

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND
QUEEN'S BENCH DIVISION (JUDICIAL REVIEW)

IN THE MATTER OF AN APPLICATION BY WEN LI
FOR JUDICIAL REVIEW

AND IN THE MATTER OF A DECISION MADE ON BEHALF OF THE
SECRETARY OF STATE FOR THE HOME DEPARTMENT

KEEGAN J

Introduction

[1] The applicant in this case is a Chinese national who challenges the decision of the Secretary of State for the Home Department ("SSHD") of 1 May 2019 to remove him from the United Kingdom to China. The applicant secured release from detention pending this judicial review. Leave was granted on the papers by McCloskey J on 26 May 2019.

[2] The applicant was represented by Ms Emma McIlveen BL and the respondent by Mr Henry BL. I am grateful for their very helpful written and oral submissions.

[3] In the Order 53 Statement the applicant seeks the following relief:-

- i An Order of Certiorari quashing the impugned decision.
- ii A declaration that the impugned decision is unlawful, ultra vires and of no force or effect.
- iii A declaration that the impugned decision is incompatible with the applicant's right under Article 8 of the European Convention on Human Rights, contrary to Section 6 of the Human Rights Act 1998.
- iv An Order of Mandamus requiring the SSHD to make a decision on whether the applicant's continued detention is appropriate, or whether the applicant should be released from detention.

- v. Further and/or in the alternative, a declaration that the applicant's continued detention is incompatible with the applicant's rights under Article 5 of the European Convention of Human Rights contrary to Section 6 of the Human Rights Act 1998.

[4] The grounds for challenge are set out in the Order 53 Statement under two headings:-

Procedural Fairness.

The applicant contends that the impugned decision was procedurally unfair in the following respects:-

- (a) The applicant was presented with documentation including the impugned decision, in the name of Jiawen Li (date of birth 1 November 1993) as a fait accompli - there was no effort made to consult the applicant before the impugned decision was made, or to invite his comments on whatever evidence the SSHD might have that the above identity does in fact belong to the applicant. The applicant was presented with a document containing the impugned decision and other associated documentation -
 - (i) without a Mandarin interpreter being present;
 - (ii) without a solicitor present; and
 - (iii) without any opportunity to question the provenance of the identity that the SSHD is now asserting to belong to him, or the veracity thereof. This denied the applicant his right to be heard under common law - it denied him the right to know the evidential basis for the SSHD's belief that the applicant's true identity is as above and it denied him the right to make any response thereto, before the impugned decision was made.

Illegality.

The applicant contends that the impugned decision was contrary to Section 6 of the Human Rights Act in the following respects:-

- (a) It is clear that the applicant's Article 8 rights are engaged in relation to the impugned decision, being a decision to remove him from the UK. The impugned decision is of such potentially grave consequence, that Article 8 of the ECHR is engaged by it; and
- (b) Because (for the above reasons) it is contended that the impugned decision has been taken in a procedurally unfair manner, the impugned decision is not

in accordance with the common law and is a direct breach of Article 8 ECHR on this basis alone; and

- (c) Furthermore, and whilst Article 8 itself contains no explicit procedural requirements, the decision-making process involved in measures of interference must be fair and sufficient to afford due respect to the interests safeguarded by Article 8 (*Petrov & X v Russia 101*) this has been wholly lacking with regard to how the impugned decision was taken; or
- (d) Further and/or in the alternative, it is extremely difficult to see how the impugned decision could be justified as being necessary in a democratic society, nor that it is proportionate to any legitimate public aim, and therefore the impugned decision falls foul of the test expounded in the House of Lords case of *Regina v Secretary of State for the Home Department (Appellant ex parte Rasgar [2004]*.

Factual Background

[5] The background of this case is framed by previous immigration proceedings in relation to this applicant. These proceedings are elucidated in a written decision of the First Tier Immigration judge Judge Buckwell of 26 October 2018. That decision sets out the history of immigration proceedings as follows:-

“On 20 November 2014 the appellant claimed asylum. His protection application was considered by the respondent with reference to the Geneva Convention 1951 and to the terms of the European Convention for the protection of human rights and fundamental freedoms 1950 (the European Convention or ECHR). The appellant’s claim was based on his stated Christian faith and his fear of persecution or a breach of his human rights if returned to China. The appellant’s protection application was refused on all grounds. Refusal was also with reference to immigration leave by way of humanitarian protection. It was found that the appellant was not otherwise entitled to leave by reference to his human rights. The appellant exercised his right of appeal under Section 82 of the Nationality, Immigration and Asylum Act 2002 (“the 2002 Act”). The appeal is exempt from the payment of an appeal fee. The history of this appeal is set out below and it was listed for a further substantive appeal hearing at the Royal Courts of Justice in Belfast on 12 October 2018.

