



Home Office

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F Angelov
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FOI Reference: 50166

Date: 3 October 2018

Dear F Angelov,

Thank you for your e-mail of 11 September, in which you ask the Home Office to:

... release any Home Office policy or caseworkers' guidance or similar information on implementing the CJEU judgment in Lounes (C-165/16) in relation to Recognised Extended Family Members of a naturalised EEA/UK dual national.

Your request has been handled as a request for information under the Freedom of Information Act 2000.

The Court of Justice for the European Union (CJEU) decision in *Lounes* (C-165/16) allows, in certain circumstances, a third country national family member to have a derived right of residence where their family member is a European Economic Area (EEA) citizen who has exercised their Treaty rights before acquiring the nationality of the host Member State, whilst retaining their nationality of origin.

The judgment has been implemented in the UK by amendments to the Immigration (European Economic Area) Regulations 2016 ('the 2016 Regulations') which came into force on 24 July 2018. Caseworker guidance relating to family members of dual British and EEA nationals (so-called *Lounes* cases) can be found on page 24 of the guidance booklet here: <https://www.gov.uk/government/publications/direct-family-members-of-european-economic-area-eea-nationals>.

You have specifically requested clarification on:

- ***whether such recognised extended family members are considered as family members for the purposes of having right to reside in accordance with Lounes and in line with Regulation 9A -specifically whether Regulation 9.4.b is deemed to extend to Regulation 9A***

Regulation 9(4)(b) does not extend to Regulation 9A. Regulation 9 and Regulation 9A of the 2016 Regulations are distinct, separate provisions.

Regulation 9 relates to family members of British citizens who are not Lounes cases (so-called *Surinder Singh* cases, named after the relevant CJEU court judgment).

Regulation 9A relates to dual nationals (i.e. a national of an EEA State who acquires British citizenship, so-called *Lounes* cases). In accordance with regulation 7, of the 2016 Regulations, where the extended family member of such a dual national has been issued with an EEA family permit, a registration certificate or a residence card, they will be treated as a family member of the dual national, provided that the extended family member continues to meet the conditions in regulation 8(2), (3), (4) or (5) of the 2016 Regulations and the EEA family permit, registration certificate or residence card remains in force.

- ***whether such recognised extended family members will need to submit a new application for a residence documentation if the residence card already issued to them as EFM of an EEA national predates the EEA/UK family member's naturalization***

They will not need to submit a new application. The residence card issued to them will continue to remain valid until its date of expiry, so long as the dual national continues to meet the requirements of Regulation 9A of the 2016 Regulations (*Dual national: national of an EEA State who acquires British citizenship*), and the extended family member continues to meet the requirements of Regulation 8 (*Extended family member*).

- ***whether such recognised extended family members in line with Regulation 9A will benefit from right to acquire permanent residence under Regulation 15 at the end of a 5 year qualifying period.***

Such recognised extended family members will benefit from a right to acquire permanent residence under regulation 15 so long as the necessary criteria are met.

If you are dissatisfied with this response you may request an independent internal review of our handling of your request by submitting a complaint within two months to foirequests@homeoffice.gsi.gov.uk, quoting reference 50166. If you ask for an internal review, it would be helpful if you could say why you are dissatisfied with the response.

As part of any internal review the Department's handling of your information request would be reassessed by staff who were not involved in providing you with this response. If you were to remain dissatisfied after an internal review, you would have a right of complaint to the Information Commissioner as established by section 50 of the FOIA.

Yours sincerely

D Thomas

Border, Immigration & Citizenship System and Europe Group