



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

Case No: UI-2023-005498

First-Tier Tribunal No: PA/53600/2022  
IA/08600/2022

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**  
**On 18<sup>th</sup> April 2024**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE COTTON**

**Between**

**CNY**  
**(ANONYMITY ORDER MADE)**

Appellant

**and**

**SECRETARY OF STATE**  
**OR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr N Ahmed, Counsel instructed by Ishwar Solicitors

For the Respondent: Mrs S Simbi, Senior Home Office Presenting Officer

**Heard at Field House on 15 March 2024**

**Order Regarding Anonymity**

**Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant 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. Failure to comply with this order could amount to a contempt of court.**

**DECISION AND REASONS**

## **Introduction**

1. The appellant is a citizen of Malaysia and appeals the determination of Judge Khurram (the Judge) of the First-tier Tribunal (FtT) following a hearing on 2 October 2023. The appeal to the FtT was against the decision of the respondent dated 23 August 2022 to refuse a claim for asylum, that the appellant had made on 11 January 2019. The basis for the appellant's claim for asylum was that she is an openly lesbian woman who feared that she would face violence at the hands of the government and imprisonment, that someone might report her to the authorities, and her family might take action against her if they found out about her sexuality.
2. In the FtT the single issue, agreed by the parties, was the risk on return with respect to internal relocation to Kuala Lumpur.
3. The appellant sought permission to appeal against the determination of the FtT on grounds that the Judge erred in:
  - a. Finding that internal relocation to Kuala Lumpur was feasible (ie there was no risk of persecution of the Appellant there); and
  - b. Finding internal relocation to Kuala Lumpur was reasonable.
4. In granting permission to appeal, the FtT was of the opinion that the second ground is arguable, and granted permission on both grounds as they are closely tied together. In the permission to appeal, the FtT considered it arguable that "there is no explanation of how the Judge reconciles his findings on the Appellant's socio-economic status, which clearly have the ability to count against her when looking at risk of persecution, with the discrimination she would potentially suffer if living openly as a lesbian, even in Kuala Lumpur".

## **Submissions - Error of Law**

5. I had the benefit of submission from both parties. The appellant submitted that the Judge failed to take into account relevant parts of the CPIN, or failed to give reasons as to why the evidence does not demonstrate it is unsafe in Kuala Lumpur for a lesbian woman living openly. Both in written submissions and in oral submissions, the appellant highlighted paragraphs of the PCIN which the appellant states the Judge did not have regard to. The Judge, says the appellant in oral submissions, did not make an assessment of reasonableness of relocation and so did not apply the test as they were required to. The appellant pleads that the Judge did consider the evidence of violent and intimidatory raids on places in Kuala Lumpur where LGBT persons gather, but did not give adequate reasons why such activity did not amount to persecution. The Judge is also said to have ignored the non-geographic moderate (and therefore real) risk of societal violence. On the point of whether the Judge has properly considered the appellant's socioeconomic status, the appellant does not dispute that the appellant worked in the UK, but says that she faces the risk of being excluded from employment because of her sexuality.
6. The respondent submitted that the Judge did not err, and that the appeal simply amounts to a disagreement on the conclusion that the Judge came to. The Judge outlines the parts of the CPIN which the Judge considered relevant. The onus is on the appellant in the FtT to demonstrate why they cannot relocate. The Judge

did, says the respondent, consider the socio-economic status of the appellant. Taken at its highest, the CPIN does not prove that there is a real risk of treatment that would amount to persecution by the state in this case.

### **Analysis and conclusions - Error of law**

7. The Judge directed themselves to the legal framework at [10], including that the burden of proof resting with the appellant, and the standard being the lower standard.
8. The Judge opens the findings of the FtT determination by indicating that all the evidence has been taken in the round, and that the evidence and submissions would be referred to so far as necessary to explain the findings and reasons. Structurally, the Judge considers whether there is a part of the country that the appellant would not be at risk of persecution [15], whether she can safely get there [16], and whether it would be reasonable for her to remain there [17-18].
9. I find that the Judge was justified in concluding that the appellant could feasibly relocate from her home town to Kuala Lumpur for the reasons the Judge gives. Working without country guidance, with no country expert report and with a CPIN dating from 2020, the Judge has taken into account the necessary evidence and gives sufficient reasons.
10. The appellant submitted that at around [17] the Judge refers to the CPIN but largely refers to the conclusions or summaries contained in the CPIN and not the phrases from the CPIN reproduced in the appellant's skeleton argument, which (says the appellant) go to the heart of the appeal. The appellant highlights phrases from the CPIN which indicate violent and intimidatory raids on places in Kuala Lumpur, and say that the Judge either did not take these into consideration or failed to give sufficient reasons why this did not amount to persecution.
11. At [17] the Judge quotes the CPIN extensively, including that state authorities have been responsible for arrests, violence, detentions, harassment and discrimination towards LGBTI persons with report of police physically and sexually assaulting them. At [18] the Judge accepts that it is clear from the CPIN that societal and political attitudes towards the LGBT community is hostile and discriminatory, although less so in Kula Lumpur.
12. A Judge cannot reproduce every part of the evidence that is provided to them, or their determination would be a repetition of the trial bundle. I find that the Judge took a proper approach in referring to the summary or conclusion parts of the CPIN. This was an efficient approach to show consideration of the CPIN, in addition to stating that the whole CIPIN had been taken into consideration at [11]. The Judge outlines parts of the evidence for and against the appellant and discusses the difference in treatment in Kuala Lumpur as compared to other parts of the country.
13. I am not persuaded that the judge failed to take into account the relevant evidence in this case, and I find that the Judge has sufficiently outlined the balancing act taken towards the evidence to reach the conclusions of the FtT and, in so doing, gave sufficient reasons for reaching the conclusion that the threshold of persecution had not been met, nor that of serious harm, and that the appeal should be dismissed.

14. The appellant did not advance the suggestion in the permission to appeal that the Judge had not taken into account the appellant's socio-economic circumstances when looking at the risk of persecution. For completeness I find that the Judge had considered evidence on this at [17] and finds that her socio-economic status would assist the appellant were she to be returned. The Judge did not err in law in this respect.

**Notice of Decision**

1. The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.
2. I do not set aside the decision.

D Cotton

Deputy Judge of the Upper Tribunal  
Immigration and Asylum Chamber

15 April 2024