



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

Appeal Number: AA/04521/2015

THE IMMIGRATION ACTS

Heard at Manchester

**Decision &
Promulgated**

Reasons

On 14 July 2017

On 1 August 2017

Before

UPPER TRIBUNAL JUDGE CLIVE LANE

Between

**WA
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Williams

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

DECISION AND REASONS

1. The appellant, WA, is a citizen of Libya. She had appealed against the decision of the respondent dated 3 May 2015 to refuse to grant her protection. The First-tier Tribunal (Judge M Davies) in a decision promulgated on 10 November 2016, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.
2. Deputy Upper Tribunal Judge Chapman, in a decision dated 24 February 2017, had granted permission to appeal on a limited basis. In particular, relying on *FA (Libya: Article 15(c)) CG* [2016] UKUT 00413 (IAC), she had excluded a ground of appeal which concerned Article 15(c). In doing so, she observed that “risk should be determined on a case-by-case basis and

there does not appear to have been any evidence before the judge to substantiate an Article 15(c) claim on the facts of this case”.

3. Case law guidance was indeed as summarised by Judge Chapman when she granted permission. However, new country guidance is available in respect of Libya in the form of *ZMM (Article 15(c)) Libya CG [2017] UKUT 263 (IAC)*. The headnote reads:

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.

4. At the initial hearing at Manchester on 14 July 2017, the appellant’s representative sought permission to amend the grounds of appeal to include a claim in respect of Article 15(c) in the light of the decision of *ZMM*. Mr McVeety, for the respondent, did not object to that application. I gave permission for the grounds of appeal to be amended.
5. In the light of the unequivocal decision as regards indiscriminate violence in *ZMM*, it must follow that this appellant, notwithstanding the weaknesses in her case identified by Judge Davies, should be entitled to a grant of humanitarian protection. I find that the judge has erred in law in his treatment of Article 15(c) and I set aside the decision accordingly. I remake the decision. I allow the appeal on humanitarian protection grounds. In doing so, I stress that I intend no criticism whatever of Judge M Davies; his decision has become a victim of rapidly changing country conditions in Libya which are now reflected in the country guidance available from the Upper Tribunal.

Notice of Decision

6. The decision of the First-tier Tribunal promulgated on 10 November 2016 is set aside. I have remade the decision. The appellant’s appeal against the decision of the respondent dated 3 May 2015 is allowed on humanitarian protection grounds.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date 31 July 2017

Upper Tribunal Judge Clive Lane

TO THE RESPONDENT
FEE AWARD

No fee is paid or payable and therefore there can be no fee award.

Signed

Date 31 July 2017

Upper Tribunal Judge Clive Lane