



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

Appeal Number: PA/05060/2019

THE IMMIGRATION ACTS

**Heard Remotely by Skype for Business
On 24th November 2020**

**Decision & Reasons
Promulgated
On 9th February 2021**

Before

UPPER TRIBUNAL JUDGE MANDALIA

Between

**HC
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr J Frost, instructed by Paragon Law

For the Respondent: Mrs H Aboni, Senior Home Office Presenting Officer

DECISION AND REASONS

ANONYMITY

An anonymity direction was made by the First-tier Tribunal (“FtT”), and as this a protection claim, it is appropriate that a direction is made. Unless and until a Tribunal or Court directs otherwise, HC is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of his family. This direction applies amongst others to all parties. Failure to comply with this direction could lead to contempt of court proceedings.

Remote Hearing

1. The hearing before me on 24th November 2020 took the form of a remote hearing using skype for business. Neither party objected. I was satisfied that it was in the interests of justice and in accordance with the overriding objective to proceed with a remote hearing because of the need to take precautions against the spread of Covid-19, and to avoid delay. The appellant attended the hearing remotely and was initially assisted by an interpreter arranged by the Tribunal. Both the appellant and the interpreter confirmed to me that they understood each other and were able to communicate without any difficulty. However, the interpreter arranged by the Tribunal was released when it became apparent that the appellant would not be giving evidence. The appellant continued to be assisted by an interpreter that had been arranged by his representatives who continued to translate what was being said during the course of the hearing, to the appellant. The appellant was also accompanied throughout the hearing by Mr Raj Chahal, a Leaving Care Worker employed by Derbyshire County Council.
2. I sat at the Birmingham Civil Justice Centre. I was addressed by the representatives in exactly the same way as I would have been if the parties had attended the hearing together. I was satisfied: that this constituted a hearing in open court; that the open justice principle has been secured; that no party has been prejudiced; and that, insofar as there has been any restriction on a right or interest, it is justified as necessary and proportionate. I was satisfied that a remote hearing would ensure the matter is dealt with fairly and justly in a way that is proportionate to the importance of the case, the complexity of the issues that arise, and the anticipated costs and resources of the parties. At the end of the hearing I was satisfied that both parties had been able to participate fully in the proceedings.

Background

3. The appellant is a national of Vietnam. He was born on 11th November 1999. He claims to have left Vietnam by car on 4th August 2016. He claims to have travelled to China from where he was able to take a direct flight to Qatar and from there, to Serbia. He remained in Serbia for a period of about three weeks, following which he travelled through a number of European countries before arriving in the UK on 4th September 2016. He was encountered in the UK on 4th January 2017 and a referral was made to the 'National Referral Mechanism' ("NRM") on 23rd January 2017 because the appellant was considered to be a potential victim of human trafficking. A positive 'conclusive grounds' decision was reached by the Competent Authority on 1st March 2019.
4. Thereafter, the respondent considered the appellant's claim for asylum and humanitarian protection and refused that claim for reasons set out in a decision dated 16th May 2019. The respondent accepted the appellant is a national of Vietnam and accepted that the appellant had been a

victim of trafficking during the period of time that he was in Serbia. The respondent noted the appellant had provided a broadly consistent and detailed account of the events that led to his departure from Vietnam. The respondent accepted the appellant had come to the adverse attention of non-state actors. The respondent went on to consider the appellant's claim that he will be at risk upon return to Vietnam from the same gang members that previously targeted him. The respondent concluded the appellant's subjective fear is not objectively well-founded. The respondent concluded the appellant would not be at risk of being a victim of trafficking in Vietnam and there is a sufficiency of protection available to the appellant. Alternatively, the respondent concluded the appellant can internally relocate.

5. The appellant's appeal against that decision was dismissed by First-tier Tribunal Judge Obhi for reasons set out in a decision promulgated on 20th August 2019. The appellant was granted permission to appeal by Upper Tribunal Judge Grubb on 9th October 2019.
6. The decision of First-tier Tribunal Judge Obhi was set aside for reasons set out in a decision of Deputy Upper Tribunal Judge King TD promulgated on 19th February 2020. A copy of his error of law decision is attached to this decision. Deputy Upper Tribunal Judge King TD noted that there is no significant challenge to the credibility of the appellant and the focus at the resumed hearing is likely to be upon the risk upon return taking into account the country guidance decisions and the expert evidence. He concluded that the decision can be remade in the Upper Tribunal.

