



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/07057/2019

THE IMMIGRATION ACTS

Heard at Field House  
On 3 December 2020

Decision & Reasons Promulgated  
On 22 December 2020

Before

UPPER TRIBUNAL JUDGE GLEESON

Between

T N (VIETNAM)  
(ANONYMITY ORDER MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr T D Ruddy, Solicitor, Jain, Neil & Ruddy Solicitors (Sandyford)  
For the Respondent: Mrs H Aboni, a Senior Home Office Presenting Officer

DECISION AND REASONS

Anonymity order

*Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/269) The Tribunal has ORDERED that no one shall publish or reveal the name or address of T N who is the subject of these proceedings or publish or reveal any information which would be likely to lead to the identification of him or of any member of his family in connection with these proceedings.*

*Any failure to comply with this direction could give rise to contempt of court proceedings.*

1. The appellant appeals with permission against the decision of First-tier Judge Cowx on 1 October 2019, dismissing her appeal against the respondent's decision to refuse her refugee status under the 1951 Convention, humanitarian protection, or leave to remain in the United Kingdom on human rights grounds. The appellant is a citizen of Vietnam and a former victim of trafficking who benefits from a Conclusive Grounds decision in her favour.
2. On 19 June 2020 Upper Tribunal Judge Owens set aside the decision of the First-tier Tribunal for remaking in the Upper Tribunal and that is the basis on which that appeal comes before me today following a transfer order made on 23 November 2020 by Upper Tribunal Judge Kopieczek.
3. The facts are fairly straightforward. The appellant was born in Vietnam on 1 October 1999 and is now 21 years old. Her mother borrowed large amounts from loan sharks in Vietnam to pay for gambling debts and eventually owed over £100,000. In December 2017 when the appellant was just 18 years old loan sharks came to the family home demanding money with threats. They came back a week later and the appellant and her mother signed a document requiring the appellant to work for the loan sharks in Russia for six years to clear off the debt. On 20 December 2017 the appellant's mother committed suicide. She has no family support in Vietnam at all in consequence.
4. In early January 2018 the loan sharks collected their debt and the appellant was trafficked to Russia where she was held in a warehouse and repeatedly raped by multiple men until August 2018 when she was trafficked on to the United Kingdom to work on a cannabis farm. On 6 September 2018 the appellant escaped and went to Glasgow where she went to the police and reported her circumstances. Understandably she fears re-trafficking by the loan sharks.
5. The respondent, as the Competent Authority, has accepted to the higher standard of balance of probabilities that the appellant's account is true and she was trafficked as she says. There is therefore no doubt at all that the appellant has established, to the lower standard applicable in international protection claims, that she is a victim of trafficking and is at risk in her home area.
6. That means that she is a person who comes within Rule 339K of the Immigration Rules, which is as follows:

"The fact that a person has already been subject to persecution or serious harm or to direct threats of such persecution or such harm will be regarded as a serious indication of the person's well-founded fear of persecution or real risk of suffering serious harm unless there are good reasons to consider that such persecution or serious harm will not be repeated."

The respondent accepts that in the appellant's home area there are no such good reasons.

7. The respondent relies on internal relocation within Vietnam. I have been taken to the respondent's CPIN, in particular sections 6, 7 and 11 thereof. At section 6 there is evidence of the efforts which are being made by the Vietnamese authorities to combat trafficking. However, those efforts are not necessarily fully successful yet and in particular victim certificates are not generally available to those who left Vietnam "willingly".
8. At 6.4.6 the 2019 Australian DFAT Report noted some difficulties with the judiciary and that bribes and irregular payments to facilitate favourable judicial decisions were perceived to be common with around a quarter of Vietnamese citizens believing that most or all judges were corrupt.
9. The U.S. State Department in 2019 is reported as continuing to have concerns about enforcement and there is citation from an article by Hagar and a conversation between Hagar and the Fact-Finding Mission in February 2019 about the difficulties of reporting incidents to the authorities. There are some shelters available and some NGO support. At section 8 the report deals with the risk of re-trafficking. At 8.1.2 it says this:

"The 2019 report Precarious Journeys noted,

'if victims have spoken to the police and/or still owe a debt to their traffickers they are likely to be at risk of re-trafficking or reprisals from their traffickers and/or the Vietnamese authorities. There is limited support available in Vietnam for returned victims, leaving them at risk of being re-trafficked or even becoming a trafficker themselves.' ...

8.1.4 Several sources refer to Mimi Vu, an anti-trafficking advocate based in Vietnam, who has stated that outstanding debt and other factors which led to victims being trafficked initially still remain when victims are returned to Vietnam. As those factors still exist victims remain at risk of being re-trafficked."

10. Paragraph 9 deals with the social stigma of trafficking victims in Vietnam, which is still a communist country. Victims often do not want to be identified due to social stigma. The 2019 DFAT Report is quoted again at 9.1.4:

"Returnees, including [...] trafficking victims, typically face a range of difficulties upon return. These include unemployment or underemployment and challenges accessing social services, particularly in cases where household registration has ceased. In addition, trafficking victims face social stigma and discrimination and may experience difficulty in accessing appropriate trauma counselling services outside of large cities. Many returnees have high levels of debt from funding their travel out of Vietnam. Sources in Vietnam have reported cases of moneylenders taking borrowers' houses or land as repayment or borrowers having to flee loan sharks when they are unable to repay their loan."

11. There is a separate CPIN on Vietnam, Fear of Illegal Moneylenders, to which my attention has not been drawn during these proceedings. Paragraph 10 sets out the position of women in general and paragraph 11 deals with freedom of movement.

At paragraph 11.2 the respondent relies somewhat optimistically on the continuing promise to scrap the Ho Khau and manage Vietnamese citizens through identification numbers on a new online national database.

12. Mrs Aboni was not able to say to me today that as at 3 December 2020 that database, due to be introduced in 2020, is a reality. Hagar and an academic source are recorded as having told the Fact-Finding Mission (11.2.2) that Ho Khau registration is not a barrier to moving around the country and does not prevent free movement but the DFAT Report quoted at 11.2.3 is less optimistic, setting out difficulties in accessing healthcare facilities and other Social Services and states that:

“Household registration requires citizens to register their permanent residence in only one district in Vietnam. To gain permanent residence status in a new district, citizens must either marry into a family already holding permanent residence, purchase land or live in rental housing with an official lease and a minimum amount of liveable space.”

13. It is not certain that the appellant would have to return to her home area where it is agreed that she is at risk but what is clear is that she may have some difficulty in re-registering in an area of internal relocation. She is a lone woman who has been trafficked and suffered significant abuse who has mental health problems in consequence.
14. I have also been taken to the report of Dr Tran which deals at part 2 with the insufficiency of the government efforts to combat trafficking and protect victims. It is not necessary to quote at length from that report. For all of the above reasons and for this particular appellant I cannot be satisfied even to the lower standard applicable in international protection proceedings that this victim of trafficking will be able to successfully internally relocate to another part of Vietnam and rebuild her life there, given that she has no family support and she has mental health problems. The appellant’s appeal is allowed.

### Conclusions

The making of the decision of the First-tier Tribunal did involve the making of an error on a point of law.

I set aside the decision.

I re-make the decision in the appeal by allowing the appeal.

Signed *Judith AJC Gleeson*  
Upper Tribunal Judge Gleeson

Date: 8 December 2020