



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

Appeal Number: EA/13648/2016

THE IMMIGRATION ACTS

**Heard at: Manchester Civil Justice
Centre
On: 4th June 2019**

**Decision and Reasons
Promulgated
On: 17th June 2019**

Before

UPPER TRIBUNAL JUDGE BRUCE

Between

**Dragan Planinic
(no anonymity direction made)**

Appellant

And

The Secretary of State for the Home Department

Respondent

**For the Appellant: Mr Wood, Immigration Advice Service
(Manchester)**

**For the Respondent: Mr McVeety, Senior Home Office Presenting
Officer**

DECISION AND REASONS

1. The Appellant is a national of Bosnia and Herzegovina born on the 10th August 1960. He appeals with permission the decision of the First-tier Tribunal (Judge D Alty) to dismiss his appeal under the Immigration (European Economic Area) Regulation 2016.
2. This appeal is settled by consent. Following the decision of the European Court of Justice in Banger v United Kingdom C89/17 the

Secretary of State accepts that the Appellant is entitled to a residence card confirming his right of residence as a *Surinder Singh* partner. The First-tier Tribunal erred in finding otherwise. Following the decisions in *Khan v Secretary of State for the Home Department* [2017] EWCA Civ 1755 and *SM (Algeria) v ECO* [2018] UKSC 9 the Secretary of State further accepts that the First-tier Tribunal was wrong to find, in the alternative, that it did not have jurisdiction to consider whether the Appellant qualified as an 'extended family member'.

Decision

3. The determination of the First-tier Tribunal contains a material error of law and it is set aside.
4. The decision in the appeal is: "the appeal is allowed".
5. There is no order for anonymity.



Upper Tribunal Judge Bruce
Dated 4th June

2019