



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM**  
**CHAMBER**

Case No: UI-2022-006652  
First-tier Tribunal No:  
EA/13819/2021

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**

6<sup>th</sup> February 2024

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE BEN KEITH**

**Between**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Appellant

**And**

**HYSEN KRAJA**  
**(ANONIMITY DIRECTION NOT MADE)**

Respondent

**Representation:**

For the Appellant: Mr Din, Counsel

For the Respondent: Ms Gilmour, Senior Home Office Presenting Officer

Heard at Field House on 15 December 2023

**DECISION AND REASONS**

1. At the hearing on 15 December 2023 I gave judgment in the case setting out my reasons. However, the Court recording system did not pick up the judgment. As a result I give the reasons for my decision in writing having unsuccessfully attempted to retrieve the recordings.
2. This is an appeal by Secretary of State for the Home Department (“SSH”) against the decision of First-tier Tribunal Judge Nightingale (“the Judge”) dated 28 January 2022.

3. Mr Kraja is a citizen of Albania born on 21 November 1997. He appealed the decision of the respondent, dated 14 September 2021, refusing him leave to remain under the EU Settlement Scheme.
4. The judge allowed Mr Kraja's appeal as a durable partner of an EU national under the EU Settlement scheme finding that Appendix EU was complied with.
5. The SSHD appeals that decision on the grounds that it was wrong in law as Mr Kraja did not have the relevant document prior to the withdrawal agreement.
6. At the hearing it was accepted by counsel that this case was made prior to the case of **Celik (EU exit, marriage, human rights) [2022] UKUT 220 (IAC)** which remains good law. Mr Din therefore accepted that the SSHD's appeal was bound to succeed as Mr Kraja did not possess the relevant identity document which is a requirement of the EU scheme.
7. I therefore find that there was an error of law.
8. In relation to disposal, it was conceded that the Mr Kraja's case could not succeed under Appendix EU. I agree. The possession of a relevant document is a requirement as per Celik and Appendix EU.
9. I therefore remake the appeal and dismiss Mr Kraja's appeal against the decision of the SSHD.

### **Notice of decision**

1. There was a material error of law and the decision of the First Tier Tribunal is set aside.
2. Upon rehearing the case the appeal of Mr Kraja is dismissed and the decision of the SSHD to refuse his application is upheld.

**5 February 2024**

Ben Keith

Deputy Judge of the Upper Tribunal  
Immigration and Asylum Chamber