



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

Appeal Number: IA/03072/2012

**THE IMMIGRATION ACTS**

**Heard at : Field House  
On : 8<sup>th</sup> July 2013**

**Determination Promulgated  
On : 9<sup>th</sup> July 2013**

**Before**

**Upper Tribunal Judge McKee**

**Between**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

**Appellant**

**and**

**MUHAMMAD IMRAN**

**Respondent**

**Representation:**

For the Appellant: Mr Daniel Hayes of the Specialist Appeals Team  
For the Respondent: Mr Royln Jean-Paul Seeboruth of Abbots Close Chambers

**DETERMINATION AND REASONS**

1. On 13<sup>th</sup> February 2012 Muhammad Imran's application for a residence card as the 'extended family member' of an EEA national was refused. He was not thought to be in a 'durable relationship' with Rasa Naraskeviciene, a Lithuanian citizen. An appeal to the First-tier Tribunal came before Judge Turkington on 11<sup>th</sup> June 2012 and was

allowed, but this outcome was challenged on the grounds that the couple had not been cohabiting for long enough to be in anything more than “a general boyfriend/girlfriend relationship”, and that the judge had made certain errors in the facts that he found, based upon the evidence given by the couple. Permission to appeal was initially refused by Judge Davidge, but on renewal directly to the Upper Tribunal permission was granted by Judge Goldstein. Notice of a hearing at Field House on 14<sup>th</sup> December was posted to Mr Imran’s address, but Mr Imran did not attend the hearing, and Judge McGeachy proceeded to hear the appeal in his absence. The Secretary of State’s appeal was allowed, but it transpired that Mr Imran had not received notice of the hearing, and so on 6<sup>th</sup> February 2013 Judge McGeachy set his determination aside and gave directions that the appeal in the Upper Tribunal be heard afresh.

2. When the matter came before me today, my preliminary view, having seen a wealth of documentary evidence on the file, was that this couple were indeed in a durable relationship. Taking a very fair and sensible approach, Mr Hayes indicated that there was no requirement, either in the Citizens Directive or in the EEA Regulations, for a couple to live together for two years in order to establish a durable relationship. That being so, the challenge could only fall back on certain discrepancies in the couple’s evidence as to their wedding plans. But that was hardly enough to undermine their claim to be in a durable unmarried relationship. I canvassed with Mr Seeboruth whether there were flaws in Judge Turkington’s fact-finding which required his determination to be set aside, but clearly that is not the case. On the evidence before him, he was entitled to reach the conclusion that he did, for the reasons he gave. It follows that the First-tier determination will stand.

## **DECISION**

The Secretary of State’s appeal is dismissed.

Richard McKee  
Judge of the Upper Tribunal

8<sup>th</sup> July 2013