The appeal before me

7. The appellant has appealed under s82(1) of the Nationality, Immigration and Asylum Act 2002 against the decision of the respondent to refuse his claim for asylum and humanitarian protection. The appellant claims to be a refugee whose removal from the UK would breach the United Kingdom's obligations under the 1951 Refugee Convention and Directive 2004/83/EC of 29th April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees (the Qualification Directive).
8. On behalf of the appellant, Mr Frost reminds the Tribunal that the appellant is a recognised victim of trafficking and the Tribunal was invited to treat the appellant as a vulnerable witness. Mrs Aboni did not object. In considering the appellant's evidence I have had regard to the Joint Presidential Guidance Note No.2 of 2010: Child, Vulnerable Adult and Sensitive Appellant Guidance, and my assessment of the appellant's evidence has been considered in the round, taking due account of the medical evidence that is before the Tribunal. Throughout the hearing I was conscious to ensure the appellant was able to participate without undue distress or difficulty. At the end of the hearing, I was entirely

satisfied that all reasonable adjustments had been made to accommodate the appellant's vulnerability.

9. The appellant did not give evidence although he was present throughout. Mr Frost confirmed that he was happy to call the appellant to adopt his witness statements if needed. On behalf of the respondent, Mrs Aboni confirmed the respondent accepts the appellant has provided a broadly consistent and detailed accounts of the incidents he experienced whilst in Vietnam. She confirmed the credibility of the appellant is not in issue and the risk upon return can be determined on the submissions made by the parties and a consideration of the background material. I heard submissions from both Mr Frost and Mrs Aboni. I reserved my decision and informed the appellant that I will give my decision in writing, with reasons, and that I now do.
10. In reaching my decision I have had regard to the documents provided in the respondent's bundle and the consolidated bundle prepared by the appellant's solicitors in accordance with directions issued by Upper Tribunal Judge Hanson. In reaching my decision I have considered all the evidence that is before the Tribunal, whether it is expressly referred to in this decision or not. In particular, I have considered the evidence of the appellant that is set out in the 'Comments on the Home Office Refusal', the appellant's witness statement dated 29th January 2019 and his witness statement dated 18th May 2017 that are to be found pages [A/1] to [A/26] of the appellant's bundle. I have also carefully read the medico legal report of Dr Silvana Unigwe dated 26th October 2017, and the expert report of Christine Beddoe that is relied upon by the appellant, together with the background material set out in section B of the appellant's bundle. I have also considered the written submissions made by Mr Frost on behalf of the appellant in the skeleton argument settled by him and dated 16th November 2020.

The appellant's claim

11. The appellant was born on 11 November 1999 and lived in Hai Duong. His mother moved abroad when the appellant was about three years old and he was raised by his maternal grandmother. As the respondent does not challenge the credibility of the appellant and accepts the appellant has provided a broadly consistent and detailed accounts of the incidents he experienced in Vietnam, I adopt the short summary set out in paragraph [8] of the 'error of law' decision of Deputy Upper Tribunal Judge King:

"There was an incident at his school when he was 15 years old in 2015 which caused one of the pupils to be injured. It was the account of the appellant that thereafter groups of men were motivated to attack him in March 2015, June 2015, September 2015, March 2016 and May 2016. On the last incident an attack upon the house where he lived with his grandmother caused the death of his grandmother. It was his account that a man contacted him in

Vietnam and arranged for his journey to China, to Qatar and to Serbia where he was put to work.”

The incident that occurred at the school and each of the attacks that the appellant was subjected to, is described in some detail in paragraphs [15] to [43] of the appellant’s witness statement dated 18th May 2017. In paragraphs [44] to [53] of that witness statement, the appellant sets out details of his journey from Vietnam to the UK. It serves no purpose to repeat that evidence, which is not challenged, in this decision.

