



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

Appeal Number: DA/01706/2014

THE IMMIGRATION ACTS

**Heard at Field House
On 16 October 2019**

**Decision & Reasons Promulgated
On 02 December 2019**

Before

**UPPER TRIBUNAL JUDGE CANAVAN
UPPER TRIBUNAL JUDGE KEITH**

Between

**D L
(BY HIS LITIGATION FRIEND BD)
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Anonymity

Rule 14: The Tribunal Procedure (Upper Tribunal) Rules 2008

Anonymity was granted at an earlier stage of the proceedings because the case involves protection issues. I find that it is appropriate to continue the order. 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.

Representation:

For the Appellant/Respondent: Ms G. O'Riley, Kesar & Co Solicitors
(Bromley)

For the Respondent/Appellant: Mr S. Kotas, Senior Home Office
Presenting Officer

DECISION AND REASONS

1. This case involves appeals to the Upper Tribunal by both parties. As such, it is convenient to refer to them as they were before the First-tier Tribunal.
2. The appellant (DL) appealed the respondent's (SSHD) decision dated 22 August 2014 to refuse a protection claim and to refuse a human rights claim in the context of an application to revoke a deportation order. First-tier Tribunal Judge Welsh ("the judge") promulgated a decision on 8 March 2019 in which she dismissed the appellant's appeal insofar as it relied on Refugee Convention grounds but allowed the appeal insofar as it relied on human rights grounds. Both parties appeal those respective parts of the decision.

Error of law (human rights)

3. We begin with the Secretary of State's appeal against the human rights aspect of the decision. The grounds of appeal essentially make a single point. The respondent seeks to challenge the judge's findings relating to the appellant's medical condition (schizophrenia). There is no dispute between the parties that the appellant suffers from a severe and enduring mental illness. The Secretary of State argues that this condition, taken alone, was not enough to meet the particularly high threshold outlined in the line of authorities including *D v UK* (1997) 24 EHRR, *N v SSHD* [2005] UKHL 31, *Bensaid v UK* (2001) EHRR 205 and *SSHD v MM (Zimbabwe)* [2012] EWCA Civ 279.
4. The Secretary of State disagrees with the judge's conclusion in relation to the medical claim. We find that it is not necessary to go into any detail as to whether those conclusions amount to an error of law because the judge made more than one finding relating to Article 3. The first finding related to the *N* line of authorities at [119] of the decision. The second finding at [141] appeared to relate to risk of serious harm from others. A third discrete finding was made in relation to Article 3 suicide risk from [142-148]. The Secretary of State's grounds only go to the first aspect of the judge's assessment and did not challenge any of the other findings relating to Article 3.
5. Although we will have something further to say about the findings at [141], there has been no challenge to the judge's findings relating to suicide risk. At [142] the judge referred to the correct authority in *J v SSHD* [2005] EWCA Civ 629. She concluded that there was a high risk that the appellant was likely to commit suicide if he returned to the DRC and that there would therefore be a real risk that removal would breach his Article 3 rights. The judge made the decision with reference to the medical evidence, which supported her conclusion that the appellant was at high risk of suicide if he returned to the Democratic Republic of Congo (DRC). The judge considered evidence relating to previous suicide attempts. She also considered the suggestion that this was learned

behaviour but rejected the submission at [147] with reasons that were amply open to her on the evidence.

6. At [148] the judge took a structured approach to the factors outlined in the Court of Appeal decision in *J*. She accepted the evidence of Professor Katona and Dr Stevens that people with schizophrenia are at markedly increased risk of suicide. She accepted the evidence which showed that the appellant responded to stress by self-harming and attempts to commit suicide. The judge took into account the fact that the appellant had a subjective fear of return because he believes that his mental health problems would be seen as witchcraft or possession. She concluded that it was a legitimate fear in light of the evidence which showed that there is a widespread belief in the DRC that people who are suffering from psychosis are possessed.
7. The judge considered the fact that the appellant would have no family to turn to in the DRC who would be able to support him or to assist him to seek treatment. The judge also found that if the appellant became unwell, that it was highly unlikely that he would seek treatment, or there was a possibility that he might reject treatment if it was offered. She concluded that the psychiatric facilities in DRC were not capable of reducing the suicide risk. For reasons that were open to her make on the evidence, she concluded that the appellant would be at risk of Article 3 treatment because he was at high risk of suicide if returned to the DRC.
8. Mr Kotas accepted that the *J* line of authorities is a discrete Article 3 issue, which is separate to the line of authority relating to medical cases. For this reason alone, any error in the assessment of the *N* line of authorities would not have made any material difference to the outcome of the human rights appeal.

