Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/07527/2018

THE IMMIGRATION ACTS

Heard at Manchester Civil Justice Centre	**Decision & Reasons Promulgated**
On 24 September 2019	**On 14 October 2019**

Before

DR H H STOREY
JUDGE OF THE UPPER TRIBUNAL
UPPER TRIBUNAL JUDGE PICKUP

Between

MR W I
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Mr F Aziz, Solicitor, Lei Dat & Baig Solicitors (Renshaw House)
For the Respondent: Mr A Tan, Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, a national of Sudan, has permission to challenge the decision of Judge Shergill of the First-tier Tribunal (FtT) sent on 1 August 2018 dismissing his appeal against the decision made by the respondent on 30 May 2018 refusing his protection claim. The respondent had accepted that (1) the appellant is a national of Sudan; (2) is a member of the Tama tribe (and so a non-Arab Darfuri); and (3) that his village had been attacked by the Janjaweed on two occasions, in 2008 and 2014. However,

the respondent did not accept that he had a well-founded fear of persecution because he would be able to relocate safely and reasonably to Khartoum.

2. In the respondent's decision of May 2018 the respondent considered that since the Tribunal had issued its country guidance in 2009 (in **AA (Non-Arab Darfuris - relocation) Sudan** CG [2009] UKAIT 0005**)** and 2015 (in **MM (Darfuris**) Sudan CG [2015] UKUT 00010**)**, there had been a significant change of circumstances such that it was no longer the case that non-Arab Darfuris would face adverse treatment in Khartoum based on ethnicity. In this regard the respondent relied heavily on its CIPIN Sudan: Non-Arab Darfuris, August 2017.

3. When the appellant' appeal came before Judge Shergill the judge stated that he took no specific issue as to credibility. He nevertheless concluded that during the 2008 and 2014 attacks by the Janjaweed the appellant had not been specifically identified or targeted but "was one of a group subjected to a broad-brush attack, as happened/happens in Darfur" (paragraph 12). To this point, the only issue so far as the judge was concerned was whether or not to follow the country guidance decisions of the Upper Tribunal in **MM** and **AA**. The judge recognised that in order to depart from a CG case there had to be "very strong grounds supported by cogent evidence" (citing **SG (Iraq) [**2012] EWCA Civ 940). Having considered other leading cases dealing with the issue of when it was appropriate or not to depart from country guidance (the judge cited **TM (Zimbabwe)** [2010] EWCA Civ 916, **SA (Sri Lanka)** [2014] EWCA Civ 683, **DSG & Others (Afghan Sikhs: departure from CG) Afghanistan** [2013] UKUT 000148 (IAC) and **FA (Libya: art 15(c))** Libya CG [2016] UKUT 413), the judge concluded that there was cogent evidence for so departing. His reasons averred that: these case are quite dated and based "in essence on the respondent's OGN from 2009"; unlike the situation when **MM** was decided, there was now new country information being relied on in the CIPIN Sudan, Non-Arab Darfuris, Version 1.0, August 2017; the appellant had not sought to rebut the respondent's evidence with an expert report; the appellant's background evidence was of limited value (we shall return to this matter below); and the CIPIN Report of 2017 was based on three different sets of sources – the Joint Report of the Danish Immigration Service and UK Home Office Fact-Finding Missions to Khartoum, Kampala and Nairobi conducted February - March 2016, an Australian Report, 2016 (DFAT) and a British Embassy letter; and that there were no obvious concerns about bias or methodological flaws in the CIPIN Report. At paragraphs 36 – 38 the judge concluded:

> "36. The appellant has no political profile and was not 'targeted' personally, he was not recognised or identifiable given it was dark and it is implausible to the lower standard given the nature of the 2016 attack that the Janjaweed could have seen him sufficiently well to be able to identify him then or in the future. He cannot properly be said to have had 'prior adverse attention'. The only relevance of political perception in his case is only because there are suggestions that being Darfurian *per se* indicated you were opposed to the regime. However, physical characteristics were seemingly less significant given the exposition in *IM* [**IM and AI (Risks-membership of Beja Tribe, Beja Congress and JFM)**: Sudan (CG) [2016]

UKUT 188 (IAC)] at paragraphs 177 to 222. I have reviewed the key risk themes in the DFAT Report and the conclusions are broadly consistent with the matters set out in the Joint Report. I note what was said at:

