



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

Appeal Number: PA/04062/2017

**THE IMMIGRATION ACTS**

**Heard at North Shields  
On 9<sup>th</sup> January 2018.**

**Decision & Reasons  
Promulgated  
On 21<sup>st</sup> February 2018**

**Before**

**Upper Tribunal Judge Chalkley**

**Between**

**CHANTAL [T]  
(~~ANONYMITY DIRECTION NOT MADE~~)**

Appellant

**and**

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

Respondent

**Representation:**

*For the Appellant: Mr C Boyle, a solicitor with Halliday Reeves*

*For the Respondent: Mr G Harrison, Senior Home Office Presenting Officer*

**DECISION AND REASONS**

1. The appellant was born on [ ] 1969, and is a citizen of the Democratic Republic of Congo. She claims to have arrived in the United Kingdom on 30<sup>th</sup> November 2016, and she claimed asylum on the same day. On 13<sup>th</sup> April 2017, the respondent refused to grant the appellant's claim for asylum for reasons set out in a letter of the same date. The appellant appealed and her appeal was heard by the First-tier Tribunal at North Shields on 25<sup>th</sup> May 2017 by First-tier Tribunal Judge S T Fox.

2. The appellant's claim was that she had been involved as a supporter of the Democratic and Social Progress UDPS in the Democratic Republic of Congo since 2015 and that on 21<sup>st</sup> September 2016, she was detained by security services and questioned after leaving her home. She claims to have been detained for three days and managed to escape with the help of the guard. She arrived in the United Kingdom on 30<sup>th</sup> November 2016, and has also undertaken political activities in the United Kingdom on behalf of the UDPS.
3. The judge accepted that the appellant had been engaged in low level political activity in her home country, but was not a member of the UDPS. He appears, at paragraph 27, to accept that she has taken part in demonstrations in the United Kingdom. Between paragraph 32 and paragraph 38 of the determination, he makes a series of findings, but it is not clear from those findings whether or not he accepted that the appellant had previously been arrested and detained in the Democratic Republic of Congo. The judge dismissed the appeal, believing that on return the appellant would not face persecutory harm.
4. The appellant challenged the determination, arguing that the judge failed to find that the appellant was at risk in the DRC as a political activist, given that it was accepted at paragraph 27 of the determination that she had attended demonstrations, secondly in failing to consider that even a low level supporter of the UDPS, such as the appellant was accepted to be, who had been detained and released a few days later, held a political profile with reference to the test set out in *MM (UDPS members - Risk on return) Democratic Republic of Congo CG [2007] UKAIT 00023* and lastly to grant a request an adjournment for the purpose of obtaining corroborative evidence her UDPS activities.
5. In addressing me Mr Boyle highlighted a further defect with the determination and that was the failure of the judge to indicate clearly whether or not he accepted that the appellant had previously been arrested and detained in her home country. If, as he had accepted, she was a low level activist, but not a member for the UDPS in the United Kingdom but was known to the authorities in the Congo because she had previously been arrested and detained for three days, then on her return to the Congo she may very well be at risk of persecutory harm. Mr Harrison accepted that the determination was confused and that the judge's thinking appears to have been confused, because it is not clear precisely what facts the judge actually found.
6. I have concluded that the determination is unsafe and must be set aside. There are clear findings of fact that need to be made, particularly where somebody claims to have been arrested within their home country and to also to have undertaken sur place activities in this country.
7. Given the inevitable delays that will occur if I were to adjourn this matter in the Upper Tribunal to be heard at a later stage by me and in the

interests of justice, I remit this appeal to be heard in the First-tier Tribunal by a judge other than Judge S T Fox. A French interpreter will be required and three hours should be allowed for the hearing of the appeal.

No anonymity direction is made.

***Richard Chalkley***  
Upper Tribunal Judge Chalkley

**14 February 2018**