Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/04422/2017

THE IMMIGRATION ACTS

Heard at Field House	**Decision & Reasons Promulgated**
On 18 July 2019	**On 2 August 2019**

Before

UPPER TRIBUNAL JUDGE BLUM

Between

DI
(ANONYMITY DIRECTION MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Ms R Moffatt, Counsel, instructed by Wilson Solicitors LLP
For the Respondent: Mr C Avery, Senior Home Office Presenting Officer

DECISION AND REASONS

1. This is a remade decision following the identification of an error on a point of law in the decision of Judge of the First-tier Tribunal T Jones (the FtJ), promulgated on 14 February 2019, dismissing the appellant's asylum appeal against the respondent's decision dated 13 May 2016 refusing her asylum claim (but granting her Discretionary Leave to Remain). The agreed narrow issue in this appeal is whether the appellant has rebutted the presumption that she constitutes a danger to the community of the UK following the issuance of a

certificate under s.72 of the Nationality, Immigration and Asylum Act 2002 (the 2002 Act) in the decision of 13 May 2016.

Background

2. The appellant, a national of the Democratic Republic of Congo (DRC), was born in 1996. She and her twin sister left the DRC for Belgium when they were 4 or 5 years old. They remained in Belgium until they entered the UK following a short stay in France around the end of 2006 or the beginning of 2007. They were not present in the UK with lawful leave. The appellant and her twin underwent trauma and abuse in the DRC and serious physical, psychological and sexual abuse in Belgium and in the UK from family members, from those with whom they lived, and from other individuals.

3. Between 21 May 2013 and 31 March 2014 the appellant was convicted of six criminal offences, five of which related to theft and kindred offences, and one relating to public disorder. This occurred whilst she was in local authority care. The offences were committed in the context of the appellant's membership of a gang. They included a conviction in respect of two counts of robbery on 16 July 2013 for which she received a youth rehabilitation order of 18 months, a conviction for violent disorder on 13 December 2013 for which she received an 18 month detention and training order, and a conviction of robbery on 31 March 2014 for which she received a sentence of 3 years detention in a young offenders institution, to run concurrently with her previous conviction. The offences were committed within a 5-month period between 27 December 2012 and 20 May 2013. Her first conviction post-dated the date of the index (and last) offending.

4. The appellant made an asylum claim in 2015. She feared persecution in the DRC based on her sexual orientation (bisexual) and because she would be perceived as a witch. She subsequently also claimed to fear persecution as a lone vulnerable female.

5. In his decision dated 13 May 2016 the respondent rejected the appellant's claim to have rebutted the presumption under s.72 of the 2002 Act that she had committed a particularly serious crime and constituted a danger to the community of the UK. Under the relevant legislative provisions, if a judge upholds the certification in an appeal he must dismiss the appeal on asylum grounds without any consideration of the asylum claim. The respondent also excluded the appellant from a grant of Humanitarian Protection under paragraph 339D of the immigration rules.

6. Under the heading 'Assessment of future fear' the respondent concluded that the appellant met the requirements of the Home Office policy on Discretionary Leave and therefore decided to grant her Discretionary Leave for 6 months. The respondent however concluded that the appellant's removal would not breach Article 8 ECHR.

7. In the First-tier Tribunal hearing the Presenting Officer explained that there was no challenge to the appellant's credibility concerning a real risk of a breach of her protected rights on return to the DRC due to her sexual orientation. Until this concession the respondent had not expressly conceded, in the Reasons for Refusal Letter or otherwise, that the appellant's expulsion to the DRC would breach her human rights.

8. The FtJ heard oral evidence from the appellant and from ED, a Housing Support worker who had befriended the appellant in January 2016. The FtJ concluded that the appellant had not rebutted the s.72 presumption. In my 'error of law' decision promulgated on 24 May 2019 I concluded that the FtJ materially erred in law by failing to distinguish between ED's view as to the risk of the appellant reoffending (about which she had no concerns) and her view as to the appellant's vulnerability to exploitation (that is, a risk only to the appellant herself). The FtJ also materially erred in law by holding against the appellant the omission of any reference in her most recent statement to victim awareness and coping strategies given that these had been fully dealt with in her detailed and lengthy (61 pages) first statement. There was a further error of law in that the FtJ was obliged to determine the appellant's human rights appeal pursuant to s.86 of the 2002 Act but failed to do so. As the respondent conceded that the appellant's deportation to the DRC would expose her to a real risk of Article 3 ill-treatment (and, by necessary implication, Article 8) it was not in dispute between the parties at the 'error of law' hearing that the FtJ should have allowed the human rights appeal.