> '3.41 Overall, DFAT assesses that low-profile members of the unarmed opposition are at a low risk of official discrimination and violence. Supporters of the unarmed opposition who present a direct threat to the Government's authority by speaking openly about political transition or overthrowing Bashir and the NCP face a moderate risk of discrimination and low risk of violence.
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> …
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> 4.13 DFAT assesses that those who are perceived to directly threaten the authority of the Government may face risk of torture. This is likely to affect those who are outspoken. DFAT is also aware of some examples of civilians who are not outspoken being exposed to torture. DFAT is unable to prescribe a particular risk to an individual's potential to experience torture or comment on the general incidence of torture.
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> …
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> 4.16 Overall, DFAT assesses that arbitrary arrest and detention are commonly used by the Government, particularly against individuals that are or are perceived to be outspokenly critical of the Government…'

37. Looking at all of this evidence in the round, it is abundantly clear that the situation in Khartoum has markedly changed from that set out in the 2009 OGN which underpinned *AA*. Whilst there may have been some updated evidence before the tribunal in *MM*, clearly that 2009 OGN was a key constituent in the decision making. The tribunal in *IM* did not expressly deal with the situation for non-Arab Darfuris so the situation has not been recently visited with up-to-date evidence. I have no concerns about the methodology used in the two reports that underpin the 2017 CPIN. The tribunal has held that diplomatic evidence in that case was reliable; and I see no basis for the assertions that somehow it is tainted or unreliable. There is a very clear theme emerging from the three sources of evidence synthesised in the CPIN that there are many tens if not hundreds of thousands of Darfuri people in Khartoum; a city which is stable. There may be a risk to non-Arab Darfuri people but that is not in a generalised way as the country guidance had previously endorsed. I consider that the evidence relied on by the respondent in the CPIN, as underpinned by the three sources of evidence does show 'very strong grounds supported by cogent evidence' that the country guidance in *AA* and *MM* can be departed from.

38. The appellant has not provided satisfactory evidence to dissuade me to depart and I was not persuaded by the submissions either. I remained of the view that the CPIN evidence was very strong evidence which was cogent; and sufficient to depart from country guidance as it relates to relocation to Khartoum of non-Arab Darfuris with no political profile/no

> prior adverse attention (in this case not being individually targeted or identified/identifiable) as I have found in this appellant's case."

4. The judge then turned to consider the appellant's individual circumstances, including that he would not be at risk on return and that he would be able to relocate to Khartoum safely and reasonably, stating at paragraph 42 that:

> "42. The appellant is a fit and able young man who has managed to exchange work for practical help in the past and been assisted by his countrymen when fleeing. He is from what he confirmed was a large tribe. I see no reason he cannot use these networking skills he has gained to carve out a new life for himself. He has clearly demonstrated the basic interpersonal and practical skills needed to do so in comparable situations when he fled Sudan. I am satisfied he can at least undertake unskilled work. Any resettlement grants would ameliorate his transition to life back in his homeland. The informal economy employs significant numbers in Khartoum; indeed, there has been a pull factor to Khartoum because of the improving economic conditions (Joint Report at 4.6). It is difficult to conclude that in such a populous city, amongst so many of his own people, the appellant going about his ordinary business will have a risk profile that would put him at a real risk of harm. Whilst the appellant has never lived in Khartoum, I note he is still in touch with his family in Darfur. I see no reason he could not use any tribal connections he has through his family to locate persons who might be able to ease his integration in the short term in Khartoum. In the worst-case scenario of his being a lone man with no support, it is hard to consider someone who has shown such fortitude and resilience given the hardships he has faced and efforts to come to the UK, that he will simply wither on the vine. It is more plausible he will thrive amongst his people in the improving economic situation in Khartoum. I am satisfied the CPIN is underpinned by cogent evidence from the Joint Report, DFAT and British Embassy from a range of appropriate, recent and relevant sources to show internal relocation is reasonable. I am not satisfied relocation for this appellant will be unreasonable, unduly harsh or lead to a real risk of destitution."

