



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

Appeal Number: HU/11467/2018

THE IMMIGRATION ACTS

**Heard at Edinburgh
On 1 July 2022**

**Decision & Reasons Promulgated
On 26 July 2022**

Before

**MR C M G OCKELTON, VICE PRESIDENT
UPPER TRIBUNAL JUDGE MACLEMAN**

Between

YANGYI KANG

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Caskie, advocate instructed by Latta & Co. Solicitors.

For the Respondent: Mr Mullan, Senior Home Office Presenting Officer.

DECISION AND REMITTAL

1. The appellant, a national of the People's Republic of China, appeals to this Tribunal against the decision of the First-tier Tribunal (Judge Kempton) dismissing his appeal. The principal ground of appeal is that the judge failed to determine the appellant's appeal under article 8, because she considered that he ought to have made a protection claim. Before us it was agreed that that ground is made out. It was also agreed that the appropriate way forward is for us to set aside the First-tier Tribunal's decision for error of law and to remit this appeal to the First-tier Tribunal. The directions we make, again, by consent, are that this appeal be

determined by Judge Kempton after hearing whatever evidence and submissions she considers appropriate.

C.M.G. Ockelton

C. M. G. OCKELTON
VICE PRESIDENT OF THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER
Date: 25 July 2022