This appeal first came before Judge Gillespie of the First Tier Tribunal, sitting at the Royal Courts of Justice in

Belfast on 13 January 2017. In his decision dated 17 January 2017 promulgated on 19 January 2017 Judge Gillespie dismissed the appeal on all grounds. He had considered asylum, humanitarian protection and Articles 2, 3 and 8 of the European Convention.

The appellant's representatives Messrs Worthington Solicitors, submitted an application for permission to appeal the decision. That was decided by Judge Kimnel of the First Tier Tribunal who, in a decision dated 14 February 2017, granted the application. He found there to have been an arguable error of law based on apparent contradictions in the finding of Judge Gillespie with reference to the asserted Christian beliefs of the appellant and the potential and consequent risk to harm if he were removed to China.

The Error of Law hearing came before Judge Rintoul of the Upper Tribunal, sitting at the Royal Courts of Justice in Belfast on 27 July 2017. In his decision dated 18 August 2017 it was found that the decision of Judge Gillespie had involved the making of an Error of Law. No findings of fact were preserved. The decision was found by Judge Rintoul to have involved an inconsistency in the findings generally. No findings have been made with reference to any change of circumstances since the Upper Tribunal Country Guidance Decision in *QH v China CG* [2014] UKUT 86 IAC. Accordingly a further hearing was required on a *de novo* basis."

[6] That *de novo* hearing was before the First Tribunal judge Judge Buckwell. He sets out in the ruling the appellant's immigration history. He then refers to the appeal which is based on an asserted risk of persecution in China on grounds of religious beliefs. It is clear from the ruling that the judge had substantial documentation before him and he also heard a considerable amount of evidence including evidence from the appellant. From paragraph 103 to 130 the judge sets out his reasons and conclusions. I also refer to his conclusions as follows:-

"124. As I hope I have clearly stated, I do not have doubt as to the genuine religious beliefs of the appellant. It was not appropriate to apply section 8 of the 2004 Act as the appellant was at all times a minor. I also have made clear that the appellant is now a respected and valued member of his community within Enniskillen albeit still at a young age. However this tribunal has no entitlement to find in favour of individuals on the basis of their decency

or good character if otherwise risk is not established, even where the core of the claim is found to be genuine. This tribunal has the duty to decide appeals on the basis of what it considers to be an appropriate and correct interpretation application of the relevant immigration rules, statute, case law and appropriate information and guidance. There are occasions when conclusions and decisions must be reached on that basis even where, based on the character of an individual appellant, that person could be an asset to his or her community in the UK. The law must prevail and must be applied.

125. I therefore find that the appellant has not discharged his burden albeit to the lower standard of establishing that he has a current and genuine well-founded fear of persecution for a Geneva Convention reason. The appellant is not found to be a person who would be at risk on return to China.

126. For the same reasons it is not found that the appellant would be at risk on return with respect to Article 2 or Article 3 ECHR rights. Returning to China would not prevent the appellant practising his faith and no breach of Article 9 of the European Convention would be occasioned by his return.

127. Turning to Article 8 ECHR, the appellant is not established that he would be entitled to leave based on sub-paragraph 276ADE(1)(vi) of the Immigration Rules. In an assessment of his Article ECHR rights out with the Immigration Rules, taking account requirements of Part 5A of the 2002 Act, I do not find that the appellant has established that, the engagement of Article 8(1) ECHR with reference to private life grounds, or requirement that he should return to China is disproportionate. Any factors favouring the appellant do not outweigh the entitlement of the respondent, on public interest grounds, to succeed on the basis that an effective immigration system should be maintained. The appellant has established private life rights in the UK at a time when his presence in the UK has been precarious in terms of his immigration status. Additionally his English language is limited.

128. Based on the above findings with reference to Articles 2 and 3 and to contrary conditions in China, the

appellant would not alternatively be entitled to a grant of immigration leave by way of humanitarian protection.

129. As stated at the end of the hearing, the Anonymity Order previously made under the Upper Tribunal Rules, as an Anonymity Direction is continued under the Tribunal Procedure (First Tier Tribunal) Immigration and Asylum Chamber Rules 2014. The terms of the order are set out below.”