9. I allowed the appellant's human rights appeal and set aside the FtJ's decision in respect of the appellant's asylum appeal. I adjourned the hearing and granted the appellant permission to adduce further evidence pursuant to rule 15(2A) of the Tribunal Procedure (Upper Tribunal) Rules 2008.

The hearing to remake the decision

10. The appellant filed a further bundle of documents including, inter alia, a further witness statement dated 10 July 2019, a further statement from ED dated 5 July 2019 and a Clinical Psychology Report prepared by Dr Katherine Boucher dated 25 June 2019. On the day of the resumed hearing Ms Moffat served a skeleton argument and a copy of an OASys assessment completed on 6 March 217.

11. In light of the medico-legal report from Dr Juliet Cohen the hearing was conducted in accordance with the Joint Presidential Guidance Note No 2 of 2010 and the principles identified in **AM (Afghanistan) v Secretary of State for the Home Department** [2017] EWCA Civ 1123. The appellant was referred to by her first name, she was offered the opportunity of having breaks, she was not asked any overly leading questions, and the questions were appropriate to her identified medical needs.

12. The appellant adopted her three full and detailed statements dated 25 April 2018, 19 October 2018 and 10 July 2019. In cross-examination she explained that, at the time of the OASys assessment, she did not appreciate the nature of 'joint enterprise' offences and for that reason did not feel that she was guilty as she had not herself been violent. She now fully accepted her guilt and that her membership of the gang and her presence during the robberies constituted her offence. She was remorseful for the impact of her conduct on her victims. She now felt empowered to be a better person. The appellant felt "a bit down" having not yet obtained a job but added that she had been working as a volunteer for over 10 months with Crisis. She was nevertheless optimistic that she would find a job and was continuing to make applications. She was buoyed by the positive feedback she received the following job interviews. Even if she didn't find a job this was not "a big issue" for her as she had other skills and pursuits. She stated, "not getting a job will not make me turn to crime." The appellant described how she would call upon the techniques she learned in therapy if fearful of going out because of violence. She sometimes smoked a joint of cannabis given to her by her friend. She had no contact with her former gang members and had even written to them explaining that she wanted no further involvement in the gang. She did not go to south London.

13. In her oral evidence ED said that the appellant regretted her past offending. The appellant had joined the gang because it provided a sense of family. ED did not believe the appellant would become involved in any further criminal activity. The appellant had spoken of her regret for her past actions "pretty much all the time" since ED met her and spoke of her desire to help other young people. The appellant had always shown remorse for her actions and now noticed people in the community who were struggling or who were homeless. She demonstrates care for other people and always asked about ED's family. ED had never seen any sign of the appellant being violence. The appellant was fearful of violence. When she hears news of stabbings the appellant phoned ED as she was anxious and scared to go out. The appellant had experienced a difficult time trying to get a job but ED admired her resilience. Casual employers were reluctant to take her on because of her immigration status. Despite having little money and living in the capital the appellant had not committed any offence in the last 3 years. The appellant had not maintained any contact with criminal gangs and had not gone into south London. ED saw the appellant 2 or 3 times a year but spoke to her weekly and they also communicated by text. In addition to her own support the appellant also had a mentor from the Prince's Trust and was engaged in other activities with the Prince's Trust and now attended a small church.

14. I recorded the submissions from both representatives which are, in any event, a matter of record. Mr Avery submitted that the appellant's offences were very serious and that her current situation was not secure. She had no income and engaged in occasional cannabis use. There was no evidence from the appellant's mentor at the Prince's Trust. Mr Avery could not say much about the Clinical

Psychology Report but submitted that the evidence before me did disclose pressures on the appellant such that she may still pose a danger to the community. Ms. Moffat relied on her skeleton argument and submitted that the appellant had been candid about her very limited drug use and that this did not expose her to a criminal element that could result in any danger to the community. Mr Moffat noted that the appellant had cut off all associations with the criminal gang and that she had not offended in the 3 years since her release from immigration detention. I was referred to the evidence that the appellant volunteered for charities and that she was capable of holding down a job. There was a wealth of evidence pointing to a material change in the appellant's circumstances and her outlook on life. She had spent 6 years turning her life around and took advantage of the opportunities offered to her in prison. There was now a support network for the appellant. The Prince's Trust mentor was not present for the simple reason that he was on holiday. The Clinical Psychology Report indicated that the appellant now had a greater degree of self-awareness and insight and that she posed only a low risk of reoffending.