5. The appellant's grounds assail the judge's findings on three counts: submitting that (1) the judge had been wrong to endorse the methodology of the CIPIN Report, given the latter's heavy reliance on unidentified sources; (2) that the judge failed to engage fully with the CIPIN document of August 2017, which revealed significant levels of ongoing ethnicity-based persecution of non-Arab Darfuris and which, in its treatment of the issue of relocation in Khartoum, failed to rely on cogent evidence; and (3) that the judge failed to engage with other relevant evidence, in particular the reports contained in the appellant's bundle.

6. Subsequent to the appellant's representatives sending this letter, the case referred to has been reported as **AAR & AA** 2019] UKUT 282, 7 August 2019.

7. In a further letter sent on 17 September 2019 the appellant's solicitors observed that with respect to the situation in Sudan over the last six – twelve months, there had been hearings before the Upper Tribunal with a view to issuing new country

guidance. There was now a decision by the Upper Tribunal dated 7 August 2019 which was enclosed. The letter said that in the new decision the respondent had accepted that the appeals had to be allowed where the appellants' profiles as non-Arab Darfuris brought them within the ratio of the country guidance cases. "In light of the above" the letter concluded, "we respectfully submit that the decision of the FtT does contain material error of law". The decision they refer was soon after reported as **AAR & AA**.

8. At the hearing both representatives said it was their shared view that the judge's decision should be set aside in light of the latest Tribunal decision in **AAR & AA**.

9. Ordinarily when both parties to an appeal agree that an FtT decision should be set aside, the Upper Tribunal will adopt the same view and give only brief reasons. There are also particularly strong pragmatic reasons for taking such a course in a case of this kind, where the respondent accepts that in the light of a reported Tribunal decision the appellant stands to benefit from the existing country guidance (as set out in **AA** and **MM**). However, a decision as to error of law must be principled, not simply pragmatic. Here we are tasked with deciding whether the judge erred in law in considering matters as they stood in August 2018, when he promulgated his decision. It cannot be an error of law for a judge to fail to take into account a decision not yet promulgated or to fail to take stock of evidence that was before a later tribunal. Indeed, at the time Judge Shergill heard the case, the government of Sudan was still in the hands of President Omar al-Bashir. He was not deposed until April 2019. We consider it necessary, therefore, to examine the appellant's grounds and the parties' submissions in more detail.

10. Mr Aziz, as already noted, submitted that the fact that the Upper Tribunal in **AAR & AA**, having sight of the country information going backwards in time, concluded there was no sound basis to depart from existing country guidance, indicated that this remained the case in August 2018, contrary to FtT Judge Shergill's assessment to the contrary. Mr Tan broadly supported this submission.

11. We have difficulty accepting Mr Aziz's argument on this point. In **AAR & AA**, in a brief decision, the Upper Tribunal wrote:

> "Further Background
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> 18. Both appeals were listed for hearing in mid-August 2018. However, very shortly after the error of law decisions, the respondent indicated that he intended to conduct a fact-finding mission to Sudan between 10 and 17 August 2018. The purpose of the mission was to gather information about the circumstances of Darfuris in Sudan, with a focus on Khartoum, and the treatment of returnees generally. That mission formed the basis of a report published in November 2018, entitled "Report of a fact-finding mission to Khartoum, Sudan". We refer to this report as the "FFR".
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> 19. Having been served with the FFR, the appellants jointly instructed three experts to comment on it and provide their opinions on the question raised in these appeals. The Tribunal was provided with reports from Dame Rosalind Marsden, former British Ambassador to Sudan, from Ms

Madeleine Crowther, Co-Executive Director of Waging Peace, an NGO focussing on Sudan, and Mr Peter Verney, an expert on Sudan who had provided reports in many Sudanese appeals.

20. The appeals were heard on 12-14 February 2019. In addition to hearing extensive oral evidence from the witnesses set out above, the Upper Tribunal also heard oral evidence via video link from Khartoum from a civil society activist in Sudan.

21. The witnesses provided evidence on the ongoing civil uprisings in Sudan which had begun in November 2018 and increased during the following months. It was uncontentious that the regime had attempted to supress the protests by violent means and had carried mass arrests with widespread reports of mistreatment of detainees.

22. The respondent submitted that the evidence on the protests and the government's response did not show a sufficient specific interest in Darfuris to impact on the question of a general risk on return for Darfuris who had no profile other than their ethnicity and having claimed asylum in the UK. The appellants argued that the behaviour of the Sudanese regime in the face of the civilian protests showed that there remained a risk on return for all Darfuris who had claimed asylum in the UK.

