



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM CHAMBER**

Case Nos: UI-2023-005218  
UI-2023-005220  
First-Tier Tribunal Nos: PA/55324/2022  
PA/55325/2022  
LP/00147/2023  
LP/00146/2023

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:  
On 21<sup>st</sup> March 2024**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE JUSS**

**Between**

**LZ (China +1)  
(ANONYMITY ORDER MADE)**

Appellants

**and**

**The Secretary of State for the Home Department**

Respondent

**Representation:**

For the Appellants: Ms R Elahi (LR)

For the Respondent: Mr T Melvin (Senior Home Office Presenting Officer)

**Heard at Field House on 18 January 2024**

**Order Regarding Anonymity**

**Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, [the appellant] (and/or any member of his family, expert, witness or other person the Tribunal considers should not be identified) is granted anonymity.**

**No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant (and/or other person). Failure to comply with this order could amount to a contempt of court.**

**DECISION AND REASONS**

1. This is an appeal against the determination of First-tier Tribunal Judge O'Garro, promulgated on 31<sup>st</sup> October 2023, following a hearing at Hatton Cross on 10<sup>th</sup> October 2023. In the determination, the judge dismissed the appeal of the Appellant and her daughter, who is a party to this appeal.
2. The Appellant subsequently applied for, and was granted, permission to appeal to the Upper Tribunal, and thus the matter comes before me.

### **The Appellant**

3. The Appellant is a female, a citizen of China, and was born on 3<sup>rd</sup> August 1985. Her daughter, who accompanies her in this appeal, was born on 13<sup>th</sup> October 2019. Both appealed against the decision of the Respondent dated 18<sup>th</sup> November 2022 refusing their claim for asylum. The main Appellant in this decision is referred to as "the Appellant", and appears as such in the same way as she did in the proceedings before the First-tier Tribunal, with the Secretary of State being described as the Respondent, as was the case below.

### **The Appellant's Claim**

4. The Appellant's claim is that she has been trafficked and risks being re-trafficked again. On 16<sup>th</sup> December 2019 a referral was made to the National Referral Mechanism ("NRM") and she received a positive reasonable grounds decision subsequently. This was followed by a positive conclusion decision in her favour. The Appellant claims that she was mistreated by her father, even as an adult. Eventually she fled the family home to live with her boyfriend who was an alcoholic and a gambler and who in turn also abused her. The boyfriend fell into massive debt and in order to fund his gambling debt he forced the Appellant to work as a prostitute. Eventually, the Appellant was able to escape from her boyfriend and went to stay with an aunt where she saw an advert offering a chance to travel abroad to work. The Appellant answered that advert and she met a man who agreed to arrange for her to leave China. She did not have enough money to pay to the man to travel abroad. It was agreed she would work and when she got to her destination, she would pay off the debt which amounted to £20,000. When the Appellant arrived in the United Kingdom she was taken to her house and told she will have to provide sexual services to clients. She worked as a prostitute and then escaped after a month. Following her escape, she met a man, who was also of Chinese nationality, who offered her accommodation and eventually she fell pregnant with his child. On 13<sup>th</sup> October 2019 she gave birth to her daughter, who is the second Appellant here. After the second Appellant was born, the man she was with left her and she fell into a desperate situation and claimed asylum. She now fears that if she is returned to China she will be harmed by her father and will be subject to forced labour and sexual exploitation.

### **The Judge's Findings**

5. The judge decided that on the basis of the country guidance case of **HC & RC (Trafficked women) China CG [2009] UKIAT 00027** the Chinese state would be able to provide support to her as a returned trafficked woman and that both she and her daughter "should be able to get temporary urban registration in whichever area she chose to live away from where she is registered to live" (paragraph 60).

6. The judge also did not accept that the Appellant would be harmed by her father if returned to China (at paragraph 39). As for any possible threats from her boyfriend who had abused her in China, the judge observed that “it is now over 5 years since the appellant left her boyfriend” and that “taking into account the appellant and her boyfriend were not married and had no children together”, it was not credible that the boyfriend would still have any interest in the Appellant now (paragraph 43). Any monies that were owed to the loan sharks would have now been repaid. There would be no risk of re-trafficking since it was now over five years since the Appellant escaped her traffickers (paragraph 49). Furthermore, the Appellant could find relocation because “the reforms of the Hukou system have made it relatively easy for ordinary migrant workers to get legal, albeit temporary, urban registration and there is no reason why this should not extend to returned trafficked women” (at paragraph 59).
7. The appeal was dismissed.

