



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

Appeal Number: IA/45564/2013

THE IMMIGRATION ACTS

**Heard at Field House
On 14 October 2014**

**Determination
Promulgated
On 27 October 2014**

**Before
DEPUTY JUDGE DRABU CBE**

**Between
Ms GINA MANAIA KILKELLY**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

ANONYMITY DIRECTION IS NOT MADE

Representation:

For the Appellant: Ms B Asanovic of Counsel instructed by Duncan Lewis & Co,
Solicitors

For the Respondent: Mrs Alice Holmes, Senior Presenting Officer

DECISION AND REASONS

1. This appeal, against the decision of Judge Doyle of the First Tier Tribunal, had come before Deputy Upper Tribunal Judge, Judge Lever, on 23 June 2014 who after hearing arguments from representatives had found that there was a material error of law in the decision made by Judge Doyle to dismiss the appeal that the appellant had brought against the respondent's decision rejecting his application for permission to be allowed to remain in

the UK under EU Law. Determination of Deputy Upper Tribunal Judge Lever is on the case file.

2. After setting the decision of Judge Doyle aside Judge Lever had reserved the re making of the decision to himself. As the appeal appeared in my list, the Principal Judge, Judge Latter made an order of transfer which representatives of both parties were content with.
3. Before me, Mrs Holmes representing the respondent having perused the written skeleton arguments, conceded the merits of the appellant's claim. She invited me to allow the appeal. Based upon the decision granting the appellant permission to appeal to the Upper Tribunal, her grounds of appeal as well as arguments advanced in the written skeleton arguments filed by Counsel for the appellant, I am satisfied that Mrs Holmes's submission to allow the appeal is correct and has saved substantial court time. Credit for expeditious disposal of this appeal must also go to Ms Asonovic, counsel for the appellant who produced an excellent written skeleton argument which, relying on case law as well as relevant legislation, shows that the decision of the respondent was wrong in law. I am most grateful to both representatives for the manner in which they had prepared the appeal and for their conduct in the Court.
4. Accordingly I allow this appeal. I find that the decision of the respondent to refuse the appellant was in violation of the appellant's right under paragraph 3 (a) (b) and (4) of Regulation 10 of Immigration (EEA) Regulation 2006 as well as Regulation 15 of the Immigration (EEA) Regulation 2006.

K Drabu CBE
Deputy Judge of the Upper Tribunal.
24 October 2014