[7] Under the heading “additional remarks” the judge also stated as follows:

130. I have referred above to the potential return of the appellant to China. I mention again the views expressed by Mr McGrath in that regard. I express the hope that if the Home Office are unable to ensure the provision of appropriate documentation for the appellant to be returned to China, the respondent would in the alternative consider granting discretionary leave to the appellant outside the Immigration Rules. These remarks are made even though I have not found that as a matter of law my consideration of Article 8 ECHR rights outside the Immigration Rules would entitle the appellant to a grant of immigration leave.”

[8] This decision marks the end of the applicant’s case against his deportation. Following from the decision deportation directions were actioned and they form the basis of this judicial review comprised as they are in the impugned decision of 1 May 2019. Specifically, the applicant now claims that the decision to remove him should be quashed because the travel documentation is incorrect. Therefore, the case before me comes down to the identification issues raised by the applicant.

The Evidence

[9] The first affidavit was filed on behalf of the applicant by Mr Moss and is dated 17 May 2019. The applicant has filed two affidavits of 21 August 2019 and of the 22 October 2019. In addition the applicant filed a substantial statement before the immigration tribunal which is dated 8 October 2018. I summarise the salient parts of the applicant’s evidence as follows.

[10] In the first affidavit filed by Mr Moss at paragraph 2 it states that the applicant is a Chinese national who identifies as Wen Li, date of birth 12 November 1998. Mr Moss then says that in accordance with the applicant's instructions and his evidence given to the Immigration Tribunal, the applicant left China in October 2014 when he was 16 years old, after suffering persecution there for his Roman Catholic Christian faith. He advises that he went on a journey which took him to Northern Ireland. He was encountered by Immigration Officers and claimed asylum as an unaccompanied minor.

[11] Mr Moss refers to the history given by the applicant to the tribunal which was contained in a statement of 8 October 2018 and which refers to the following: -

“3. I was born on 12 November 1998. I know this because my foster father's parents told me this. Whilst I had foster parents I actually spent my time living with my foster father's parents. I don't know why this was the situation, I wasn't involved in that arrangement. I don't know the names of my parents, I don't know where I was born. I was told by my foster parents that my biological parents are deceased but when I questioned my foster grandparents about how my biological parents died and they never gave me any details of how they died it left me thinking that maybe they are not deceased.

4. As far as I am aware I do not have siblings. I lived with my foster father's parents until I was about 11 years old. It was in a mountain village in the mountainous area of China, I don't know the name of my town I lived in and I was illiterate at this time, it was a very poor village, there were not even any cars in it, only bicycles. After these two elderly people died, my foster parents told me that they were going to take me on a tour bus for a trip and we travelled two nights together before the bus journey ended. When we got off the bus they told me they were going to get some water and I was to wait for them. They left me and they never came back. I never saw them again.

5. I was waiting for them in the square but they didn't come back. Many old people danced in this square and one of the shops beside it offered free food and water. I waited there for three days but when they still didn't come back the old people dancing in the square began to ask me where I was from and were concerned about me. I didn't tell them I was scared but also I didn't know the name of the place I had come from. They took

me to an orphanage where I stayed for 1-2 months, I wasn't happy there. They were beating me so I ran away and met other children who were selling things on the street and sleeping on the street which I began to do as well and soon I began helping them to sell things and share accommodation with these other children.

6. For approximately 4-5 years I lived in Shaozing City in Zhejiang Province. I was never officially registered in China and do not have a Hukou. Whilst living on the streets I fended for myself and by selling bits and pieces I began to live off the money I earned.

7. About 1 year after I was abandoned by my foster parents I was on the streets on the outskirts of Shaozing City when I met a man who was handing out leaflets. I told him that I had never been educated and therefore I could not read his leaflets. He told me that he would teach me to read. I was naturally suspicious of this and had my doubts because I didn't think people would simply spend their time teaching me to read but yet I was desperate to learn. He told me he was a church preacher and that his name was Father Guang. He told me where I could go to meet him and said I would be visiting the next day."

[12] In this statement for the tribunal the applicant also states that he left China in October 2014 and he gives a history of boat journeys resulting in a boat which arrived in Belfast docks. At paragraph 31 of that statement he states that he never owned a passport, he has never had Chinese identity documents to prove who he is. He says at paragraph 32 that;

" ..the person I had met in the other country when the boat stopped had given me £100, I don't know why he would give me this amount of money. Perhaps he felt sorry for me because I had told him my problems. I was trying to find a policeman as this person in the other country had advised me to do this. First I saw a bus, nobody asked for my ticket on the bus. I sat at the back of the bus and 2 hours later I arrived in Enniskillen."

