



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

Appeal Number: EA/03322/2017

THE IMMIGRATION ACTS

**Determined at Field House without a
hearing
On 30 April 2019**

**Decision & Reasons
Promulgated
On 7 May 2019**

Before

UPPER TRIBUNAL JUDGE RINTOUL

Between

**MENTOR BEQJA
(NO ANONYMITY ORDER MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

DECISION AND REASONS

1. On 10 April 2019 I gave the following directions:-

- “1. Having had regard to the decision of the First-tier Tribunal, and the grounds of challenge upon which permission was granted, it is my preliminary view that the appellant’s former wife had exercised Treaty rights through employment in the United Kingdom between April 2005 and into tax years 2011/12. It is also my preliminary view that, given that the appellant was living in the United Kingdom from 16 January 2006, he then automatically acquired permanent residence on 16 January 2011 as his wife was clearly exercising Treaty rights during that period.
2. In the circumstances, it is my preliminary view that whether or not he was working after that date (or after the divorce) or

whether his wife was exercising Treaty Rights at the time divorce proceedings were commenced or finalised is irrelevant, and so he has been entitled to a document confirming his right of permanent residence since 16 January 2011.

3. 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 allow the appeal under the Immigration (EEA) Regulations.
 4. 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.
 5. 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. In the circumstances, and in line with the directions set out I above, I am satisfied on the evidence provided that the appellant has acquired the permanent right of residence and is entitled to a document confirming that. I therefore allow the appeal.

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 remake the appeal by allowing it under the Immigration (EEA) Regulations).

Signed

Date: 30 April 2019



Upper Tribunal Judge Rintoul