



**Upper Tribunal  
(Immigration and Asylum Chamber)  
IA/23645/2015**

**Appeal Number:**

**THE IMMIGRATION ACTS**

**Heard at Field House**

**On 8<sup>th</sup> March 2018**

**Decision & Reasons  
Promulgated  
On 4<sup>th</sup> April 2018**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE D E TAYLOR**

**Between**

**MUHAMMAD HAFEEZ  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr J Komolafe, Solicitor of Stella Maris Solicitors  
For the Respondent: Mr S Walker, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. This is the appellant's appeal against the decision of Judge Hanes made following a hearing at Taylor House on 17<sup>th</sup> November 2016.
2. The appellant had applied for a residence card as a confirmation of a right to reside in the UK as the extended family member of an EEA national but was refused on 11<sup>th</sup> March 2015. The judge concluded following the decision in Sala (EFMs: Right of appeal: Albania) [2016] UKUT 411 that

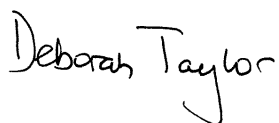
there was no statutory right of appeal against the decision of the Secretary of State and dismissed the appeal for want of jurisdiction.

3. The appellant made an out-of-time application to challenge Judge Hanes's decision and was given permission to do so by Judge Ford in a decision dated 20<sup>th</sup> December 2017.
4. In the light of the decision in Khan v Secretary of State for the Home Department [2017] EWCA Civ 1755 both parties agreed that the First-tier Tribunal had been wrong in law to conclude that it did not have jurisdiction to hear the appeal.

### **Notice of Decision**

Accordingly the decision of Judge Hanes is set aside. The appeal will be re-heard by a judge other than Judge Hanes at Taylor House on a date to be notified.

No anonymity direction is made.



Signed

Date 30 March 2018

Deputy Upper Tribunal Judge Taylor