12. The appellant arrived in the UK on 4th September 2016 and he was arrested by police on 4th January 2017 working in a nail bar. A referral was made to the National Referral Mechanism and the appellant made a claim for international protection. In a decision dated 27th January 2017, the Competent Authority concluded that there are reasonable grounds to believe that the appellant has been a victim of modern slavery (human trafficking). In a subsequent decision dated 1st March 2019, the appellant was informed that following further investigations, the Competent Authority had concluded the appellant is a victim of human trafficking, in relation to forced labour in Serbia.

The respondent’s decision

13. The respondent addressed the appellant’s claim for international protection in a decision dated 16th May 2019. The respondent noted the appellant was 17 years and three months old at the time he made his claim for asylum. The claim made by the appellant and his responses during interview, were therefore considered in light of his age and level of developmental maturity.
14. The respondent noted the claim advanced by the appellant that he fears persecution by the same gang members who had targeted him previously and his claim to be a member of a particular social group as the victim of trafficking. The respondent concluded that victims of trafficking in Vietnam do not form a particular social group within the meaning of the Refugee Convention.
15. The respondent accepted the appellant is a national of Vietnam and referred extensively in the decision, to the various attacks the appellant had been subjected to in Vietnam. The respondent also considered the medical report of Dr. Silvana Unigwe that was relied upon. The respondent accepted the appellant had come to the adverse attention of non-state actors. The respondent accepted the appellant has demonstrated a genuine subjective fear of return to Vietnam but was not satisfied the appellant would be at risk upon return to Vietnam from the same gang members that he had previously encountered problems with, and concluded the appellant’s subjective fear, is not objectively well-founded.
16. The respondent considered whether the appellant would be at risk upon return to Vietnam as a victim of trafficking but concluded the appellant

would not be at risk, and there is in any event, a sufficient protection available to the appellant in Vietnam. Alternatively, the respondent concluded the appellant can relocate to another area such as Thanh Pho Ho Chi Minh, which has an estimated population of 6,642,000 and is approximately 1501km away from Hai Duong or to Da Nang, an area that is 783km away from Hai Duong.

17. At the outset of the hearing before me, Mrs Aboni accepted, as set out in paragraph 2.3.1 of the respondent's CPIN 'Vietnam - Victims of trafficking' version 4.0 published in April 2020, that victims of trafficking from Vietnam form a particular social group within the meaning of the 1951 Refugee Convention.

The report of Christine Beddoe

18. Christine Beddoe was instructed to comment specifically on whether the appellant would be at risk of re-trafficking in Vietnam, regardless that his previous ordeal of trafficking took place not in Vietnam, but in Serbia. She was also asked to provide an updated opinion as to the availability of sufficient protection and internal relocation in Vietnam. In her report Christine Beddoe sets out her experience in relation to human trafficking and modern slavery, and more particularly her experience working in Vietnam and her keeping up to date with current issues in Vietnam.
19. Christine Beddoe refers to the downgrading of Vietnam in June 2019 to 'Tier 2 Watch List' status, by the US State Department and the maintenance of that status in its Trafficking in Persons report published in June 2020. The downgrading was due to decreased efforts in the protection of victims and prosecution of traffickers since an earlier report in 2018. She notes the USSD points out the difficulties in obtaining a formal trafficking identification and referral to services in Vietnam, which directly impact on victims of trafficking returning from abroad without family support. She also refers to the decision of the Upper Tribunal in Nguyen (Anti-Trafficking Convention: Respondents Duties) [2015] UKUT 170 that is referred to by the respondent but notes the situation for young adult males who have no family to support them economically or socially, and who were trafficked for criminal exploitation, is markedly different to the risks faced by an adult female victim of trafficking.
20. Christine Beddoe refers to the positive conclusive ground decision made by the Competent Authority, but states that does not provide an automatic gateway for trafficking support in Vietnam. She states that in order to obtain state-based support in Vietnam, trafficking victims must have an official victim certificate issued by the State after an investigation. In her opinion, the appellant will not be eligible for a victim certificate and therefore will be unable to rely on the state for protection as a victim of trafficking if he is forced to return to Vietnam. She refers to the evidence of the appellant's social worker and the medical expert who agree the appellant's mental health will deteriorate when he confronts his past, and in her opinion, the appellant is extremely

vulnerable to re-trafficking either by persons known or unknown. She notes the care that has been provided by the local authority here in the UK, and she expresses the opinion that any ability to navigate daily life in the UK is because the appellant has support from safeguarding professionals, but he will not have access to this type of support in Vietnam. She believes the appellant will face a cliff edge without the likelihood of mental health counselling if forcibly returned. She does not believe internal relocation provides the required protection, and notes there are no specific shelters in Vietnam for male victims of trafficking. In her experience, vulnerable young victims like the appellant do not have the resilience to navigate a pathway to safety on their own.