The applicant also states that he got off the bus and went into a shopping mall and he was surprised to see there were a number of Asian people around. He says he wanted to ask for help but he didn't.

[13] At paragraph 33 of this statement he states that;

“ I then saw a friendly looking Asian man who I know to have been Mr Chen. I followed him, he did not know that I was following him. He went into what I now know to be a Chinese takeaway. There was a covered corridor between the two buildings where I slept for 5 days. No one knew I was there during this time. I managed to remain hidden because nobody walked past this corridor. I didn’t approach Mr Chen during this time because I didn’t know if he would help me but after 5 days the money the kind man had given me was running out and therefore I had no choice. I therefore approached him and asked if he wanted me to work for him. I told him I was 18 but he thought I was 15 or 16 years old and he said he couldn’t employ. I asked if I could stay for one night and that happened. Mr Chen said he would contact Social Services straight away and let them know I was there.”

[14] The applicant then explains that he was taken into care by Social Services and he has had the benefit of a guardian as a result of his reception into care.

[15] In his rejoinder affidavit of 21 August 2019 the applicant deals with the issue of his identity and the interview that occurred with the Chinese authorities. In this affidavit the applicant disputes the documentation upon which the removal directions are to be implemented. At paragraph 12 and 13 of this affidavit he also says that he wants to explain two further issues as follows:

“12. The first is that the date of birth that I have always used and that I believed to be my date of birth is 12 November 1997. Whilst the date of birth of 12 November 1998 has been given in statements placed before the tribunal and in my solicitor’s affidavit, I can advise that this date of birth (year 1998) was given at one stage during my case by mistake – a mistake was made by the Mandarin interpreter in interpreting the year of birth but I communicated to them in Mandarin. I recall this to be because I had told the interpreter that I was born on the Chinese zodiac year of the ox/cow 1997, but the interpreter mistakenly believed the Chinese zodiac year of the ox/cow was 1998 and therefore gave 1998 as the year of my birth. Unfortunately, this year of birth has been given multiple times in documentation throughout the life of my case. However 1997 has also been stated as the year of my birth, also on multiple occasions for the

avoidance of doubt, I wish to confirm that the year of my birth, as I understand it is 1997.

13. The other issue that I wish to explain is extremely important. In 2013, when I was still living in China, I sold my photograph and fingerprints because I had no money at the time. I do not know the people whom I sold this information to. They were standing outside a police station and told me that they could give me money if I provided them with a photograph and my fingerprints. I agreed. They took my photograph outside the police station and some civilian official outside the police station took my fingerprints. They gave me 1000 RMB (around £100) in exchange.”

[16] In this affidavit at paragraph 14 the applicant also states that the photograph on the Chinese entry permit travel document is not him. Furthermore he states that the date of birth now asserted to be his date of birth i.e. 1 November 1993 would make him 4 years older than he actually is and he would not have been an unaccompanied minor when he arrived in Northern Ireland. He therefore says in conclusion that he has significant concerns that the identity asserted by the Chinese authorities to belong to him does not in fact belong to him and he does not believe that the respondent can sincerely be satisfied that it does.

[17] In his third affidavit of 22 October 2019 the applicant also replies to an affidavit sworn by a solicitor for the respondent and continues to dispute the veracity of the information upon which the respondent relies in relation to the travel permit.

The Respondent’s Evidence

[18] The respondent has filed affidavit evidence by Ms Carolyn Seaman dated 24 July 2019. Ms Seaman is the Assistant Country Manager for Return Logistics Country Liaison and Documentation Team 5 and a Higher Executive Office within the Home Office. Ms Seaman confirms that she deals with the logistics of returning individuals who are no longer or have never been permitted to remain in the United Kingdom. She has been employed by the Home Office for 15 years and has held the current post for one year 9 months which she states has involved returns to China.