Discussion

15. Section 72 of the 2002 Act applies "for the purpose of the construction and application of Article 33(2) of the Refugee Convention (exclusion from protection)"; see s.72(1). Section 72(2) of 2002 Act provides that:

> A person shall be presumed to have been convicted by a final judgment of a particularly serious crime and to constitute a danger to the community of the United Kingdom if he is (a) convicted in the United Kingdom of an offence, and (b) sentenced to a period of imprisonment of at least two years.

16. Section 72(6) provides that that presumption is rebuttable:

> A presumption under subsection (2), (3) or (4) that a person constitutes a danger to the community is rebuttable by that person.

17. In **EN (Serbia) v Secretary of State for the Home Department & Anor** [2009] EWCA Civ 630, the Court of Appeal held, at [45], "So far as "danger to the community" is concerned, the danger must be real, but if a person is convicted of a particularly serious crime, and there is a real risk of its repetition, he is likely to constitute a danger to the community."

18. In her skeleton argument Ms Moffat submitted that the appellant's offending did not meet the threshold of 'particularly serious crime'. She submitted, with reference to **IH (s.72; 'Particularly Serious Crime') Eritrea** [2009] UKAIT 00012, that whilst the appellant's offending was serious it was nevertheless insufficient to exclude her from the protection of the Refugee Convention. The appellant was a minor at the time of her offending and had been subject to chronic

physical and psychological abuse. Her offending occurred in a short space of time during which she regularly absconded from local authority care. The appellant was a vulnerable young person who had been exploited and abused by her peers in the gang. I accept these points, but they are not materially relevant when determining whether the appellant committed a 'particularly serious crime'. The points advanced by Ms Moffat contextualise and explain the roots of the appellant's offending, and in particular the index offence for which she received a sentence of 3 years detention in a young offenders' institution, but they do not go to the nature or seriousness of the offence. I have considered in detail the Sentencing Remarks and the pre-sentence reports. The appellant was part of a gang who attacked the victim in his own room. The victim was punched and stabbed and had to beg for his life. the appellant knew of the existence of the knife that was used. The appellant did not participate in the actual violence, but she was present and took property from the victim's room while the violence was occurring. The seriousness of the offence is reflected in the length of sentence of 3 years detention. I am not persuaded that the appellant's offending did not constitute a particularly serious offence.

19. I now consider whether the appellant constitutes a danger to the community of the United Kingdom. My starting point is the appellant's criminal history. I have already considered the index offence, which was particularly serious. I note that the appellant was not directly involved in the violence, but her involvement was nevertheless significant. The OASys assessment completed on 6 March 2017 indicated that all the appellant's offending had been committed in the context of her gang membership. Although she had not played a leading role in each of her previous offences her participation was still significant. She was identified as being at medium risk of reoffending and at medium risk of causing serious harm. The factors contributing to the risk included the appellant's lack of stable accommodation, her gang affiliation, her immaturity, and her attitudes and thinking. The risks were nevertheless assessed as receding as there were indications that the appellant was meaningfully engaging in the supervision process, that she no longer maintained contact with the gang, she had matured and developed internal controls, and she had displayed a shift towards a more prosocial attitude. Factors identified as likely to reduce the risk included the appellant engaging with developmental opportunities, forming more positive friendships or associations, engaging with psychology/counselling intervention if relevant, and obtaining employment.

