



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

Appeal Number: EA/03683/2016

THE IMMIGRATION ACTS

Heard at Field House

On 4 January 2018

**Decision & Reasons
Promulgated
On 2 February 2018**

Before

UPPER TRIBUNAL JUDGE ALLEN

Between

**FABIAN OMAR HIRD
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr W Rees of Counsel, Chris & Co Solicitors
For the Respondent: Mr L Tarlow, Home Office Presenting Officer

DECISION AND REASONS

1. This is the appeal of Mr Hird against the Secretary of State's decision, refusing him a residence card as an extended family member of an EEA national. The refusal is dated 9 March 2016.
2. The judge in the light of the decision of the Upper Tribunal in Sala concluded that the appeal fell to be dismissed on jurisdiction issues, but

really as he noted more accurately at paragraph 20, it is that the Tribunal on the basis of the law at that time did not have jurisdiction to hear the appeal and therefore that as far as the Tribunal was concerned there was an end of the matter, but permission to appeal was granted subsequently by a Judge of the First-tier Tribunal. Events have moved on of course since then, it has been decided by the Court of Appeal that Sala was wrongly decided. There is jurisdiction in this case, there is a right of appeal in the case of an extended family member of an EEA national and accordingly the judge's decision is set aside and the matter is remitted for a full rehearing in the First-tier Tribunal.

No anonymity direction is made.



Signed

Date

Upper Tribunal Judge Allen

24 January 2018