Error of law (Refugee Convention)

9. Turning to the appellant's appeal, he asserts that the judge failed to adequately consider the risk on return insofar as it related to an assessment of the likelihood of persecution under the Refugee Convention. It seems clear from the decision that the judge, in assessing the Refugee Convention element of the claim, only considered the risk as it related to serious harm from traditional healers [114]. Although the judge only considered that narrow issue under the heading of the Refugee Convention, she went on to consider wider issues that might relate to the risk on return under the heading relating to Article 3. There may well be an overlap in those assessments.
10. We find that the judge's findings relating to risk on return from others and/or as a result of the cumulative effect of discrimination because of mental illness were unclear and contradictory. At [118] of the decision under the heading "Article 3: destitution/mental health" the judge concluded that there was insufficient evidence to demonstrate that people with schizophrenia are the targets of discrimination. Nor was there any

evidence that people who were mentally ill were deliberately targeted for abuse by the rest of society. She considered the expert report of Dr Kodi, who referred to people who were mentally ill being beaten and chased in the streets. She concluded that the evidence suggested that those who were mentally ill were more likely to become homeless and destitute. It was not because of their illness but because of their social position that they became isolated and therefore vulnerable to abuse. At [141] the judge found:

“I accept the evidence of Professor Katona in his report of 8 April 2018 that the appellant’s seriously declining psychiatric situation in the DRC would be obvious to anyone who saw him because his behaviour would be ‘floridly abnormal’. For example, prior to being sectioned in September 2017 he had been smashing cars because he believed God had told him to do so. Once in detention, he was placing his hands on strangers believing that he was healing them. Prior to being sectioned in the psychiatric intensive care ward at Newham University Hospital, where he was interviewed by Professor Katona in April 2018, he had been arrested having attended City Airport in London, stripped naked and was shouting ‘I belong to Christ. Will anyone accept me’. I accept the evidence of Professor Katona that this would make him vulnerable to abuse. Indeed, in my view, expert evidence on this point is not necessary. He would be behaving in an overtly bizarre way and living on the streets. In those circumstances, I consider it obvious that he would be at great risk of serious harm from others.”

11. The use of the phrase ‘serious harm’ implies that the judge was applying the relevant test for Article 3 but her conclusion in [141] appears to conflict with her finding at [118] that there was no evidence to suggest that people who suffered from schizophrenia were subject to discrimination or targeted for abuse. Combined with the absence of any cumulative assessment of persecution on human rights grounds in the section of the decision relating to the Refugee Convention, which was confined solely to an assessment of whether he would be at risk from traditional or church healers, we conclude that the judge’s findings in relation to risk on return insofar as they related either to persecution or to serious harm under Article 3 were sufficiently unclear to amount to an error of law. Those findings must be set aside.
12. It follows that the judge’s findings relating to the assessment of humanitarian protection is also unsustainable. Having failed to make sustainable findings relating to risk on return, the issue of whether the judge made an error of law in relation to her assessment of whether any risk arose as a result of the appellant’s membership of a particular social group for the purpose of the Refugee Convention might not seem relevant. However, in considering the scope of the issues that the Tribunal might need to remake we find that we do need to determine whether there was an error of law in the First-tier Tribunal’s decision.
13. The judge concluded at [102] that mental illness did not amount to a particular social group for the purpose of the Refugee Convention. She gave two reasons for doing so. We find errors in both of those reasons.

The first reason, was that the category of mental illness was too broad, encompassing as it does, many different conditions which might have different causes. In doing so the judge failed to take into account the evidence that she had already considered, most notably at [114], which indicated that people who exhibited the kind of bizarre behaviour arising from psychotic illness are widely held to be possessed. In dismissing mental illness as too broad a category, the judge failed to consider that psychotic illness is likely to be a more readily identifiable category of mental illness.