21. In her report, Ms Beddoe refers extensively to the appellant's witness statement dated 18th May 2017 in which he sets out at some length the events leading to the appellant's departure from Vietnam and his journey to the UK. She addresses the appellant's journey from Serbia to the UK and the events between the appellant's arrival in the UK and his being found by the police in 2017. She expresses an opinion at paragraph [41] that there is probably more that the appellant will disclose over time about his journey when he feels it is safe to do so. She concludes, at paragraph [44] of her report, that whether the appellant was trafficked from Vietnam or during the time that he was in Serbia is immaterial, since "...it will not increase his chances of protection Vietnam because anyone over 16 years of age leaving Vietnam without evidence of force is not considered a victim of trafficking under Vietnamese law..."
22. In section D of her report, Christine Beddoe addresses the protection available in Vietnam, but notes the gateway to victim support including trafficking is access to a victim identification certificate issued by the police. It does not follow that an individual recognised as a victim in a destination country (i.e. the UK), as a victim of trafficking, will be accepted as a victim in Vietnam. She notes that Vietnamese law is not consistent with international law on human trafficking. She states that before a trafficking identification process would even be considered, the appellant would be required to give the authorities his government identification papers, which he would first need to acquire by going through a separate bureaucratic process. In her opinion the appellant would not be able to access even the most rudimentary level of state protection offered in Vietnam, and he does not have the wherewithal to advocate and fight his case with the authorities to gain the necessary identification that is the gateway to state services. The difficulty is compounded here, because even if the appellant was recognised as a victim of trafficking, there is no specialist shelters for young men who are victims of trafficking and who continue to require specialist support and protection.
23. In section E of her report, Christine Beddoe addresses the risk of re-trafficking. She notes that the vulnerability factors that were present in 2016 when the appellant left Vietnam, have escalated because the appellant now also faces stigma, he has no identity documents, and

would have no job. She states the appellant will need to go through a complex administrative process on his return to obtain the correct documentation, and these factors will impact on his ability to find work and to secure accommodation. She expresses the opinion that he will be an easy target for traffickers even if they are not related to the criminal networks who first exploited him. In her opinion, considering the personal profile of the appellant as an individual that had been bullied and attacked previously, she believes he is likely to acquiesce to avoid conflict and avoid any contact with the authorities. In considering the protection available, she notes that Vietnam has passed updated legislation to prosecute traffickers, but the current objective evidence is that Vietnam is still falling well short in matters related to the protection of victims and the prevention of trafficking. She states that the criminal activities of traffickers within and out of Vietnam have not been curbed. She refers to research conducted in Vietnam with returning victims of trafficking that illustrates that far from being reintegrated into society, many victims face an uphill struggle that only serves to increase their vulnerability to re-trafficking. In summary, she concludes the appellant cannot rely on the police to provide protection from re-trafficking because there are so many gaps in the State's protection infrastructure, implementation of the law is weak, and corruption amongst police at a local level is high.

24. Finally in section G of her report, Christine Beddoe addresses the suggestion in the respondent's decision that the appellant can internally relocate to Than Pho Ho Chi Minh or Da Nang. She states internal migration is highly regulated in Vietnam. She states that although laws do not prohibit spontaneous internal migration, the system of household registration inherently discriminates against vulnerable young people moving to and from main cities, to escape the threat of traffickers or others who seek to harm them, and it bars them from equal access to basic state services in health care, education and employment, in a place where they wish to remain anonymous to keep themselves safe.
25. The report of Christine Beddoe concludes as follows:

