



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

Appeal Number: EA/02514/2015

**THE IMMIGRATION ACTS**

**Heard at Birmingham Employment Centre  
On 13<sup>th</sup> June 2017**

**Decision & Reasons  
Promulgated  
On 27<sup>th</sup> June 2017**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE JUSS**

**Between**

**MR SAMET VUCAJ  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: No Appearance

For the Respondent: Ms H Aboni (Senior HOPO)

**DECISION AND REASONS**

1. This is an appeal against the determination of First-tier Tribunal Judge Phull, promulgated on 4<sup>th</sup> October 2016, following a hearing at Birmingham Sheldon Court on 12<sup>th</sup> July 2016, in which the judge allowed the appeal of

the Appellant for the refusal of his residence card as the extended family member of an EEA national exercising treaty rights, with the appeal being determined under Regulation 26 of the Immigration (European Economic Area) Regulations 2006.

### **The Appellant**

2. The Appellant is a male, a citizen of Albania, who was born on 29<sup>th</sup> February 1988. He had been issued with a residence card on the basis that he was in a durable relationship with an EEA national, Ms Dulama, and the judge heard the evidence from the witnesses before her, before concluding that there was indeed a durable relationship, such that the appeal stood to be allowed.

### **Grounds of Application**

3. The grounds of application state that the judge erred in assuming jurisdiction in relation to the appeal of a person who wished to remain in the UK as an “extended family member of an EEA national” because the case of **Sala (EFMs: Right of Appeal) [2016] UKUT 00411** established that there is no statutory right of appeal against the decision of the Secretary of State not to grant a residence card to a person claiming to be an extended family member.
4. The judge here had materially erred in law in considering the appeal by way of a reference to Regulation 8. When the Appellant made an application for a residence card on the basis that he was an unmarried partner of an EEA national, the judge ought to have found that the Appellant did not have the right to appeal against the Secretary of State’s decision, to issue a residence card to an extended family member.
5. On 13<sup>th</sup> December 2016, permission to appeal was granted on this basis, namely, that there was no jurisdiction in the Tribunal to entertain the appeal.
6. Pursuant to the aforesaid, the Upper Tribunal granted permission to appeal with the observation that given the case of **Sala**, the First-tier Tribunal had no jurisdiction to hear the Appellant’s appeal and should have found that there was no valid appeal before her.
7. There were arguable errors of law in the decision of the First-tier Tribunal.

### **The Hearing**

8. At the hearing before me on 13<sup>th</sup> June 2017, there was no appearance on behalf of the Appellant by any legal representative, even though the matter had been set down for an oral hearing.
9. For her part, Ms Aboni, appearing as Senior Home Office Presenting Officer, submitted that she would rely upon the Grounds of Appeal, and observe only that the decision in **Sala** was given on 19<sup>th</sup> August 2016, and

that the First-tier Tribunal Judge ought to have been aware of this by the time that she had signed off her determination, for it to be promulgated on 4<sup>th</sup> October 2016.

**Notice of Decision**

10. I am satisfied that the making of the decision by the judge involved the making of an error on a point of law because this is a case where the First-tier Tribunal had no jurisdiction to hear the appeal of a person applying for a residence card on the basis of being an extended family member of an EEA national. The fact that there was no jurisdiction meant that there was no valid appeal before the judge. Accordingly, I set aside the decision of the First-tier Tribunal Judge.
11. There is no valid appeal in this matter.
12. No anonymity direction is made.

Signed

Date

Deputy Upper Tribunal Judge Juss

26<sup>th</sup> June 2017