUT 00220 (IAC) (as confirmed in *Celik v Secretary of State for the Home Department* [2023] EWCA Civ 921).
4. 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 the decision to be re-made, dismissing the appeal.
5. In the circumstances, we set aside the decision of the FtT for error of law and re-make the decision, dismissing the appeal.
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

18/12/2023

NOTE

At the request of Mr Ahmed on behalf of the appellant, we note that the FtT found that the appellant and his partner were in a durable relationship “as of 11:00 PM on 31 December 2020”, a matter that was not challenged before the FtT on behalf of the respondent.

Ms Everett indicated, however, that she could not commit to the Secretary of State not challenging the existence of a durable relationship in the future.