23. The Tribunal reserved its decision at the end of the proceedings on 14 February 2019.

24. The situation in Sudan remained volatile and, at times, deteriorated. President Bashir was ousted by the military on 11 April 2019. The head of the notoriously abusive National Intelligence Service (NISS), Salah Gosh, resigned on 13 April 2019. A state of emergency was then declared for 3 months by the Transitional Military Council (TMC). The TMC stated that it wanted to enter into a dialogue with civil society. Protestors remained on the streets whilst discussions took place.

25. Towards the end of May 2019 and in June 2019 there were a number of attacks on protestors across the country. The Rapid Support Forces (RSF), often referred to as the Janjaweed, were deployed in Khartoum. The worst incident appears to have been on 3 June 2019 when the main protest site in Khartoum was attacked and at least 40 bodies were recovered from the Nile, having been thrown there by the RSF. Protests intensified, reprisals continued and the internet was shut down.

26. The Tribunal reconvened for a Case Management Hearing on 10 July 2019 to hear submissions from the parties on the appropriate way forward in light of the continuing upheaval in Sudan. The respondent provided a "Response to an Information Request - Country: Sudan" dated 17 June 2019 which detailed the events set out above.

27. The respondent submitted that the proceedings should be adjourned until September 2019 when the situation in Sudan might be clearer. In the week prior to the Case Management Hearing, for example, internet access had restarted and there were signs that an agreement between the TMC and the civilian opposition alliance would be reached.

28. The appellants maintained that the situation in Sudan remained unpredictable such that adjourning for a further 3 months was not

appropriate and submitted that the Tribunal should proceed to determine the appeals which had to be allowed where the situation in Sudan could not be said to amount to the "very strong grounds supported by cogent evidence" required for a Country Guidance case to be considered no longer authoritative and set aside or replaced; SG (Iraq) v Secretary of State for the Home Department [2012] EWCA Civ 940 considered.

29. After some discussion, in light of the volatility of the situation in Sudan, the absence of the cogent evidence needed to set aside existing Country Guidance and in light of AAR and AA having waited for an extensive period of time for a final determination of their protection claims, the respondent conceded that a further delay was not appropriate and that the appeals should be determined on the basis of the existing Country Guidance cases. The respondent accepted that this meant that the appeals had to be allowed where the appellant's profiles as Darfuris brought them within the ratio of AA (Sudan) and MM (Sudan). The Tribunal allows the asylum appeals of AAR and AA on that basis.

30. The answer to the Country Guidance question that was originally asked in these appeals is as follows. The situation in Sudan remains volatile after civil protests started in late 2018 and the future is unpredictable. There is insufficient evidence currently available to show that the guidance given in AA (non-Arab Darfuris - relocation) Sudan CG [2009] UKAIT 00056 and MM (Darfuris) Sudan CG [2015] UKUT 10 (IAC) requires revision. Those cases should still be followed."

12. Put shortly, the principal basis for the decision of UTJs Pitt and Blum was that as a result of the fall of the al-Bashir regime, the situation in Sudan was highly volatile, and the future unpredictable and there was insufficient evidence to warrant country guidance revision. In terms of recent evidence, they refer, it is true, to the November 2018 "Report of a fact-finding mission to Khartoum, Sudan" which had been published. However, they also refer to receiving reports and hearing oral evidence in February 2019 from several experts from Dame Rosalind Marsden, former British Ambassador to Sudan, from Ms Madeleine Crowther, Co-Executive Director of Waging Peace, an NGO focussing on Sudan, and Mr Peter Verney, an expert on Sudan who has provided reports in many Sudanese appeals. However, they do not in terms make any findings on any of this evidence. We do not know whether the Tribunal considered this body of evidence insufficient or whether what principally concerned them was the volatility of the situation in February 2019 up until they promulgated their decision in August 2019. Further, the decision is not a country guidance decision. There is certainly not enough stated in this decision to identify or infer a definite view on the quality the evidence before them as to the issue that had been set down for them to decide as country guidance. Nor do we know what they thought about the state of the evidence as at 1 August 2018, when the FtT judge in this case sought to depart from existing country guidance.

