



**Upper Tribunal  
(Immigration and Asylum Chamber)  
HU/22461/2016**

**Appeal Number:**

**THE IMMIGRATION ACTS**

**Determined at Field House without a  
hearing  
On 3 October 2017**

**Decision & Reasons  
Promulgated  
On 4 October 2017**

**Before**

**UPPER TRIBUNAL JUDGE RINTOUL**

**Between**

**KUTAN KISAOĞLU  
(NO ANONYMITY ORDER MADE)**

Appellant

**and**

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

Respondent

**DECISION AND REASONS**

1. On 12 September 2017 I gave the following directions:-
  1. As the grounds of appeal note, First-tier Tribunal Judge R Scott clearly erred in concluding that the appellant was an EU national; being a national of the TRNC is not the same as being a citizen of the Republic of Cyprus. He also appears [31] to [33] have assumed that the appellant and his sponsor could live in "Cyprus" presumably that part not occupied by the TRNC. He also proceeded [40] on the basis that as no decision had been made to remove the appellant [41], the decision in this case, a decision to refuse a human rights claim, would not interfere with his right to private or family life.
  2. It is my preliminary view that the decision did involve the making of an error of law capable of affecting the outcome, in that the judge proceeded to determine the case on a fundamentally misconceived basis. It is therefore my preliminary view that the decision of the First-tier Tribunal should be set aside and that the appropriate course of action would be to remit the case to the First-tier Tribunal for a fresh determination on all issues.

3. Unless within ten working days of the issue of these directions there is any written objection to this course of action, supported by cogent argument, the Upper Tribunal will proceed to determine the appeal without an oral hearing and will remit it to the First-tier Tribunal.
  4. In the absence of a timely response by a party, it will be presumed that it has no objection to the course of action proposed
2. There has been no response to these directions by either party. Accordingly, I am satisfied that neither party objects to the matter being determined without a hearing and has nothing further to say. I am satisfied that that the determination of the First-tier Tribunal did involve the making of an error of law for the reasons set out above, and must therefore be set aside. Given the nature of the error, I remit the appeal to the First-tier Tribunal for a fresh determination on all issues.

### **Summary of conclusions**

1. The determination of the First-tier Tribunal did involve the making of an error of law and I set it aside.
2. I remit the decision to the First-tier Tribunal for a fresh decision on all issues
3. The appeal must not be before First-tier Tribunal Judge R Scott

Signed

Date: 3 October 2017



Upper Tribunal Judge Rintoul