



**UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER**

THE IMMIGRATION ACTS

Heard at: Birmingham

Determination sent

On: 21 July 2014

On: 25 July 2014

Before

Upper Tribunal Judge Pitt

Between

Secretary of State for the Home Department

Appellant

and

**TVN
(ANONYMITY ORDER MADE)**

Respondent

Representation:

For the Appellant: Mr Mills, Senior Home Office Presenting Officer

For the Respondent: Ms Chandran, instructed by Hammersmith and Fulham
Community Law Project

DETERMINATION AND REASONS

1. For the purposes of this determination I refer to the Secretary of State as the respondent and to TVN as the claimant, reflecting their positions before the First-tier Tribunal.

2. The claimant is a national of Vietnam and was born in 1997. At the date of the hearing before me he was 17 years old.
3. This is an appeal by the respondent against the determination dated 20 March 2014 of First-tier Tribunal Judge Beach which allowed the claimant's asylum and Article 3 ECHR appeal against the respondent's decision of 3 June 2013.
4. Judge Beach found the claimant's account was credible and that he was a young male trafficked to the UK with no family support in Vietnam and has been diagnosed with a mental health disorder, specifically a Dissociative Disorder that impairs his functioning. She found him to be a member of a particular social group, as the serious harm he would face on return arose from his profile as a previously trafficked child with no family in Vietnam. The appeal was therefore allowed an asylum and Article 3 ECHR grounds.
5. The respondent brought a narrow challenge. Paragraph 25 of the reasons for refusal letter contained an extract from the COIS report dated 20 April 2012 which stated that there were some shelters in Vietnam for former victims of trafficking. Judge Beach had not considered that evidence and therefore whether there would be sufficiency of protection and an internal flight option for the claimant.
6. It did not appear to me that such a challenge had any merit. The most recent country material before Judge Beach, the US Department of State "Trafficking in Person Report 2013: Vietnam" dated 18 June 2013 (TIP 2013), indicated that:

"The government continued to pursue prosecutions primarily in transnational sex trafficking cases, and overall law enforcement efforts were inadequate to address all forms of human trafficking in Vietnam."

and:

"The government did not develop or employ systemic nationwide procedures to proactively and effectively identify victims of trafficking among vulnerable populations, such as women arrested for prostitution and effectively identify victims of trafficking among vulnerable populations... "

and:

"The government did not provide adequate legal protection from forced labor or assistance to victims in Vietnam or abroad."

and:

“There are no shelters or services specifically dedicated to assisting male victims, child victims or victims of labor trafficking, although existing shelters reportedly provided services to some male and child victims. NGOs report some victims opt not to stay at a victim support facility or receive social services due to a fear of social stigma from identifying as a trafficking victim.”

7. The country expert report commented on page 27 that:

“... the procedure and mechanism for receipt and reintegration of victims still lacks specific and concrete guidelines and suffers from financial limitations, the weakness of concerned authorities, poor facilities etc. “

8. Judge Beach referred at [28] to the first two extracts set out above from the TIP 2013 and to others at [26] – [27] and [29]. I accept that she was referred to the extracts set out above in terms by Ms Chandran at the hearing as part of the submissions summarised at [14] – [17]. It appears to me that Judge Beach can be assumed to have had them in mind when reaching her conclusion at [40] that there was “a very real possibility” that the claimant would be re-trafficked and they are a comprehensive answer to the evidence relied on by the respondent at paragraph 25 of the refusal letter. It is therefore possible to accept that Judge Beach dealt with the matter correctly on the material that was before her, albeit this is indicated in a very limited manner in the determination.

9. If I am wrong on that and there can be said to be an error in failing to deal with the point made at paragraph 25 of the refusal letter, it did not appear to me to be one which could have been material to the outcome of this particular appeal. There was strong, more recent country evidence before the First-tier Tribunal on the very limited protection available to this claimant on return that, to my mind, was more cogent, more recent and attracted more weight than that in paragraph 25 of the refusal letter. Ms Chandran also pointed out that the information at paragraph 25 of the refusal letter related to victims of sex trafficking and not trafficked, male children such as this claimant. There is the further factor of his mental disorder which restricts his ability to function normally and that is an additional factor preventing him from being able to access even the very limited resources that might be available to him. In short, it was not a material matter that could have led to a different outcome.


10. For these reasons, I did not find that the decision of the First-tier Tribunal disclosed an error on a point of law.
11. Having announced my decision, Mr Mills offered the claimant the courtesy of confirming that the respondent will not be seeking to challenge my decision.

DECISION

12. The decision of the First-tier Tribunal does not contain an error on a point of law and shall stand.

Anonymity

I make an anonymity order under Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, precluding publication of any information regarding the proceedings which would be likely to lead members of the public to identify the claimant, a minor with a mental disorder.

Signed: 
Upper Tribunal Judge Pitt

Date: 21 July 2014