20. The March 2017 OASys assessment observed that the appellant suffered from bouts of depression and low self-esteem and there were concerns about her vulnerability. The medico-legal report prepared by Dr Juliet Cohen dated 25 April 2018 indicated that the appellant suffered from PTSD, anxiety and depression. The appellant's joining of the gang was demonstrative of her vulnerability to further abuse and exploitative experiences. This suggests that, as a vulnerable person, the appellant may be at greater risk of re-engaging in criminal behaviour. This is also reflected in Dr Boucher's report in which the

appellant presented as vulnerable in her attachment to others, and at risk of being exploited by others, which potentially increases her risk of being involved with anti-social individuals. ED also expressed her concern that the appellant's vulnerability put her at risk of further exploitation. She was not however concerned that the appellant would join a gang or commit further crimes. At paragraph 37 of her first statement ED stated, "whilst I am not concerned about [the appellant] reoffending or getting involved with the wrong people again, I am concerned about her naivety and how this contributes towards making her vulnerable". At paragraph 39 ED expressed her concern that the appellant's vulnerability put her at risk of further exploitation. ED described in subsequent paragraphs certain situations in which the appellant's vulnerability exposed her to a risk of being taken advantage of or exploited. None of these related to the commission of further offences. In paragraph 51 ED's concerns relating to the appellant's mental health were made in the context of self-harm and not expressed as giving rise to a risk of reoffending. I note from her 1st witness statement that ED has experience in working with vulnerable people and has worked in the charity sector for approximately 5 years. I find I can attach weight to ED's observations relating to the nature of the appellant's vulnerability.

21. The March 2017 OASys report identified the instability with the appellant's accommodation as a factor contributing to a risk of harm to society. When the OASys assessment was made the appellant was in temporary B&B accommodation. I note that she now has her own flat and there appears to be more stability in respect of her accommodation. The report from Dr Boucher however indicated that the appellant did not like living on the council estate as she did not feel 'free' with all the difficulties in the community.

22. The appellant's candid admission that she very occasionally smokes cannabis indicates that, at least to some extent, she is still willing to engage in behaviour that she knows is criminal. By associating with others who smoke cannabis and engaging in illegal activity this must increase the risk that the appellant may once again become involved in criminal behaviour.

23. A further factor increasing risk that the appellant poses a danger to the community in the UK is her unsuccessful attempts to obtain employment. I appreciate that this may be due in part to reticence on the part of employers given the relative precariousness of the appellant's immigration status. Her criminal record is however undoubtedly a factor that will continue to be held against her. In her oral evidence she said that she wanted to find a job to get more income. Her financial situation may therefore increase the risk that she would return to her criminal ways, particularly given that her previous offending involved theft.

24. There are however several important factors that, in my judgement, significantly reduce the likelihood that the appellant now constitutes a danger to the community. I found the appellant to be a credible witness. Her evidence was

given in a direct manner and without any perceptible embellishment. Whilst she could quite easily have lied about her occasional and limited cannabis use, she did not do so. There was nothing in her evidence indicating any attempt to 'pull the wool' over the Tribunal's eyes. Her evidence was both internally consistent and generally consistent with ED's evidence and the documentary evidence.

25. I accept that the appellant is genuinely remorseful for her short but intense period of criminal offending. She readily accepts her guilt and, through her written and oral evidence, has demonstrated an appreciation and awareness of the harm her offending caused. This is further supported by reference to her successful participation in victim awareness courses undertaken whilst in custody. The March 2017 OASys report indicated that she had completed the Thinking Skills Programme and that the feedback was very positive. Whilst impulsivity and consequential thinking continued to be an issue at the date of the OASys assessment it was clear to the Probation Officer that the appellant had shown growth in this regard. According to the assessment she showed no pro-criminal attitudes in supervision sessions.

26. In her oral evidence the appellant explained that she now feels empowered to be a better person. This assertion is supported by the evidence of both ED, who has known the appellant for approximately 3 ½ years, and Dr Boucher. ED said that the appellant had spoken of her regret pretty much all the time since they met. This indicates insight by the appellant into what led to her offending. ED's evidence described manifestations of empathy by the appellant, how she now notices other people struggling in the community and how she desired to help other young people, and gave examples of instances in which the appellant had acted upon these concerns, particularly with respect to other young and vulnerable people. This is further supported by the evidence of the appellant's committed support for the charity Crisis, for which she has been a dedicated volunteer for the past 10 months.

