



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: IA/19858/2015

**THE IMMIGRATION ACTS**

Heard at Field House  
On 22 May 2017

Decision & Reasons Promulgated  
On 2 June 2017

Before

DEPUTY UPPER TRIBUNAL JUDGE DAVEY

Between

MR SARDAR MOHAMMAD NAEEM KHAN  
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the Appellant: Mr R Layne, counsel instructed by Law & Co Solicitors

For the Respondent: Mr P Singh, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. The Appellant, a national of Germany appealed against the Respondent's decision dated 8 May 2015, to refuse to issue a registration certificate with reference to the Immigration (European Economic Area) Regulations 2006 on the basis that he had failed to provide sufficient evidence that he was a qualified person as defined under the 2006 Regulations.

2. His appeal together with that of Miss Chandni Maqbool before First-tier Tribunal Judge C A S O'Garro (the Judge) who, on 20 September 2016, dismissed Mr Khan's and Miss Maqbool's appeals. The appeal of Miss Maqbool has fallen away as a result of the fact that she claims to be an extended family member and by reason of the decision in Sala [2016] UKUT 00411 there is no right of appeal. So far as Mr Khan was concerned the position is that the Judge made a number of positive findings of fact on the evidence and concluded that Mr Khan was exercising treaty rights and was entitled to be issued with a registration document. It is clear that she then for reasons which can only be attributed to be a mistake dismissed Mr Khan's appeal when clearly she was satisfied that he had met the requirements of the 2006 Regulations.
3. Accordingly the parties are agreed that there is a material error of law in the Judge's decision on the matter and that the Original Tribunal decision cannot stand and must be remade.
4. It is agreed that I can readily remake the decision on the basis of the positive findings of fact made by the Judge in Mr Khan's case. In the light of the same I do no more than consider and accept the conclusion reached, with which there is no disagreement, that he was a qualified person and entitled to a residence certificate. Accordingly the following decision is substituted.

### **DECISION**

The appeal of Mr Khan is allowed.

### **ANONYMITY ORDER**

No anonymity order was sought and none is necessary.

Signed

Date 30 May 2017

Deputy Upper Tribunal Judge Davey

**TO THE RESPONDENT**

**FEE AWARD**

In the case of Mr Khan a fee of £140 was paid. The appeal succeeded on the basis of material which he had advanced before the Judge. In the circumstances notwithstanding the Judge's mistake it seems to me that there is no need nor is it appropriate for a fee award to be made.

Signed

Date 30 May 2017

Deputy Upper Tribunal Judge Davey