13. We consider nevertheless that the FtT decision is legally flawed for other reasons.

Reliance on unidentified/anonymous sources

14. Addressing first the three grounds of appeal, we do not consider ground (1) is made out, since the judge gave careful consideration to the methodology of the CIPIN Report and specifically addressed the issue of what weight could be given to unidentified sources and informants, stating at paragraphs 26 – 28:

> "26. Ms Patel criticised the anonymised sources in the CPIN. However, broadly speaking the underlying Joint Report is well sourced so this is not a fundamental flaw. Both the Joint Report and DFAT rely on a number of different sources which reassures me that there has been some wide consultation. These include governmental and non-governmental sources; some of them based in or with connections to Sudan, others less directly placed. There were also human rights activists and lawyers consulted.
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> 27. I take no issue with the reliance on diplomatic sources or the lack of an NGO presence going to weight in the Joint Report. I note that there is a British Embassy letter in the CPIN. Such issues have been comprehensively dealt with in *IM and AI (Risks - membership of Beja Tribe, Beja Congress and JEM: Sudan) (CG)* [2016] UKUT 00188:
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> > '199. The Embassy letters based upon information from UNHCR in Khartoum, the German and Netherlands Embassies and other EU governments are a useful source of material. We would not regard their assessment as biased in favour of the respondent but as a professional examination of the material it has extracted from its informants. Any assessment must involve the exercise of caution because most, if not all, of the organisations approached do not have a monitoring capability. That said, monitoring is not the only method of collecting information and the level of interest in seeking out information about the risk faced by returnees is such that we would expect adverse consequence to filter through into the public domain.'
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> 28. There is nothing fundamentally wrong with relying on either diplomatic sources or NGO's who do not have a presence in Sudan, particularly given the difficulties NGOs face there. I do not consider these issues are fundamental flaws or reduce weight."

15. In our view, the judge's treatment of this feature of the 2017 CIPIN report was within the range of reasonable responses. The judge's reasons for attaching weight to anonymous sources were properly based on existing caselaw principles.

Failure to engage with other relevant evidence, in particular the reports contained in the appellant's bundle

16. It is convenient to take next the appellant's ground (3), which alleges failure to engage with other relevant evidence. Insofar as this ground suggests that the judge overlooked relevant evidence in the appellant's bundle, we consider it has merit. At paragraph 23 the judge purported to address the evidence in the appellant's bundle, stating that:

> "23. The generalised evidence in the appellant's bundle relates to a different risk profile to the appellant e.g. the 'Belgium returnees'; students; journalists; those with political profiles; and those being returned to Darfur. These different groups and scenarios are markedly different from the appellants' situation and are not persuasive as to the specific circumstances he may face on return. The specific reference in submission to Mr Plaut's blog is not persuasive given the campaigning stance he comes from, and criticisms he makes including of the previous country guidance law. It is not case specific evidence and is hardly objective evidence. I attach little weight to it."

17. However (leaving aside the lack of clarity about what the judge meant to identify as "generalised evidence"), the impression conveyed by this paragraph is that the appellant's bundle comprised two sets of materials only: (i) those dealing with specific risk profiles and "different groups and scenarios … markedly different from the appellants' situation"; and (ii) Mr Plaut's blog. That is simply not a correct description of the content of this bundle which, in addition to specific news stories, contained excerpts from the U.S. State Department Report for Sudan dated 3 March 2017 and extracts from the Human Rights Watch and Amnesty International Reports which at least arguably took a different view of risk to non-Arab Darfuris than that taken in the CIPIN 2017. Given that the judge had decided he had a sufficiently broad factual matrix of sources to justify departure from country guidance, there was a need to address the corpus of the materials in the appellant's bundle more carefully.

Failure to engage fully with the CIPIN document of August 2017

18. We now turn back to the appellant's ground (2), which contends that the judge failed to note that the 2017 CIPIN Report contained passages supporting the view that non-Arab Darfuris are still at risk of persecution. We consider this ground to also have force. In relation to risk to non-Arab Darfuris in Darfur, the CIPIN Report reconfirmed that this remained a generalised risk. At 2.3.4 the CIPIN states that "Non-Arab Darfuris continue to face serious human rights violations in Darfur at the hands of various actors which are likely to amount to persecution or serious harm" and the only specific disagreement with Tribunal country guidance that is addressed in paras 2.3.6 (which commences with the sub-head 'Khartoum') onwards is confined to the situation of non-Arab Darfuris in Khartoum. In this context, it is exceedingly difficult to follow the basis on which the judge assessed that the appellant would be of no interest upon return and would not be sought by the authorities (see paragraphs 12 and 40).

