



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

Appeal Number: AA/10543/2014

**THE IMMIGRATION ACTS**

**Heard at Bradford  
On 20<sup>th</sup> May 2015**

**Decision & Reasons Promulgated  
On 28<sup>th</sup> May 2015**

**Before**

**UPPER TRIBUNAL JUDGE ROBERTS**

**Between**

**B F  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Miss G Patel, of Counsel

For the Respondent: Mr M Diwnycz, Home Office Presenting Officer

**DECISION AND REASONS**

- 1.** The Appellant a citizen of China appeals with permission against the decision of a First-tier Tribunal (Judge Wilson) in which it dismissed the Appellant's appeal against the Respondent's refusal to grant her asylum.
- 2.** The Appellant's claim to asylum centres around both hers and her husband's claimed activity in supporting the Chinese Democracy Party (CDP). Added to this there is a claim that her *sur place* activities in the UK, on behalf of the CDP place her at risk. She now also claims that she is a practising Jehovah's Witness and this adds to the risk to her if returned to China.

3. When the Appellant's appeal came before Judge Wilson he comprehensively disbelieved her claim. Documentary evidence was produced before the Judge and included articles of anti Chinese authority material. The Appellant's claim is that she is the author of this material and because it has been published she will be at serious risk of harm from the Chinese authorities.
4. The Judge when conducting the hearing questioned the identity/expertise of the translator of the articles (Dr Yang). He also failed to consider material evidence which was available to him from the Appellant's brother-in-law.
5. As Miss Patel pointed out in her submissions Dr Yang's credentials have never been questioned and the Judge had insufficient cause to question the accreditation and qualification of the translator of many years experience. The translations go to the heart of the appellant's claim. Further an important piece of evidence, namely the letter and translation at pages 16-17 of the bundle has clearly been overlooked by the Judge. This amounts to a material error.
6. Mr Diwnycz on behalf of the Respondent relied upon his Rule 24 response and said that the Judge had given adequate reasons for the adverse credibility findings.

#### **Error of Law**

7. I am satisfied that the decision of the FtT cannot stand and must be set aside for legal error. The evidence of the Appellant's brother-in-law pages 16-17 of the appellant's bundle forms a material part of the Appellant's claim to asylum and it is only right that it should be included in any evaluation of the appellant's claim. Its inclusion may well affect the outcome of the claim and therefore to overlook it is a material error. Any evaluation of the expertise or otherwise of the translator of documents is a matter for the Judge, although regard must be given to the flexibility outlined in the new Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum chamber) Rules 2014. In all these circumstances the appropriate course is for this appeal to be remitted to the First-tier Tribunal for a fresh rehearing. No findings of fact are preserved. The matter will be reheard by a Judge other than Judge Wilson.

#### **Notice of Decision**

8. The appeal of the Appellant is allow on the ground that the FtT made a material error of law in its assessment of the documentary evidence. The appeal is remitted to the FtT (not Judge Wilson) for a full rehearing.

Direction regarding anonymity - rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005

**The Appellant is granted anonymity on the basis that the First-tier Judge granted anonymity in respect of the Appellant's dependents. That situation shall remain.**

**Signature**

**Dated**

Judge of the Upper Tribunal