### **Grounds of Application**

8. The application for permission to appeal was based on four grounds. These were:
  - (i) that the assessment of risk from the boyfriend who forced her into prostitution was inadequate;
  - (ii) that the possibility that the loan sharks would not seek to enforce their debt despite the passage of time still remained as they would want to deter others who had not repaid their debts;
  - (iii) that as the victim of modern slavery who had been trafficked in the past, and was with a young child, she was at added risk; and
  - (iv) that her ability to internally relocate with a young child without undue hardship remained.

On 30<sup>th</sup> November 2023, the First-tier Tribunal granted permission to appeal on all these grounds.

### **Submissions**

9. At the hearing before me on 18<sup>th</sup> January 2024, Ms Elahi, appearing on behalf of the Appellant argued that the judge had simply followed the country guidance case of **HC & RC** by citing it, but not necessarily applying it in this period that it was intended. She referred to paragraph 14 of the determination which, however, are not the findings of the judge but the submissions of the Respondent Secretary of State. She then also drew attention to paragraph 36, but here again what the judge is stating is that, “To assist me in determining the issues in this appeal I have considered the objective evidence” and in this referred to the country guidance case of **HC & RC**. Finally, she referred to paragraphs 58, 60 and 61. However, here once again the judge is not disapplying **HC & RC** or acting in any way contrary to that country guidance case, because he acknowledges that although that case “was decided 14 years ago ... it would seem from the objective evidence that the Chinese ‘government has continued to implement household registration (hukou) reforms to register’ illegal residents” (at paragraph 60).
10. Second, Ms Elahi referred to the underlying Country policy and information note China: modern slavery (January 2021) taking the Tribunal to the part that deals

with internal relocation. Here Mr Elahi referred to paragraph 2.6.4. This, however, merely states that, “The Chinese state has an obligation to house the homeless and will not allow their citizens to starve.” As a quotation from the case of **HC & RC**. She then took the Tribunal to paragraph 2.6.5, which again refers to how the Tribunal in **HC & RC** explained that, “Due to reforms of the Chinese household registration system known as the ‘Hukou’ system it is unlikely that a returned trafficked woman would be obliged to return to the place where she is registered ...”. Finally, she took the Tribunal to paragraph 2.6.6, which referred to the recognition by the Tribunal in **HC & RC** that, “There remains some limitations on the ability of migrant workers, rural inhabitants and minority groups to change their workplace/residence ...” Neither of which applies to the Appellant.

11. For his part, Mr Melvin submitted that first, the provisions of **HC & RC** had been properly applied by the judge. Second, that what was now being argued, in terms of her reference to the CPIN note on modern slavery in China, had never been put before the Tribunal of Judge O’Garro. It was also not in the skeleton argument that had been furnished. Moreover, the Home Office’s review, undertaken two weeks ago, also highlighted the fact that no bundle had been submitted on behalf of the Appellant. The fact was, submitted Mr Melvin, that the judge had made a finding of fact that the Appellant was not returning alone, but was with a child, and she had family in China, and had previously stayed with her aunt, with whom she sought sanctuary, when she escaped from her boyfriend. The judge had found that it was open to the Appellant to return back to the place from where she came. In any event, if the loan had not been paid, then internal relocation would be available to her given what had been found in **HC & RC**. The Appellant had many cousins and family members in China and would be able to have support and the necessary protection.
12. In her reply, Ms Elahi accepted that these arguments had not been put in the Grounds of Appeal and had not been argued before Judge O’Garro either.

### **No Error of Law**

13. I am satisfied that the making of the decision by the judge did not involve the making of an error on a point of law. My reasons have already been set out above. First, Judge O’Garro did diligently and meticulously follow the strictures in **HC & RC**, noting in particular that the decision was an old one, but the reforms outlined therein were still being continued today. Second, the reference now to the CPIN note on China with respect to modern slavery does not assist the Appellant because that note too draws heavily upon what had been established in **HC & RC** to suggest that reforms in the Hukou system had been continuing that the Chinese authorities were aware and sensitive to the needs of the those who had been returned as trafficked persons. Third, and no less importantly, the Appellant had previously attained sanctuary with her aunt in China, she had family there, and in any event, had the availability of IFA to her should she need to have recourse to it.

### **Notice of Decision**

14. There is no material error of law in the original judge’s decision. The determination shall stand.

**Satvinder S. Juss**

Deputy Judge of the Upper Tribunal  
Immigration and Asylum Chamber

**18<sup>th</sup> March 2024**