19. This is more than a careless elision of findings on risk in Darfur with findings on risk in Khartoum. The burden of most of the judge's assessment related to internal relocation and as a matter of logic, internal relocation only arises as a test an appellant has to satisfy if it has been found he has a well-founded fear of persecution in his home area. Further, if there is an acceptance that a person has been persecuted in the past, it becomes necessary for good reasons to be shown why he would not face a repetition of such persecution (para 339K of the Immigration Rules).

20. In this regard, the judge's findings on the appellant's experiences in his home area are problematic in any event. What he describes as "broad-brush attack(s), as happened/happens in Darfur" (paragraph 12) is effectively accepted by the same CIPIN on which the judge relies, to amount to persecution. The fact that the Janjaweed attacked his village collectively and did not target him specifically does not mean that he and his fellow villagers (or on the second occasion, the other young men) were not victims of persecution. The appellant's evidence (which the judge did not dispute) was that the 2008 attack by the Janjaweed was a "race issue. They say to us you are a negro". (q49). The appellant said about the 2014 attack that "[t]hey come from time to time to detain the young men and accusing them of supporting the oppositions or working for the oppositions". (q64). The DFAT report of April 2016, on which the judge sought to rely in part, was cited in the 2017 CIPIN at 4.5.2 as stating that "[t]he UN Panel of Experts on Sunday [sic, Sudan] characterised the current Government strategy in Darfur as one of collective punishment of villages and communities from which the armed opposition are belief to come from or operate."

21. In relation to the judge's treatment of the issue of internal relocation, the judge did deal with this issue both in terms of safety and reasonableness. However, in relation to reasonableness, his findings appear to rely heavily on sources in the CIPIN making reference to the fact that there is a large Darfuri population in Khartoum and that there is an "improving economic situation". We agree with the appellant's grounds that this amounts to a one-sided appraisal of the CIPIN Report. This report also noted grave concerns about the welfare of non-Arab Darfuris, lack of humanitarian assistance, lack of IDP facilities and the risk that they would simply become internally displaced persons without access to humanitarian assistance (see e.g. 6.6.1 and 6.7). At 5.2.11 the CIPIN noted one source stating that "Livelihood challenges would likely hamper opportunities for internal relocation in Sudan. The informal nature of the economy (particularly outside of Khartoum), the significant reliance on humanitarian assistance in conflict- affected areas and reduction in informal and low-skilled employment opportunities due to the influx of refugees from neighbouring countries means that individuals would likely face economic hardship if relocating. In addition, the Government does not recognise internally displaced people in Khartoum, meaning that individuals relocating from conflict affected areas do not have access to humanitarian assistance in Khartoum."

22. Particularly bearing in mind that in assessing internal relocation the judge was obliged not simply to ask whether the CIPIN material before him provided a sufficient evidential support for his conclusion, but also to ask if (together with other materials) it constituted "cogent reasons" for departing from country guidance (which takes a much less sanguine view), we consider ground (2) is also made out. The judge's assessment of reasonableness did not address all relevant matters.

23. As presaged at the hearing, the above represents our reasons in detail for our conclusion (announced at the hearing) that the decision of the FtT Judge is set aside for material error of law.

24. We discussed with the parties how we should proceed in order to dispose of the appeal. Both were in agreement that the decision we re-make should be governed by the recent case of **AAR & AA** and that this decision established that there were still no cogent reasons to depart from the existing country guidance stating that non-Arab Darfuris are at risk on return of persecution for a Convention reason. In the context of re-making the decision, we must assess the appellant's situation as at today's date. We note that even though this is not a country guidance, it confirms that previous country guidance cases remain valid. Accordingly we agree with the position of the parties.

25. Given that it is accepted that the appellant is a non-Arab Darfuri, the decision we re-make in this appeal can thus only be to allow it on asylum grounds.

26. To conclude:

    The decision of the judge is set aside for material error of law.

    The decision we re-make is to allow the appellant's appeal on asylum 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 his 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: 9 October 2019

H H Storey

Dr H H Storey
Judge of the Upper Tribunal