[19] At paragraph 9 of the affidavit Ms Seaman states that the Home Office had no direct involvement in the determination of the applicant’s identity and that she has provided the information based on her understanding of the relevant processes as follows. A request was made of the Chinese authorities for a travel document that would allow the return of the applicant to China. The applicant had no identity or travel documentation on him when he was detected and no such documentation was ever subsequently provided. Ms Seaman states that the UK is not able to provide

such a travel document for Chinese nationals. The document must always come from those individual's country of origin. However a system has been agreed between the Chinese Government and the UK Government for the Chinese authorities to interview individuals identified by the UK as suspected Chinese nationals, but they don't have any identity documents and require a travel document permitting entry into the UK. The programme is entitled Elucidate and under Elucidate Chinese officials interview individuals to verify if they are Chinese nationals and if so their identity. Each operation is given a number. The applicant was involved in Elucidate 29. The Chinese authorities conduct the interviews and in this case the interview took place on 26 April 2016 in Drumkeen House which is the Immigration Office in Belfast. This deponent states that the Home Office records dated 10 May 2016 indicate that the delegation informed the UK that they had positively verified the applicant and provided a report to the Home Office. They determined that the applicant is Jiawen Li, date of birth 1 November 1993.

[20] Ms Seaman then refers to two documents, one entitled National Interview Record and a document entitled Registration Form for Verification of Identity. She states that on 12 May 2016 a completed Emergency Travel Document Application was submitted electronically to the Chinese Embassy in London. A copy was also couriered to the said Embassy on 13 May 2016. This document was valid for one year and so expired on 18 May 2017 however a copy of a re-validated travel documentation was provided dated 26 March 2019 which expires on 26 March 2020. This is exhibited to the affidavit.

[21] A further affidavit by Aoife MacManus, solicitor in the Crown Solicitors Office dated 4 October 2019 has been furnished. In that Ms McManus exhibits the following documents and provides the following explanations -

- (a) A visit to the United Kingdom by Chinese Ministry of public security to assist operations of Elucidate 29, Saturday 26 March to Saturday 7 May 2016.
- (b) A Memorandum of Understanding document relating to an annual conference that now takes place between the Chinese authorities and UK authorities.
- (c) A photocopy of a passport referred in the first exhibit in the affidavit. It is a copy of part of the Chinese passport issued by the authorities there in the name of Jiawen Li on 19 February 2013 in the Fujian Province of China. The pertaining passport number is referred to in the NBS document provided to the Home Office following their interview of the applicant. The photocopy was emailed to the Home Office by colleagues and Immigration Services in Beijing, who stated that in their belief the photograph bore a very close resemblance to that taken in the UK. The Home Office have been informed that it is a biometric passport, meaning that the photograph and fingerprints are collected at the point of application, which is normally a police station. A

second passport number is referred to in that same NPS document, that the Beijing officials informed the Home Office that they do not have a copy.

Arguments of the Parties

[22] Ms McIlveen on behalf of the applicant contended in her careful submissions that the documents served upon the applicant do not relate to him because:-

- (i) He has only ever been Wen Li, his correct date of birth is 12 November 1997, the family member details are incorrect and the photograph on the Chinese Travel Document is not a photograph of him.
- (ii) Ms McIlveen therefore argued that if the respondent is going to remove the applicant from the United Kingdom it has a responsibility to ensure that the appropriate travel documentation has been secured and is accurate.
- (iii) It was pointed out that despite the fact that the respondent maintains that the Chinese authorities are responsible for the provision of travel documentation, the respondent facilitated an interview between the applicant and the Chinese Ministry. Ms McIlveen therefore submitted that the respondent maintains some responsibility.
- (iv) Ms McIlveen also raised a number of matters which she said were significant namely that when the applicant first arrived in Northern Ireland he was an unaccompanied minor, Social Services have been involved with the applicant since he was encountered in Northern Ireland. Also, the applicant still receives services and support from Social Services as part of the leaving care system, the applicant has no family in China and the applicant is now settled and well integrated into life in Northern Ireland.
- (v) Ms McIlveen contended that there was clear procedural unfairness in this case as no effort was made to consult with the applicant before the impugned decision was made.
- (vi) Ms McIlveen also argued that the decision impugns the human rights of the applicant pursuant to Article 8 of the European Convention on Human Rights ("ECHR").

[23] Mr Henry in a focused argument made in writing and orally also made the following points:-

- (i) There is no procedural unfairness in this case as the applicant was in fact interviewed about his immigration status as part of Operation Elucidate.
- (ii) The decision to remove him has been determined and has been pursued through the Immigration Tribunal. There is no application made to take that

matter any further although arguably further submissions could be made.

