



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

Appeal Number: AA/05704/2014

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 4 March 2015**

**Determination Promulgated  
On 12 May 2015**

**Before**

**THE HONOURABLE MR JUSTICE COLLINS  
DEPUTY UPPER TRIBUNAL JUDGE FRANCES**

**Between**

**QZ  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr R Young, Legal Representative, Overseaslink Ltd

For the Respondent: Mr S Kandola, Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant in this case is from China. He is a Roman Catholic and so was his family. I need not go into detail because it is accepted on behalf of the Secretary of State that the First-tier Tribunal Judge in dealing with his appeal did not take into account properly the evidence that was before him in relation to whether the appellant had come to the adverse notice of the authorities. Essentially it was his case that he had attended an unregistered church and that can, and in his case he said did mean that he was wanted by the authorities and that is indicated by a wanted poster.

2. Essentially there was doubt raised as to whether he was even a Roman Catholic and there were questions asked in interview in an endeavour to test whether he had sufficient knowledge of Christianity to justify that finding. Essentially the First-tier Tribunal Judge was not impressed with the appellant as a witness and did not accept that he had come to the adverse notice of the authorities. He also indicated that even if he had there was no reason why he should not relocate.
3. It is, as I say, accepted that that adverse finding in relation to the appellant was not justified in all the circumstances. Whether that will mean that he does qualify for asylum or humanitarian protection will have to be considered in due course. We say that because the Secretary of State has accepted in all the circumstances that it is desirable that there should be a reconsideration on the basis of taking fully into account the evidence in relation to whether he indeed had come to the adverse notice of the authorities.
4. We expressed considerable doubts as to whether in all the circumstances that would have made a material difference to the decision which rejected his asylum claim. We should say that the appeal was allowed by the First-tier Tribunal Judge on the basis of Article 8, essentially because of the position of his partner and child but that finding has not been the subject to any cross-appeal by the Secretary of State, so that will stand.
5. In all the circumstances, having regard to the concession made by the Secretary of State, we will remit this case to be reconsidered on its facts so far as the asylum claim is concerned by a First-tier Tribunal Judge. It is obviously desirable we think that it should be a different judge from the judge who decided the case, the subject of this appeal.

### **Notice of Decision**

The appeal is allowed.

### **Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008**

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. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date **4 March 2015**

Mr Justice Collins