"144. Whether [the appellant] is deemed a child victim of trafficking in Serbia, or a child victim of trafficking from Vietnam does not change his predicament with access to protection in Vietnam. He is not eligible for a victim certificate because he left Vietnam believing he would be taken for a better life, instead he was pushed into labour exploitation in Serbia and ultimately ended up in the UK. He cannot return to his home location because that is the source of his trafficking and attacks by non-state actors. The push factors of widespread corruption, the stigma of 'victimhood', the household registration system and the inadequate state welfare and support infrastructure for male victims in Vietnam create an environment where not all victims are treated equally under the law..... There is no evidence that if he is returned to Vietnam, he will get protection as a victim of trafficking or specialist support, including shelter and mental health care. Internal relocation does

not provide a solution and it can potentially cause [the appellant] further legal and administrative problems if he is forced to relocate without the correct registration papers to find safety. The specific factors in [the appellant's] situation, including the psychological and physical trauma of repeated attacks single him out as a target for corrupt officials and others, even if they are different to the traffickers he has already encountered."

The submissions

26. On behalf of the appellant, Mr Frost accepts that there was no apparent debt owed by the appellant, but his grandmother had made some arrangements prior to her death, so that the appellant could leave Vietnam. The appellant was a child at the time. He refers to the opinion expressed by Christine Beddoe that there was no distinct break in the chain of control between the appellant's recruitment in Vietnam and transportation to Serbia for labour exploitation. The appellant was handed over by those that had assisted in his departure from Vietnam, to the individuals that they were met by, at the airport in Serbia. The meeting in Serbia with those that subjected the appellant to forced labour was not a co-incidence, but it was all part of one trajectory. He submits it is very likely that if the appellant was trafficked from Vietnam, he would be at greatly increased risk of re-trafficking upon return to Vietnam. He submits the appellant would not be a victim of trafficking for the purposes of Vietnamese domestic law, because they would consider that he was "trafficked voluntarily" or with consent. However, the appellant was a child and so he could not consent. In any event, he refers to the opinion expressed by Christine Beddoe and submits that many of the risk factors (*stigma of victimhood, no identity documents, no job and no housing*) exist irrespective of the scope of the appellant's trafficking experience. He refers to the personal characteristics of the appellant such as his age, education and lack of a family support network and submits the appellant is clearly at a high risk of being exploited and being re-trafficked.
27. Mr Frost submits the appellant has shown fortitude with his mental health, but he remains very young and there is the potential of difficulties further down the line. The expert says that given the appellant's profile and lack of support, he will be very vulnerable. His claim is supported by Mr Raj Chahal, his support worker at Derbyshire County Council. He relies upon the opinion of Christine Beddoe that whether the appellant is deemed a child victim of trafficking in Serbia, or a child victim of trafficking from Vietnam does not change his predicament with access to protection in Vietnam. The appellant will not be eligible for a victim certificate because he left Vietnam believing he would be taken for a better life but was instead pushed into exploitation in Serbia. Mr Frost submits the background material and the expert evidence that is before the Tribunal establishes that the appellant would be at risk of re-trafficking and there would not be sufficient protection for the appellant from potential traffickers.

28. In reply, Mrs Aboni relies upon the respondent's decision, and although she concedes that victims of trafficking form a particular social group, she maintains the appellant's subjective fear is not objectively well-founded, and he does not qualify for protection under the Refugee Convention. She submits the appellant was an economic migrant when he left Vietnam and was not trafficked for exploitation. On his own account, the appellant was contacted after the death of his grandmother in response to an arrangement that had been made by his grandmother prior to her death, so the appellant could have a better life. The evidence of the appellant as set out in his witness statement points to a journey that had been arranged and paid for, by the appellant's grandmother. It has not been established that the appellant owes anyone money in Vietnam and Mrs Aboni submits the appellant has not established that he was trafficked from Vietnam and has not established that he would be at risk upon return in Vietnam from the individuals that arranged his departure. Mrs Aboni submits the trafficking occurred in Serbia and was not linked to events in Vietnam or the arrangements made for the appellant to leave Vietnam.
29. Mrs Aboni refers to the decision of the Upper Tribunal in Nguyen (Anti-Trafficking Convention): respondent's duties [2015] UKUT 170 (IAC), and submits that although Christine Beddoe seeks to distinguish that case, the appellant there had additional vulnerabilities as a woman with children. The appellant here is now a healthy young adult, and there is no up-to-date evidence before the Tribunal regarding his mental health. She submits the appellant had attended school in Vietnam and will have gained further life skills since, and he now has an awareness of trafficking that will alert him to the possible risks. She submits that although the appellant was subjected to attacks before by non-state actors, he has not established that the individuals will seek him out on return and will target him again. In any event, he can approach the police and it is clear that in the past they were willing to record the events and investigate. She submits the appellant has not established that he would be at risk upon return to his home area, and he could obtain the documents required to internally relocate if that were necessary.