- (iii) This is not a decision in relation to the United Kingdom. The impugned decision of 1 May 2019 is a removal decision which is actually not under challenge. The decision here seems to be in relation to checking of travel documentation.
- (iv) That is not a decision of the United Kingdom Government. It is the responsibility of the Chinese State to arrange travel documentations. As such Article 8 is not engaged. Even if it were engaged there is ample justification for taking the course suggested.
- (v) Mr Henry also argued that in this case there had been a gross violation of the duty of candour in that in the pre-action correspondence in the first affidavit there is no mention of the interview at Drumkeen. Also the affidavit evidence is riddled with inconsistencies.

Conclusion

[24] The first point to note is that this case is not about the applicant's appeal against deportation itself although that is the substance of the decision of 1 May 2019. The substantive case has been adjudicated on by various immigration judges culminating in the decision of Judge Buckwell. I recognise that the applicant was found to be genuine in relation to his Christian faith and his fear of persecution. However the Upper Tribunal Country Guidance Decision in *QH (Christians - risk) China CG [2014] UKUT86 IAC* does not support the proposition that there would be persecution upon a return to China on the basis of Christian faith. The applicant also appears to be an individual who has settled into the community in Northern Ireland. I note the comments of Judge Buckwell which appear to be positive and sympathetic towards the applicant. Ms McIlveen and her solicitor have also argued every possible point for him. However, cases such as this must be determined as Judge Buckwell said himself on the law otherwise the system of immigration control would be compromised.

[25] In truth this case is about an alleged failing on the part of the authorities to provide the correct documents which would lead to the applicant's passage to China, the Deportation Order having been made. In effect the applicant claims a case of mistaken identity. The respondent invites me to dismiss the case on the basis of the applicant's failure to comply with the duty of candour. I will deal with this at the outset as follows. I consider that there is some strength in this argument given the points raised by Mr Henry. It is very surprising to note that the applicant did not mention the interview with the Chinese authorities at Drumkeen House in his pre-action correspondence or his affidavit and frankly I find paragraph 13 of the second affidavit to be contrived and incredible. There are also serious inconsistencies in the evidence provided by the applicant not least on the issue of his date of birth. I cannot ignore the fact that throughout the tribunal proceedings he gave a different

date of birth to that he now says is correct. By way of explanation Ms McIlveen points to the applicant's vulnerabilities. Having considered all of the submissions on this issue, there are obvious failings in terms of candour which raise concerns in relation to credibility. However, this assessment does not lead to an automatic dismissal of the case, but it forms part of the overall picture.

[26] In any event, the applicant has simply failed to identify any unlawfulness on the part of the respondent for the following reasons. The decision having been made to deport a Chinese national, the obligation of obtaining travel documents is clearly upon the Chinese authorities. That is undertaken through a system of intra-country co-operation comprised in the Elucidate process. That is a perfectly proper way of undertaking this business. It is quite clear that this applicant was interviewed prior to the travel documentation being prepared.

[27] There are some factual disputes about name, date of birth, family details and photograph in the travel document that has been prepared. The judicial review court is not best placed to resolve such disputes. As I have said the applicant gave a different date of birth throughout the tribunal proceedings to the one that he now asserts and it also seems to me that the second affidavit filed by the respondent of Ms MacManus provides some cogent evidence in the form of a Chinese passport with the date of birth of 1 November 1993 which is the date of birth on the travel entry permit.

[28] An individual cannot be removed without travel documents and as Mr Henry states in argument it is not unusual for those with no permission to remain to have no travel documents. The United Kingdom cannot provide these as the United Kingdom has entered into agreements with others and in this case China. As such I cannot see that there is a valid impugned decision attributable to the UK authorities and therefore I cannot see that any unlawfulness is established against the respondent in this case. In a case where a person of identified nationality (Chinese) has no travel documentation it is perfectly lawful, reasonable and rational in my view for the UK to delegate the compilation of travel documentation to the receiving country, in this case China.

[29] The procedural fairness argument is entirely without merit in my view given that the applicant was subjected to a proper interviewing process, he was able to provide evidence of his identity and that was subject to verification. This is a difficult process given inconsistencies in the applicant's account and so it seems to me that the Chinese authorities were best placed to undertake the verification process.

[30] In my view there is also no merit in any Article 8 claim. I do not see that Article 8 is engaged in a case which is essentially about the verification exercise undertaken by the Chinese authorities in the provision of travel documentation.

Conclusion

[31] In my view the applicant has not established a viable case against the respondent under any of the headings raised in the Order 53 Statement. Accordingly, the application must be dismissed.