14. The second reason given for concluding that mental illness did not constitute a particular social group, was that a mental health condition is not immutable, and that some conditions could be controlled or managed, at least in part, by medication and therapy. However, in making the second finding the judge failed, in our assessment, to adequately consider the evidence that she had already accepted, which showed that the appellant suffers from a severe and enduring mental illness and that it is unlikely he will ever recover. Even in receipt of treatment in the UK his condition is severe, and his behaviour is overtly abnormal. He needs the assistance of a litigation friend to conduct these proceedings. Nor did the judge consider her own finding that the appellant was unlikely to seek treatment in the DRC and was likely to exhibit bizarre behaviour that would come to the attention of others.
15. For these reasons, we conclude that the judge's findings relating to the assessment of whether people suffering from severe and enduring psychotic disorders could amount to a particular social group for the purpose of the Refugee Convention was flawed and must also be set aside.

Conclusion (error of law)

16. In relation to the respondent's appeal, we conclude that the First-tier Tribunal decision did not involve the making of an error of law that would have made any material difference to the outcome of the appeal insofar as it related to Article 3 of the European Convention.
17. In relation to the appellant's appeal, we conclude that the First-tier Tribunal decision involved the making of errors of law regarding to the assessment of risk on return from others and whether such risk might be for a Convention reason. Those parts of the decision are set aside. Where we refer to the judge's findings in our remaking decision, they are preserved, unless stated otherwise.

Remaking

18. The appellant is a citizen of the DRC who left the country when he was four years old. The First-tier Tribunal was satisfied that he is socially and culturally integrated in the UK and that he has no experience of living in the DRC as an adult. The judge was satisfied that he has no family or friends to turn to for practical or emotional support. He is unable to read or

write in French or Lingala and claims that he does not speak Lingala or any other local language. The First-tier Tribunal found that the necessary medical treatment would not be available in the DRC, and even if it was, without family or other support the appellant was unlikely to access it, or he was likely to refuse treatment. We bear in mind that, even in the UK where treatment is available, the appellant's condition is severe and enduring. The appellant still requires periods of hospitalisation to safeguard himself and others. In other words, his condition is so severe that he can still become overtly unwell even with family support and treatment in the UK. The medical evidence and the background evidence relating to the conditions that people with psychotic disorders face in the DRC supported the judge's conclusion that there was a real risk that the appellant's condition would worsen significantly on return and that this in turn would lead to a real risk that he would become homeless, isolated and vulnerable to abuse.

19. The background evidence shows that people suffering from disabilities, including people who suffer from severe and enduring psychotic disorders, face a range of ill-treatment in the DRC. The US State Department report for 2017 states that the constitution prohibits discrimination against persons with disabilities, but the government does not enforce the provisions effectively. People with disabilities often find it difficult to obtain employment, education and government services. Disability groups reported extensive social stigmatisation, including children with disabilities being expelled from their homes and being accused of witchcraft.
20. A report from IRIN dated 05 January 2016 outlined the shortage of adequate mental health treatment in the DRC. It states that, in addition to the scarcity of service provisions, there is also a prevailing social stigma associated with mental health problems. When confronted with symptoms of mental disorders, many believe them to be associated with witchcraft and sorcery. Rather than seek treatment, people turn to traditional healers. The fact that psychotic disorders are commonly seen to be caused by witchcraft or sorcery in the DRC is consistent with many other reports contained in the bundle and with the expert evidence of Dr Kodi, whose expertise has not been disputed.
21. The bundle contains an article entitled "Barriers to Mental Health Treatment within the Congolese Population" by Stephanie Espinoza dated October 2016. The source of the article and the expertise of the author are unclear. Nevertheless, the information is broadly consistent with Dr Kodi's evidence. The article discusses some of the barriers to mental health treatment in the context of ongoing conflict in the DRC. The article considers a study undertaken in North Kivu about attitudes to mental illness. The study suggested that people in the DRC are likely to distinguish between bizarre and unusual behaviour associated with psychotic disorders, which is usually viewed as having a supernatural cause, and other types of non-psychotic mental health disorders, such as depression, which are more likely to be viewed as social or spiritual problems. In the case of psychotic disorders, traditional or church healers

are likely to be approached. In the case of non-psychotic disorders, it is more likely that medical treatment would be sought, or such conditions were expected to improve through social and emotional support from the community.

