



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

Appeal Number: HU/17929/2016

THE IMMIGRATION ACTS

**Heard at Field House
On 20 December 2018**

**Decision & Reasons
Promulgated
On 11 January 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE JORDAN

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

UTURASHVILI

Respondent

Representation:

For the Appellant: Mr C. Avery, Home Office Presenting Officer

For the Respondent: Ms S. Saifolahi, Counsel instructed by Sterling & Law Associates

DECISION AND REASONS

1. For the sake of consistency, I shall refer to Mr Uturashvili as the appellant as he was in the First-tier Tribunal.
2. Ms Saifolahi conceded in her skeleton argument and before me that the First-tier Tribunal Judge had made an error in law in deciding that the period between 1 February 2011 and 10 March 2011 (a period of 36 days) 'fell squarely' within the 28-day period the Secretary of State

disregards when considering whether there has been continuous leave.

3. In deciding that the appellant's claim succeeded under the Rules, the judge approached the remaining issues on a flawed approach, rendering his subsequent reasoning in need of re-making.
4. I set aside the decision of the First-tier Tribunal Judge and remit the appeal to the First-tier Tribunal for re-making afresh.

ANDREW JORDAN
DEPUTY UPPER TRIBUNAL JUDGE
20 December 2018