



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2024-001125
First Tier No: HU/57817/2023
LH/00319/2024

THE IMMIGRATION ACTS

**Decision & Reasons Issued:
On 16 August 2024**

Before

UPPER TRIBUNAL JUDGE LANE

Between

**FABIO BARAKTARI
(NO ANONYMITY ORDER MADE)**

Appellant

and

Secretary of State for the Home Department

Respondent

Representation:

For the Appellant: Ms Moksud
For the Respondent: Ms McKensie, Senior Presenting Officer

Heard at Field House on 2 May 2024

DECISION AND REASONS

1. The appellant, a male citizen of Albania, appealed on human rights grounds against the respondent's decision dated 9 June 2023 refusing his application for leave to remain. The First-tier Tribunal dismissed his appeal. The appellant now appeals to the Upper Tribunal.
2. At the initial hearing, Ms McKensie, who appeared for the Secretary of State, told me that the appeal was not opposed. The judge had erred in

law at [15] by finding that ‘the relationship [between the appellant and his partner] began on this occasion when the appellant was in the UK illegally. I must give the family life little weight.’ When the relationship had begun in 2022, the appellant’s partner had enjoyed pre-settled status and consequently the relationship residence in the United Kingdom was not, as the judge believed, unlawful. In Ms McKensie’s opinion, this error by the judge infected the whole of his analysis and thereby rendered it unsafe.

3. In the circumstances, I allow the appeal and return it to the First-tier Tribunal for that Tribunal to remake the decision following a hearing *de novo*.

Notice of Decision

The decision of the First-tier Tribunal is set aside. None of the findings of fact shall stand. The decision will be remade following a hearing in the First-tier Tribunal *de novo*.

C. N. Lane

Judge of the Upper Tribunal
Immigration and Asylum Chamber

Dated: 2 July 2024