



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

Appeal Number: UI-2022-001869  
EA/13475/2021

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 5 September 2022**

**Decision & Reasons Promulgated  
On 2 November 2022**

**Before**

**UPPER TRIBUNAL JUDGE PERKINS  
DEPUTY UPPER TRIBUNAL JUDGE COTTON**

**Between**

**MIRJAN HOXHA**  
(anonymity direction not made)

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: No attendance

For the Respondent: Ms A Nolan, Home Office Presenting Officer

**DECISION AND REASONS**

(extempore judgment)

1. This is an appeal by a citizen of Albania against a decision of the First-tier Tribunal dismissing his appeal against a decision of the Secretary of State refusing his application for a residence card under the EU Settlement Scheme, based on his relationship with his partner, a Romanian national lawfully settled in the United Kingdom at all relevant times.
2. The appellant did not appear before us. There is an application made administratively for an adjournment last week based on his ill health. The

application was refused by the Tribunal Lawyer. The refusal made reference to there being no obvious reason for the appellant to have to attend and that alternative arrangements could be made. It is clear that the appellant knew about the hearing, otherwise he could not have applied for an adjournment. It is also clear that there was no representation or message from the appellant at about 11 o'clock when it was convenient to hear the case because I asked our clerk to check and nothing was found.

3. The First-tier Tribunal dismissed the appeal mainly because the appellant did not have the necessary documentation that was required by the Rules. Permission to appeal was given by Upper Tribunal Judge Gill. Judge Gill appreciated the point being taken in the grounds and was also aware that it was likely that there would be guidance from the Tribunal that would be available by the time the matter came to be heard.
4. There is indeed such guidance. We had the benefit of the decision of this Tribunal in **Celik v Secretary of State for the Home Department [2022] UKUT 220 (IAC)**. The first two points of the judicially drawn headnote are particularly clear and entirely unhelpful to the appellant. They say that a person in a durable relationship cannot succeed under the Withdrawal Agreement unless the application was made at the required time and where it has not been done in that way the concept of proportionality under Article 18(1) of the Withdrawal Agreement is of no assistance and cannot be considered.
5. Given the explanation of the law given by the President in **Celik**, the appellant's case seems to be completely hopeless and in the absence of anyone here to argue to the contrary, we apply **Celik** and the reasons given in it and rule that the First-tier Tribunal was right. There is no error of law and we dismiss the appellant's appeal against the First-tier Tribunal's decision.

### **Notice of Decision**

6. The appeal is dismissed.

Jonathan Perkins

Signed  
Jonathan Perkins  
Judge of the Upper Tribunal

Dated 21 September 2022