27. I have considered with care the report from Dr Boucher. She qualified from the University of Surrey with a Doctorate of Clinical Psychology in September 2007 and is a graduate member of the British Psychological Society and is registered with the Health and Care Professions Council. She has worked at HMP Bronzefield providing psychological assessment and treatment and conducting mental health, personality, cognitive and, significantly, risk assessments. She previously worked for the John Howard Centre, a Forensic Medium Secure Unit based in Hackney which provided inpatient facilities for mentally disordered offenders. The clinical population which she worked had often experienced significant trauma in the past, had severe mental health difficulties, and presented with complex psychosocial difficulties. Dr Boucher is currently a partner of Vivamus Psychologists, a private psychology practice which she undertakes risk assessments and formulations for statutory agencies, medico-legal reports and psychological therapy for individuals with complex needs. In preparing her report Dr Boucher considered a range of documents including

previous pre-sentence reports, sentencing remarks, police records and OAsys assessment and assessed the appellant for 2 hours on 23 May 2019. I'm satisfied she is suitably qualified and experienced to give a Clinical Psychological report and to assess the appellant's risk of future re-offending and her risk of harm to others.

28. Using the Historical, Clinical, Risk Management approach (HCR-20), a set of structured clinical risk assessment guidelines, Dr Boucher concluded that the appellant currently presents with a low risk of future reoffending and that she currently presents with a low risk of harm to others. In reaching this conclusion Dr Boucher considered both static historical factors associated with levels of risk but also the dynamic nature of risk. Dr Boucher considered the particular circumstances of the index offence and the violent disorder offence and the time period in which all the appellant's offences occurred. Dr Boucher considered risk factors including the appellant's use of violence and other antisocial behaviour and the nature of the appellant's relationships with others. Dr Boucher also considered, inter alia, the appellants response to treatment and supervision, the current levels of stability and her insight.

29. Although Dr Boucher found that the appellant had a significant amount of historical risk factors she presented no current dynamic risk factors. Dr Boucher was of the view that if the appellant resolved some current risk factors such as employment and immigration status there would be a further reduction in the number of potential future risk factors present. Dr Boucher specifically considered the March 2017 OASys assessment and noted that, when the weighted scores were examined, the majority of identified factors were statistic historical factors. As pointed out by Dr Boucher, the HCR-20 allows the assessor to include clinical judgement rather than an actuarial result to formulate risk. For these reasons I find I can attach significant weight to Dr Boucher's report, and I note that it was compiled over 2 years after the OASys assessment. I note in particular Dr Boucher's observation that the appellant displays significant motivation to change her behaviour and lifestyle and has invested in a more helpful prosocial identity. In her interview with Dr Boucher the appellant maintained that she had 'picked a side'. In the Clinical Psychologist's opinion, the appellant now considers herself as a non-offender.

30. I am additionally satisfied that the appellant has matured since the commission of her offences as a minor. I contrast the observations of the Sentencing Judge that the appellant was an immature 17-year-old with the subsequent observations and descriptions of the appellant. The Thinking Skills Programme report praised the appellant for having a "mature outlook on life" and the appellant's mental whilst she wasn't present said that she showed "great maturity for your age". ED also observed that the appellant now displays a mature outlook. I find that the appellant is now older, more mature and more experienced, and that she now has self-awareness that she did not have time offending. This finding is supported by the evidence from Dr Boucher, who

found that the appellant has now developed an identity that is prosocial and provides her with meaning and worth.

31. Whilst the appellant's continuing vulnerability is a factor that may expose her to a risk of being exploited by unscrupulous persons for criminal purposes, I find this is counterbalanced by the appellant's growing maturity and her ability to call upon the techniques she learned through courses in prison and through the support networks upon which she can now rely (including the support from ED, the Princes Trust and her new church).

32. The appellant has provided persuasive evidence of victim awareness and the ability to harness coping or avoidance strategies. In her April 2018 statement (at paragraphs 213 and 214) she referred to her engagement with victim awareness courses and indicated that she had learnt how a crime can impact upon a victim and how it can have much wider long-term effects. Through the Thinking Skills Programme the appellant is now able to identify 'red flags' to help her recognise 'bad friends'. At paragraphs 237 to 240 she gave relatively detailed examples of how she had avoided being drawn back into criminality. Other coping strategies used by the appellant include self-talk and writing poetry about homelessness, mental health and crime.

