



**Upper Tribunal  
Immigration and Asylum Chamber  
DA/00605/2013**

**Appeal Number:**

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 19 December 2013**

**Promulgated  
On 23 December 2013**

**Before**

**Upper Tribunal Judge Kekić**

**Between**

**Ah Mei Chen  
(anonymity order not made)**

**Appellant**

**and**

**Secretary of State for the Home Department**

**Respondent**

**Determination and Reasons**

**Representation**

For the Appellant: Mr E Pipi, Counsel

For the Respondent: Mr L Tarlow, Home Office Presenting Officer

**Details of appellant and basis of claim**

1. The appellant is a Chinese national born on 15 June 1963. A deportation order was made against her on 11 March 2013 following various criminal convictions. On 25 October I set aside the

determination of a panel of the First-tier Tribunal chaired by Judge Stanford and promulgated on 23 August 2013. I declined to remake the decision at that stage as the appellant was unrepresented and I considered that she should have the chance to seek legal representation.

2. When the matter came before me on 19 December, the appellant was represented. Mr Pipi relied on a skeleton argument which he served just before the commencement of the hearing and in which he raised numerous problems with the Secretary of State's decision and procedure. Mr Tarlow was given time to digest the contents of the statement and on resuming he sought an adjournment for the Secretary of State to rectify the paperwork. Mr Pipi objected. He submitted that as the respondent had accepted that the decision was defective, the appeal should be allowed on the basis that it was not in accordance with the law. Mr Tarlow then indicated he was withdrawing the decision.
3. I reserved my determination which I now give.
4. Having considered Mr Pipi's skeleton argument and the brief submissions made, I conclude that the most Mr Tarlow could have done at this stage was to withdraw the respondent's case, rather than the decision. That, however, would have meant that the challenge to the original determination, which was raised by the Secretary of State, was withdrawn and that the decision allowing the appeal on Article 8 grounds stood. As what Mr Tarlow wanted, was for the Secretary of State to remake the defective decision, it seems to me that the best course of action is to do as Mr Pipi urged and to allow the appeal to the limited extent that the decision is not in accordance with the law, there being no reference within it to the country to which it is proposed the appellant should be returned. Although Mr Tarlow suggested that the letter of refusal made the destination plain, he accepted that this information was not contained within the notice of decision as required by reg. 5(1)(a) and (b) of the Immigration (Notices) Regulations 2003. In the circumstances I must find that the notice of decision is not in accordance with the law.
5. Mr Tarlow has assured the court that his communication with the Home Office caseworker will result in the matter being addressed as a priority.

## **Decision**

6. The appeal is allowed to the limited extent that it is not in accordance with the law.

Signed:

**Dr R Kekić**  
**Judge of the Upper Tribunal**  
December 2013

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