Findings and Conclusions

30. It is common ground between the parties that the appellant was a victim of human trafficking in relation to the forced labour that he was subjected to, in Serbia. I first consider whether the appellant was, as Mr Frost submits, a victim of trafficking when he left Vietnam, or alternatively whether he was, as Mrs Aboni submits, an economic migrant when he left, and only became a victim of trafficking following his arrival in Serbia.
31. There is some force in the submission made by Mrs Aboni that the arrangements for the appellant's departure from Vietnam had been made by his grandmother prior to her death, and that the family home in

Hai Duong had been sold so that some of the money could be used to send the appellant abroad because of fears for his safety. However, taking all the evidence together and considering it in the round, I am persuaded, to the lower standard, that the arrangements for the appellant's departure from Vietnam, his arrival in Serbia and his treatment in Serbia, all formed an unbroken chain of events.

32. The respondent does not challenge the appellant's account of events as set out in his witness statement dated 18th May 2017. At paragraphs [44] to [53] of that witness statement, the appellant gives a detailed account of his journey from Vietnam to the UK. The chain of events began prior to the death of the appellant's grandmother. It is uncontroversial that the appellant had been subjected to a number of attacks in Vietnam. I accept that in January 2016, the appellant's grandmother informed the appellant that she was going to sell the house in which they lived and use some of the money to send the appellant abroad, because she was worried about his safety. I accept that the house was sold in January 2016, and the appellant and his grandmother moved to Hui, a village on the outskirts of Hai Duong, about 10 km away.
33. The respondent accepts the appellant was attacked in March 2016 and again in May 2016. On 31st May 2016, masked men mounted an attack against the appellant and his grandmother as set out in paragraphs [39] to [41] of the witness statement. The appellant's grandmother was knocked unconscious and sadly passed away about an hour after the masked men left the property. I accept the appellant's evidence that about two months after his grandmother's death, the appellant received a call on his mobile phone from an individual whose voice he did not recognise, and who informed the appellant that he was ringing to help get the paperwork required for the appellant to go abroad. On the lower standard, I accept that phone call was linked to the arrangements that the appellant's grandmother had already begun to make for the appellant's departure from Vietnam. I accept the appellant's account of the arrangements that were then made for the appellant to meet the gentleman to obtain some form of visa. I have carefully considered the appellant's account of his journey from Vietnam to Qatar and then to Serbia, and I accept that throughout that journey the appellant was under the control of the same group of individuals.
34. I also accept the appellant's evidence that upon arriving in Serbia there was a minibus waiting for the group outside the airport, and following a journey of four to five hours, the appellant and others that he had travelled with, were handed over by the leader of the group to what the appellant describes as "two white men". The appellant describes that the group were taken to a warehouse and the following day, they were required to carry bags, sacks and wood onto lorries, which were parked up at the warehouse. I do not need to say any more regarding the appellant's treatment in Serbia because the Competent Authority has already concluded, on a balance of probabilities, that the appellant was a victim of human trafficking in relation to the forced labour that he was

subjected to in Serbia. In my judgement, the account given by the appellant, which I accept, demonstrates an unbroken chain of events, during which the appellant was under the control of a group of individuals working together and in concert. I accept the submission made by Mr Frost that it is not simply co-incidence that having arrived in Serbia, the appellant was unfortunate to find himself being subjected to forced labour. The appellant was under the control of the same individual throughout his journey from Vietnam to Serbia and upon arrival in Serbia, he was immediately placed into the hands of accomplices, in what I am satisfied to the lower standard was a pre-arranged arrangement.

