



IAC-FH-NL-V1

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

Appeal Number: IA/41086/2014

THE IMMIGRATION ACTS

Heard at Field House

On 12th June 2015

**Decision &
Promulgated
On 19th June 2015**

Reasons

Before

DEPUTY UPPER TRIBUNAL JUDGE J G MACDONALD

Between

**MR RODRIGO MARTINS LEITE
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: No representative

For the Respondent: Mr E Tufan, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant is a citizen of Brazil whose appeal under Article 8 ECHR was dismissed by First-tier Tribunal Judge Lloyd-Smith in a decision promulgated on 26th February 2015. The grounds of application essentially say that the judge should have considered the Appellant's appeal under the EEA Regulations and it was a material error of law not to do so.

2. Permission to appeal was granted on the basis of what was said in the grounds. The Secretary of State lodged a short response under Rule 24.
3. The appeal came before me on the above date.
4. I was grateful to Mr Tufan, the Senior Home Office Presenting Officer for acknowledging that the judge had made a material error in law by not considering the EEA Regulations. That decision was before her to consider and, for whatever reason, it had not been. I was asked to send the matter back to the First-tier Tribunal so that a full hearing could take place on all issues.
5. As such the outcome of the appeal before me is straightforward. The main case of the Appellant was not Article 8 ECHR but rather that he be allowed to remain here under the EEA Regulations. It is therefore necessary to set the decision of the First-tier Tribunal Judge aside and remit the case to the First-tier Tribunal for a fresh hearing on all matters. The Appellant was present and I explained the outcome to him suggesting that he contact a solicitor to assist him in the preparation of the appeal.

Notice of Decision

6. The making of the decision of the First-tier Tribunal did involve the making of an error on a point of law.
7. I set aside the decision.
8. I remit the appeal to the First-tier Tribunal for a fresh hearing on all matters.
9. No anonymity direction is made.

Signed

Date

Deputy Upper Tribunal Judge J G Macdonald