



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2023-001328
First-tier Tribunal Nos: EA 06270
2022

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 11 March 2024

Before

UPPER TRIBUNAL JUDGE PERKINS

Between

The Secretary of State for the Home Department

Appellant

and

Sameul Rragomi

(no anonymity order made)

Respondent

Representation:

For the Appellant: Mrs A Nolan, Senior Home Office Presenting Officer
For the Respondent: The Respondent did not appear and was not represented

Heard at Field House on 6 March 2024

DECISION AND REASONS

1. This is an appeal by the Secretary of State against a decision of the First-tier Tribunal allowing the appeal of the Respondent, hereinafter “the claimant”, against a decision of the Secretary of State on 28 June 2022 refusing him settled or pre-settled residence status under the EU Settlement Scheme.
2. Notice of this hearing was sent by post to the claimant at his address on 15 February 2024. He did not appear before us. We are satisfied that he had proper service of the notice of hearing and we continued in his absence.
3. By Directions issued on 23 October 2023 the claimant was informed that, following the decision of the Court of Appeal in **Celik v Secretary of State for the Home Department** [2023] EWCA Civ 92, it appeared that the decision to allow the appeal was clearly wrong and the Tribunal was minded to allow the Secretary of State’s appeal and substitute a decision dismissing the claimant’s appeal. The claimant did not respond to this notice.

4. Before us Mrs Nolan explained that the decision was not necessarily within the scope of **Celik** but it was clearly wrong because the claimant did not have the necessary documents (see paragraph 16 of the Decision and Reasons). It followed that the appeal cannot be allowed. He was not a “durable partner” because the definition of “durable partner” required a document that the claimant did not have.
5. This explanation of the law is supported by an unreported decision of this Tribunal in **Sherif Hani v SSHD** UI 2022 003674 which was relied upon by Mrs Nolan. Paragraph 40 of **Hani** deals with the issue of the definition in paragraph “aaa” and confirms that the claimant cannot satisfy the requirements of the definition.
6. We adopt the reasoning in **Hani** and we find that the First-tier Tribunal erred in law. We set aside its decision and we substitute a decision dismissing the claimant’s appeal.

Notice of Decision

7. The Secretary of State’s appeal is allowed. We substitute a decision dismissing the claimant’s appeal against the Secretary of State’s decision.

Jonathan Perkins

Judge of the Upper Tribunal
Immigration and Asylum Chamber

6 March 2024