35. In any event, as Mrs Aboni appeared to accept, the appellant has been found to have been a victim of trafficking in Serbia and he will return to Vietnam as a victim of human trafficking. I therefore turn to consider whether the appellant would be at risk upon return to Vietnam. To that end, I have carefully considered the report of Christine Beddoe and the respondent's CPIN 'Vietnam - Victims of trafficking' version 4.0 published in April 2020 ("the CPIN"), in particular.
36. The respondent's CPIN that is relied upon by Mrs Aboni stresses that the risk of trafficking must be considered according to the facts of each individual case and the individual vulnerability. It will be for the appellant to demonstrate to the authorities in Vietnam that he is a victim of trafficking.
37. As set out in the report of Christine Beddoe and the respondent's CPIN, trafficking in human beings is illegal in Vietnam but it remains a serious problem and is increasing. Paragraph 2.4.3 of the CPIN confirms domestic legislation criminalises labour and sex trafficking but requires a demonstration of force, fraud or coercion in order to constitute a trafficking offence. The domestic definition does not fully correspond with the internationally accepted definition of trafficking. Paragraph 2.5.5 of the CPIN confirms that whilst legislation exists and prosecutions occur, the government does not systematically refer victims to services as the government's definition of trafficking does not fully correspond with the internationally accepted definition. Paragraph 2.5.7 confirms that the Ministry of Labour, Invalids, and Social Affairs (MOLISA), provides protection and reintegration support for a range of vulnerable individuals, but not specific for victims of trafficking, and in order to access these government services victims must be in receipt of a victim certificate, which can be difficult to obtain if the government is of the opinion that the person was compliant in their illegal migration. It also confirms that there are no shelters designated exclusively for male or child victims of trafficking, although existing shelters provide assistance to all kinds of vulnerable profiles as needed. Paragraph 2.5.8 states that access to government run services and shelters are unlikely to be available for those returning from the UK as they would not be in receipt of a victim's certificate.

38. The appellant was a child when he left Vietnam voluntarily and I find to be lower standard, that he is likely to be seen as an individual who was compliant in his illegal migration. Overall, the evidence of Christine Beddoe, which I accept, is to the effect that the appellant would face extreme difficulties in persuading the authorities to accept him as a trafficked person, and indeed even if that succeeded, there is little by way of practical support that would be given or could be given to him in the circumstances.
39. The appellant's ability to internally to relocate to another area, particularly to another city as is suggested by the respondent has been considered by Christine Beddoe and at paragraphs [126] to [137] of her report she refers to the Ho Khau household registration system that is aimed at controlling population mobility, and especially spontaneous influxes of rural residents. She notes that the registration system is a complex area of public policy which is undergoing change. The government passed Resolution 112 in 2017 to simplify administrative procedures and documents regarding residency management, under the authority of the Ministry of Public Security, and although the system appears to have simplified procedures, the system has not been abolished, and residents still have to carry out procedures related to residence management. Christine Beddoe states that to obtain any legal protection as a citizen, the appellant will have to engage with the complex household registration administrative process and navigate it on his own. He will have to tell police and officials why he has been abroad and how he left Vietnam, then obtain identification documents and that will almost certainly require him to return to his home district, an area in which he was subjected to a number of attacks. Christine Beddoe acknowledges it is possible, but not legal or safe, for the appellant to relocate without some form registration. Although the constitution of Vietnam confirms the freedom of all citizens to move with their equal economic, social and political rights secured, regardless of their whereabouts, at the lower level, different laws, ordinances, decrees, decisions and circulars create a strong barrier to spontaneous migrants accessing critical resources, services and support programs. A shared feature of social protection policies in Vietnam is their residence-based principal by which a person is entitled to housing ownership and various economic and social entitlements only when they are permanent residents of the locality. She states the appellant will require his identity papers to register for a residence permit and being an internal migrant without papers places him at greater risk of intimidation and bribery from corrupt police or officials. She concludes that internal relocation is a complex and stratified process in Vietnam and although the laws do not prohibit spontaneous internal migration, the household registration system inherently discriminates against vulnerable young people moving to and from main cities to escape the threat of traffickers or others who seek to harm them. It bars them from equal access to basic state services and healthcare, education and employment in a place where they wish to remain anonymous to keep themselves safe.