22. In his most recent report dated 06 January 2019, Dr Kodi emphasised the lack of mental health services in the DRC. As a result, the vast majority of people with mental health problems are left to fend for themselves on the streets and run the risk of being victimised by the public. As in other countries, society recognises mental health issues by a person's abnormal behaviour. He says that the appellant is likely to "face deep-seated stigma, discrimination and vilification in the DRC because of his mental health condition". He is likely to suffer ill-treatment and even the risk of being killed. In the footnotes to the report he cites the case of a 15-year-old Congolese boy who was killed in the UK by his older sister and her boyfriend because they believed that he was bewitched, as an example of societal attitudes that might endure in the Congolese community even outside the DRC. He went on to say:

"23. ... A person exhibiting signs of psychiatric problems, like [DL], is indeed considered to be bewitched and a potential menace to the whole society. Such a person is, therefore, usually subjected to inhuman treatment. They could be chained, beaten and undergo other violent treatment to cast the devil out of them.

24. People with mental health problems are usually ostracized, even by their own families, because of the stigma that is attached to mental problems. They are left to fend for themselves and end up wandering and sleeping in the streets where they are beaten and chased by the public. In rare cases, those with caring parents are taken to churches where prayers are said for them to overcome the devil in them."

23. In considering whether the DRC authorities might be able to offer the appellant protection, Dr Kodi's evidence is consistent with other background evidence. He said:

"40. There are no government agencies or non-state actors that can offer meaningful assistance and protection to civilians, let alone destitute and vulnerable people....

41. Against this background, it is unlikely that the DRC government would provide assistance or protection to somebody like [DL], who would very likely be perceived as hostile to the ruling regime of President Joseph Kabila because of his association with the UDPS through his father, as explained above. In my opinion, even if he is not arrested on arrival at the airport and was allowed to pass through - which, as explained above, I consider would be unlikely in the current climate - he would be left to fend for himself in the context of this [increasing] instability and rising levels of generalized violence and conflict. I consider that he would be at significant risk of being subjected to serious abuses by the police, the public and the numerous street gangs in Kinshasa given his mental illness. Because of his lack of fluency in any of the national languages of the DRC, his lack of family or other support network and his mental conditions, he would likely have less access to assistance than the IDPs.

42. The police and other national security forces of the DRC have, for decades, been responsible for all kinds of crimes and human rights abuses, including rape, which largely go unpunished. They have regularly been accused of committing horrendous human rights violations against civilians. There is a long and enduring legacy of impunity going back several decades to the days of President Mobutu's regime (1965-1997). The justice system is weak, under-resourced and notoriously corrupt ..."

24. Dr Kodi's overall conclusion was:

"53. Although limited treatment of rather poor quality for psychiatric problems is available, according to the World Health Organization (WHO), its cost is extremely high compared to the average earnings of the Congolese people. It would therefore be unlikely that [DL] would have access to adequate level of healthcare that he would badly need, especially if his mental conditions deteriorate. Instead, I consider he would face a real risk of violence and abuse by reason of his mental illness, from the general public in DRC due to the strong stigmatisation of mental health issues and widespread beliefs that it indicates demonic possession etc. There is no effective state protection from such violence as set out above. Indeed, I consider that if his mental health issues drew him to the attention of the police as it has done in the UK, there is a high risk of him being detained and ill-treated. Additionally, there is a real risk that he would face being beaten, chained and otherwise ill-treated as part of traditional "treatments" for mental illness which are commonly imposed by religious leaders and shamans in DRC given the prevalence of such practices and belief in it, which is also approved by the Congolese government, as set out above. I further consider that the stigmatisation of mental illness in combination with the severity of symptoms [DL] is recorded as suffering will lead to him being ostracised from society, unable to access employment or basic resources including shelter and food, and so becoming destitute. In the context of the increasing tensions and violence in the country at present, as set out above, I consider this would be an extremely dangerous position for him to be in."

25. We are satisfied that the evidence shows that there is a reasonable degree of likelihood that the appellant would be returned to DRC in circumstances where he is unlikely to receive the necessary medical treatment, which would in turn lead to a marked deterioration in his mental health. There is a real risk that he would be rendered destitute and homeless in the absence of any familial or state support. It is likely that the behaviour that he would exhibit as a result of his psychotic disorder would bring him to the attention of the police and other members of society. The evidence shows there is a widely held belief in the DRC, which is likely to extend to the attitudes of members of the authorities, that people who exhibit abnormal behaviour arising from psychotic disorders are possessed or bewitched. We are satisfied that the evidence shows on the low standard of proof that the appellant is likely to be vulnerable to arrest and detention by the authorities. Indeed, he has been arrested on several occasions in the UK when he has been floridly unwell, which is what prompted the respondent's decision to deport. The background evidence relating to the conditions in the DRC continues to show that detention carries with it a real risk of serious ill-treatment.

