



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

Appeal Number: AA/09195/2014

THE IMMIGRATION ACTS

**Heard at Manchester IAC
On 27th July 2017**

**Decision & Reasons Promulgated
On 28th July 2017**

Before

UPPER TRIBUNAL JUDGE COKER

Between

KHALID HASSAN LAMOURY

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms G Patel instructed by Broudie Jackson and Canter solicitors
For the Respondent: Mr G Harrison, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. Following a hearing on 3rd May 2016, Upper Tribunal Judge Kebede found the First-tier Tribunal judge had erred in law and she set aside the decision of the First-tier Tribunal dismissing the appeal. A copy of her decision is annexed herewith.
2. The First-tier Tribunal judge had found the appellant was not at risk of being persecuted for a Refugee Convention reason and nor would his removal from

the UK be a disproportionate interference in his Article 8 rights. The First-tier Tribunal judge also found that he was not at risk because of the security situation in Libya.

3. Upper Tribunal Judge Kebede found that the First-tier Tribunal judge had not erred in law in her conclusions that the appellant, who is a Libyan national, was not at risk of being persecuted for a Refugee Convention reason but Judge Kebede concluded that the background evidence was such that the First-tier Tribunal conclusions on Article 15(c) risk were not sustainable. The First-tier Tribunal decision was therefore set aside in that regard only.
4. Since that decision by Judge Kebede there has been further Country Guidance *ZMM (Article 15(c) Libya CG [2017] UKUT 00263 (IAC)* the headnote of which reads as follows:

The violence in Libya has reached such a high level that substantial grounds are shown for believing that a returning civilian would, solely on account of his presence on the territory of that country or region, face a real risk of being subject to a threat to his life or person.

5. The appellant, through his solicitors submitted a bundle of documents including reports since the promulgation of *ZMM*. There was no challenge to that material. Mr Harrison did not seek to distinguish *ZMM* or make any submission that the appellant would not be at real risk of being subject to a threat to his life or person solely on account of his presence in Libya. Although plainly it is for the appellant to prove his case, the lack of even a suggestion that this appellant would not be at risk renders any further consideration unnecessary, given *ZMM*.
6. I allow the appeal.

Conclusions:

The making of the decision of the First-tier Tribunal did involve the making of an error on a point of law.

The decision is set aside but the findings of the First-tier Tribunal with regards to the Refugee Convention and Article 8 preserved.

I re-make the decision in the appeal by allowing it.



Date 27th July 2017

Upper Tribunal Judge Coker