



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

Appeal Number: IA/00970/2020

THE IMMIGRATION ACTS

Heard at George House, Edinburgh
On 12 January 2022

Decision & Reasons Promulgated
On 27 January 2022

Before

UT JUDGE MACLEMAN

Between

IBIYINKA FUNMILOLA OPARINDE

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Mr A Heeps, of McGlashan Mackay, Solicitors
For the Respondent: Mr M Diwyncz, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. In her decision dated 18 May 2021, FtT Judge Kempton dismissed the appellant's appeal within the Refugee Convention, because internal relocation was available away from risk in her home area, but allowed the appeal on grounds of human rights, in terms of both articles 3 and 8.
2. Mr Diwyncz conceded, sensibly and correctly, that the Judge overlooked that availability of internal relocation depends not only on the geographical extent of risk but also on undue harshness; and that on the findings reached, the appeal should have succeeded on both grounds.

3. The decision of the First-tier Tribunal is set aside. The decision substituted is that the appeal, as brought to the FtT, is allowed on asylum and on human rights grounds.
4. There is no further need for an anonymity direction.



12 January 2022
UT Judge Macleman

NOTIFICATION OF APPEAL RIGHTS

1. A person seeking permission to appeal against this decision must make a written application to the Upper Tribunal. Any such application must be **received** by the Upper Tribunal within the **appropriate period** after this decision was **sent** to the person making the application. The appropriate period varies, as follows, according to the location of the individual and the way in which the Upper Tribunal's decision was sent:
2. Where the person who appealed to the First-tier Tribunal is **in the United Kingdom** at the time that the application for permission to appeal is made, and is not in detention under the Immigration Acts, the appropriate period is **12 working days (10 working days, if the notice of decision is sent electronically)**.
3. Where the person making the application is in detention under the Immigration Acts, **the appropriate period is 7 working days (5 working days, if the notice of decision is sent electronically)**.
4. Where the person who appealed to the First-tier Tribunal is **outside the United Kingdom** at the time that the application for permission to appeal is made, the appropriate period is **38 days (10 working days, if the notice of decision is sent electronically)**.
5. A **"working day"** means any day except a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday.
6. The date when the decision is "sent" is that appearing on the covering letter or covering email.