26. Even if the appellant's behaviour did not attract arrest and detention by the authorities the evidence indicates that there is real risk that he would face a range of possible ill-treatment from members of the public including physical abuse, exploitation, ostracism, discrimination and severe stigmatisation.
27. We turn to consider how these facts fit within the relevant legal framework. It is trite law that the threshold for persecution may depend on the individual characteristics of the person concerned. The more vulnerable the person the more readily the threshold will be met. The appellant is a particularly vulnerable individual who has expressed a fear of ill-treatment if returned to the DRC where he believes people will view him as possessed. His fear is well-founded and supported by the background evidence.
28. Acts of persecution must be sufficiently serious by their nature or repetition as to constitute a severe violation of basic human rights. We are satisfied that the evidence shows that the risk of arrest and detention carries with it a risk of ill-treatment that is sufficiently serious to amount to persecution for the purpose of the Refugee Convention or serious harm for the purpose of Article 3 of the European Convention. We are also satisfied that the ongoing risk that he is likely to face as a result of societal attitudes towards people suffering from psychotic disorders, in particular, are sufficiently serious, when taken together, to amount to a risk of persecution or serious harm. The appellant is at risk of physical abuse, but the cumulative effect of ongoing discrimination, ostracism and deep-seated stigmatisation is also capable of amounting to a serious violation of the appellant's human rights.
29. We are satisfied that the evidence shows that there is likely to be a risk of arrest, detention and ill-treatment by members of the authorities if the appellant is unwell and behaving in an abnormal way. Even if the risk only emanated from non-state actors of persecution within Congolese society, the evidence shows that the authorities do not enforce laws relating to discrimination and are likely to be unable or unwilling to provide effective protection to a person in the appellant's position. Widespread societal discrimination towards people who suffer from psychotic disorders is likely to extend to many members of the authorities.
30. For the reasons given above, we conclude that the appellant has a well-founded fear of persecution or serious harm if returned to the DRC.
31. We turn to consider the thornier issue of whether there is a causal link between the treatment that the appellant is likely to suffer and one of the five Convention reasons. We were not referred to any authorities, and are not aware of any reported decisions, in which a person who is suffering from a mental health issue has been found to be a member of a 'particular social group' for the purpose of the Refugee Convention.

32. Article 10(1)(d) of the Qualification Directive states that a group shall be considered to form a 'particular social group' if members of the group share an innate or unchangeable characteristic, a common background that cannot be changed or a shared characteristic or belief that is so fundamental to a person's identity that the person should not be forced to renounce it. In addition, the group must have a distinct identity in the relevant country, because it is perceived as being different by the surrounding society.
33. The House of Lords in *Islam v SSHD and R (ex parte Shah)* [1999] INLR 144 made clear that the concept of discrimination in matters affecting fundamental rights and freedoms is central to a proper understanding of the Refugee Convention. The court found that a particular social group did not need to be cohesive nor its members interdependent. It is distinguished by an immutable characteristic and should not be defined by reference to shared persecution.
34. The First-tier Tribunal judge touched on why it might be difficult to define a social group with reference to mental illness. There is a wide range of mental health conditions. Some will not be apparent to other members of society. Others might be treatable and constitute limited periods of illness. A short period of illness could not be described as an innate characteristic. To this extent she was right to conclude that people suffering from mental illness was too broad a category to be defined as a particular social group for the purpose of the Refugee Convention.
35. The House of Lords made clear that one must first consider the society in which the social group is said to be drawn. In this case the evidence relating to the DRC makes clear that the essential element of discrimination and stigmatisation against people who suffer from disabilities, including mental illness, is present. In particular, a distinction can be drawn between those who exhibit abnormal behaviour as a result of psychotic illness, who are seen to be possessed, requiring intervention by traditional healers, and those who suffer from other forms of mental illness with less overt symptoms, such as depression, who are more likely to be seen as unwell, requiring medical treatment or social support.
36. We recognised that a potential social group of people who suffer from psychotic illness might still include a wide range of characteristics. Some people may suffer from an episode of psychotic illness and make a full recovery. Others may have an enduring psychotic disorder which can be controlled to some extent by treatment. Others, like the appellant, may have severe and enduring psychotic disorders which are characterised by repeated psychotic episodes involving abnormal behaviour even when treatment is available.
37. The evidence relating to attitudes towards psychotic illness in the DRC shows that discriminatory attitudes are likely to be prevalent in any case where a person is unwell and exhibiting abnormal behaviour. From a societal perspective, the perception is that all people suffering from

psychotic episodes are likely to have an innate characteristic i.e. the perception that the illness is associated with witchcraft or has some other supernatural cause.