33. It is not in dispute that all the appellant's offending was linked to her membership of a gang. The Clinical Psychology report observed that the appellant looked at the gang as a family that she wanted to be part of and from which she received acceptance. There are several other sources of evidence suggesting that, because of the appellant's traumatic upbringing, she regarded the criminal gang as a surrogate family. This was expressly considered in the March 2017 OASys report. The appellant informed the probation officers that she joined the gang because it gave her a sense of belonging and identity. There is no reason for me to doubt the appellant's evidence that she has completely extricated herself from the criminal gang. This evidence was not challenged by Mr Avery. According to Dr Boucher the appellant now recognises that her relationships within the gang were abusive and that she was manipulated for sexual and financial reasons. In Dr Boucher's expert opinion the appellant's current insight into the harmful aspects of being a member of a gang protects her from future vulnerability of being involved with a gang. The fact that the appellant has cut all ties with the gang that she joined as a minor is a factor reducing her risk of harm to the community.

34. Whilst I acknowledge that the appellant's inability thus far to obtain remunerated employment, and her consequential limited financial position, is a risk factor when assessing whether she would return to her criminal behaviour, I find this is counterbalanced by her resilience (as remarked on by ED), her optimism that she will find a job (I note the appellant's account of the various job applications made and interviews she has had, indicating that she has a persistent desire to turn her life around, and I note that she gained 5 good

GCSEs indicating that she has academic ability), and the fact that she has enveloped herself in other activities including her volunteering work and her poetry writing. In Dr Boucher's expert opinion, although financial gain was a possible factor in the appellant's offending behaviour, this was a significantly less motivating factor than her wish to be accepted by the gang. I consequently accept, having additionally noted that the appellant has not committed any further offence since being released from immigration detention 3 years ago, her assertion that not getting a job would not cause her to turn to crime.

35. Mr Avery pointed noted the absence of evidence from the appellant's mentor at the Prince's Trust. Ms Moffat however indicated that the mentor was on holiday and could not attend the hearing for this reason. I note the various documents in the appellant's main bundle issued by the Prince's Trust supporting the appellant's claimed participation in the organisation, and the evidence from ED who had personal knowledge that the appellant did have a mentor with the Prince's Trust. The Clinical Psychological Report indicated that the appellant also had some support from a Personal Adviser from Social Services and that she also gained support from going to church. I additionally attach weight to the support provided to the appellant from ED. I consider this to be a significant stabilising factor in the appellant's life. Although they do not often physically see each other ED speaks to the appellant approximately once a week and provides her with good advice and acts as a mother figure.

36. Whilst I have expressed concerns with the appellant's occasional smoking of cannabis I am satisfied, on a holistic assessment, that this does not indicate that she is a danger to the community. I note that her drug use consists of her friend occasionally giving the appellant a joint to smoke. Whilst I have acknowledged that the slippery slope on which the appellant's association with others who use drugs, and her own behaviour, may cause her to slide towards further criminality, I find on the particular facts of this case that the appellant has not exposed herself to the type of criminal element that is likely to lead her to pose a danger to the community. Whilst not in any way condoning what is undoubtedly criminal, her behaviour is towards the lower end of the criminal spectrum. This is relevant given that s.72 seeks to give effect to Article 33(2) of the 1951 Refugee Convention which is a serious measure preventing an individual from having the benefit of the Convention. The occasional smoking of a joint is far removed from her previous involvement in a criminal gang that engaged in violence and robbery. I also find that her infrequent cannabis use is outbalanced by the very significant extent, already described, to which the appellant has turned her life around. Given the nature and extent of the appellant's rehabilitation and her clearly documented rejection of her past gang involvement and her pursuit of an otherwise law-abiding lifestyle, I do not find that her candid disclosure undermines the conclusions of Dr Boucher's report.
37. I have considered the evidence before me and I have weighed up the factors supporting the presumption that the appellant constitutes a danger to community and the evidence undermining the presumption. Having particular

regard to the 2019 risk assessment identifying the appellant as posing a low risk of harm and of reoffending, and having found that the appellant has insight into the circumstances that led to her offending and that she has expressed remorse for her actions, and noting that she has cut off all links with the gang and that she has not offended since being released into the community in 2016, and given the existing support structure now in place, I find that the appellant has successfully rebutted the s.72 presumption.

38. The respondent accepts that the appellant would be exposed to a well-founded fear of serious ill-treatment if returned to the DRC. Having found that the appellant has rebutted the presumption that she is a danger to the community, it follows that her asylum appeal is allowed.

Notice of Decision

The appellant's asylum appeal is allowed.
The appellant's human rights 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 in this appeal is granted anonymity. No report of these proceedings shall directly or indirectly identify her or any member of her 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.

D. Blum 24 July 2019

Signed Date
Upper Tribunal Judge Blum