



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

Appeal Number: PA/06804/2019

THE IMMIGRATION ACTS

**At Field House
Heard on 5th November 2021**

**Decision & Reasons Promulgated
On 18th November 2021**

Before

UPPER TRIBUNAL JUDGE BRUCE

Between

Secretary of State for the Home Department

Appellant

and

LVC

(anonymity direction made)

Respondent

**For the Appellant: Mr Whitwell, Senior Home Office Presenting Officer
For the Respondent: Ms E. Fitzsimons of Counsel, instructed by
Wilsons LLP**

DECISION AND REASONS

1. The Respondent is a national of Vietnam born in 1977. On the 16th August 2021 the First-tier Tribunal (Judge Goodrich) allowed his appeal on protection grounds. The Secretary of State was granted permission to appeal against that decision on the 13th September 2021.
2. The relevant history of this matter, in very brief summary, is as follows. The Respondent is a man who has been convicted of

conspiracy to supply cannabis; he was sentenced to 14 months imprisonment at Woolwich Crown Court on the 19th December 2019. As a result of that conviction, the Secretary of State decided to deport him. The Respondent appealed on protection and human rights grounds, asserting *inter alia* that he is a victim of trafficking, a claim which the Competent Authority has, post-conviction, accepted.

3. Before the First-tier Tribunal the Respondent submitted that there was:

- a) A real risk that he would be re-trafficked if returned to Vietnam, and that this risk would pertain throughout the country;
- b) That would amount to persecution for reasons of his membership of a particular social group;
- c) He would not receive sufficient protection from the Vietnamese government.

4. Before Judge Goodrich the Secretary of State agreed with the proposition at (b) but contested the rest of the claim. Judge Goodrich found particular reasons as to why the risk at (a) was made out, and in respect of (c) concluded this:

“The background evidence in the CPIN suggests that there is a very strong likelihood that the state would view the Appellant as an economic migrant rather than as a genuine VOT in which case he would not receive state assistance at all”.

5. All three matters having been resolved in the Respondent’s favour, the appeal was allowed.

6. In her written grounds, settled by an Officer other than Mr Whitwell, the Secretary of State submitted that the First-tier Tribunal erred in the following respects:

- i) In respect of its finding that there is not a sufficiency of protection available to the Respondent the Tribunal has failed to explain why it preferred the reasoning of the expert witness Dr Tran Thi Lan Anh to the conclusions set out in the CPIN and in the Tribunal decision of Nguyen (anti-trafficking convention: respondent’s duties) [2015] UKUT 170 (IAC). The grounds submit that both CPIN and Nguyen indicate that there is in general a sufficiency of protection in Vietnam;

- ii) The Tribunal has failed to identify why the Respondent would be unable to relocate within Vietnam to avoid the risk of trafficking identified.
7. Before me Mr Whitwell withdraw reliance on both grounds. He was quite right to do so.
8. I address the internal flight question first. I do so because it is most obviously without merit. This is not a case where the First-tier has accepted that a particular risk is posed by a particular agent of persecution in a particular place: in fact that proposition was expressly rejected at paragraph 45 of the decision. Rather it was the finding of the Tribunal that the Respondent faced a real risk of trafficking *wherever* he lived in Vietnam. That was because the cumulative impact of his personal characteristics rendered him especially vulnerable. He had fled his home area because he had been viciously beaten by a gang acting for the aggrieved party in a road traffic accident in which the Respondent was involved; the Respondent would therefore be living in another place, without the support of his family and without any contacts. He has been trafficked before, over a number of years, and is now in poor mental health: the expert assessment of that is that he is a “highly vulnerable individual”. He is uneducated and has poor employment prospects; he was genuinely afraid of approaching the authorities in Vietnam for help, not least because he does not have the money required to pay the requisite bribe. None of those findings were challenged. That being the case there was no question of there being a ‘reasonable’ internal flight alternative, because the risk pertained throughout the country.
9. The issue of sufficiency of protection was less straightforward, since there is certainly evidence set out in the CPIN which points the other way to the road taken by the Tribunal, but Mr Whitwell was nevertheless correct to make the concession that he has. That is because it is apparent from the decision overall that the evidence in the CPIN was expressly considered by the First-tier Tribunal – it is set out in its entirety – as was the decision in Nguyen. The point here was that *this* Respondent’s circumstances were such that there was a reasonable likelihood that he would not receive sufficient protection. At its highest the evidence relied upon in the grounds was that there is in *general* a sufficiency of protection in Vietnam, so this was evidently a finding that the Tribunal was entitled to make. Indeed I would observe that were it otherwise, all Vietnamese claims including this one would be certified as clearly unfounded. For those reasons I find that Mr Whitwell was right to accept that properly understood, the grounds amount to nothing more than a disagreement with the decision of the Tribunal.

Anonymity Order

10. The Respondent is a victim of trafficking. I am therefore bound to make an order for anonymity in the following terms:

“Unless and until a tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of his family. This direction applies to, amongst others, both the Appellant and the Respondent. Failure to comply with this direction could lead to contempt of court proceedings”

Decision and Directions

11. The decision of the First-tier Tribunal is upheld and the Secretary of State’s appeal is dismissed.
12. There is an order for anonymity.

Upper Tribunal Judge Bruce
5th November 2021