38. However, due to the difficulty in defining a social group that might include some members that do not have an innate and immutable characteristic, for the purpose of this case, a narrower group of 'people suffering from a severe and enduring psychotic disorder' can be defined. People like the appellant, who will never recover fully from their illness, can be described as having an innate and immutable characteristic. They are perceived as an identifiable social group which is discriminated against in the DRC in a way that goes to the core of their fundamental human rights.
39. The appellant's condition is likely to deteriorate if he is returned to the DRC where he would be unable to access treatment and is likely to become floridly unwell. It is likely that he will exhibit the kind of abnormal behaviour that would attract the attention of the authorities or non-state actors of persecution. Unlike the First-tier Tribunal we do not agree that he will be vulnerable to ill-treatment solely because he is likely to become destitute and homeless. The evidence shows that the reason why he would be vulnerable to ill-treatment is because he would be perceived as a person who is possessed. 'People suffering from a severe and enduring psychotic disorder' are subject to a range of possible ill-treatment in the DRC including physical abuse, ostracism, discrimination and severe stigmatisation. Even if people living on the street are more vulnerable to abuse it matters not if there are mixed motives for ill-treatment if at least one motive is for a Convention reason: see *Sivakumar v SSHD* [2003] INLR 457. In another country, people suffering from the same illness may be viewed differently and might not be construed as a particular social group. However, we concluded that the evidence relating to attitudes towards psychotic illness in the DRC shows that the persecution the appellant fears is likely to be for reasons of his membership of a particular social group for the purpose of the Refugee Convention.

Conclusion (remaking)

40. The appellant was recognised as a refugee in line with his father in 2002. He was recognised as a refugee prior to the coming into force of the Qualification Directive (2004/83/EC) and was therefore granted 'Convention status' as opposed to 'European refugee status': see *Essa (revocation of protection status appeals)* [2018] UKUT 00244 and *Dang (Refugee - query revocation - Article 3)* [2013] UKUT 43. In a decision dated 15 May 2012 the respondent found that the appellant's refugee status had ceased for the purpose of Article 1C of the Refugee Convention. On 30 May 2012 the respondent made a decision that section 32(5) of the UK Borders Act 2007 ("UKBA 2007") applied and made a deportation order. The respondent concluded that the appellant failed to show that he had a current well-founded fear of persecution. The protection claim was

not certified with reference to section 72 of the Nationality, Immigration and Asylum Act 2002 (“NIAA 2002”). A subsequent appeal was dismissed by the First-tier Tribunal.

41. The decision that is the subject of this appeal is a decision dated 22 August 2014 to refuse a protection and human rights claim in the context of a decision to refuse to revoke the deportation order. The issue of cessation was dealt with previously and formed no part of the current decision. If the appellant can show a current well-founded fear of persecution, he would fall within the exception to deportation contained in section 33(2)(a) UKBA 2007.
42. For the reasons given above we conclude that the appellant has a well-founded fear of persecution for reasons of his membership of a particular social group. His removal in consequence of the decision would breach the United Kingdom’s obligations under the Refugee Convention.
43. For the same reasons, we also conclude that the appellant’s removal would give rise to a real risk of serious harm within the meaning of Article 3 of the European Convention. The First-tier Tribunal finding that the appellant is at real risk of serious harm on grounds of suicide risk stands. We conclude that the appellant’s removal in consequence of the decision would be unlawful under section 6 of the Human Rights Act 1998 (“HRA 1998”).

DECISION

Parts of the First-tier Tribunal decision involved the making of errors of law

The relevant parts of the decision are remade

The appeal is ALLOWED on Refugee Convention and human rights grounds

Signed



Upper Tribunal Judge Canavan

Date 27 November 2019