40. It is necessary for the appellant to show that he falls within one of the categories of individuals under the Refugee Convention and would face a real risk of persecution by reason of such matters, upon return. Mrs Aboni accepts that victims of trafficking from Vietnam form a particular social group within the meaning of the Refugee Convention.
41. It is clear that in the past the appellant has been subjected to a number of brutal attacks and suffered physically abusive and degrading treatment. He has also suffered as a victim of human trafficking and forced labour. He has been violently assaulted and has been put in fear of his safety. His very identity has been put in question by the nature of the forced labour that he was subjected to. The focus of my consideration must therefore be, applying the appropriate burden and standard of proof, as to whether there is a real risk that such an experience will be repeated if he returns to Vietnam. I find that it would.
42. In reaching my decision I have had particular regard to the appellant's vulnerabilities as a young adult male who would have no family support, few educational or vocational skills, no identity documents, and as an individual who has previously experienced repeated physical and psychological trauma in Vietnam followed by trafficking and forced labour. I have also had regard to the opinions expressed in the medico legal report of Dr Silvana Unigwe, dated 26th October 2017. I acknowledge there is no up-to-date medical evidence before the Tribunal regarding the appellant's mental health.
43. The appellant had already been subjected to a number of attacks in Hau Duong. He left the area with his grandmother in or about January 2016 when he was a child. Following the death of his grandmother, there is an absence of any family for the appellant to return to. There will be no support network to assist him and he has little or no education or vocational skills to turn to. It is clear from the background material and the matters set out in the report of Christine Beddoe, which I accept, that any access to official documentation to assist his status would be lengthy and protracted, if indeed successful. His situation would of necessity cause him to need to contact police or officials and to return to the area from which he was originally trafficked, and he would be vulnerable to re-trafficking. Given his past experiences, I find the appellant would find it difficult to integrate within the community and would readily be perceived as an outsider and therefore somebody who would be an obvious target to be re-trafficked. His need to be supported emotionally, is just the sort of need that can be exploited by potential traffickers who may seek initially to befriend him and then use him for their own purposes.
44. The appellant would also face the cumbersome process in place in order to have his trafficked status recognised. It is clear from the evidence of Christine Beddoe, which I accept, that it is a cumbersome process, and one that involves considerable engagement with authorities. The appellant's mental condition as is apparent from the medical evidence

before me, although now somewhat dated, and the letter in support from Raj Chahal indicates that he would not manage that process very well or give any good account of himself in the process. Mr Chahal states in his letter dated 12th July 2019 that the appellant is a very private person and does not speak of his past and has not done so with other workers in the past. He chooses not to engage when the subject is brought up, and there is a concern that he is isolating himself, although signs of emotional weakness are now starting to show. There is concern in the evidence before me that the appellant has not yet addressed his past, and when he does, the correct support needs to be in place.

45. Given the length of time that he has been absent from his home area, it seems to me to be speculative as to whether or not the appellant will achieve any recognition of his trafficked status. Even if he does, it does not seem from the background material that there is any particular protection or assistance that would be available to him, as a young adult male.
46. I accept that during the process of the investigation there will be no particular benefits or protections available to the appellant and he would therefore remain vulnerable. He would, in the absence of having the proper documentation, be unable to access healthcare, accommodation, work or support, and that can only exacerbate what is his fragile mental state, to his detriment.
47. Although I accept that the authorities in Vietnam are actively seeking to counter trafficking, it is to be noted that there have been few, if any, prosecutions and that the number of those recognised as being trafficked has decreased. There is nothing to lead me to the conclusion that there would be any sufficiency of protection to the appellant were he to return to his home area. I also bear in mind the corruption that is endemic which clearly supports those who have influence, but not those who have no standing or influence. For these reasons I conclude that there is indeed a very real risk that the appellant will be re-trafficked, were he to return to his home area.
48. In considering whether it would be unduly harsh for the appellant to internally relocate, I bear in mind the decision in Januzi [2006] UKHL 5. It has to be established that the appellant would be able to conduct his life with access to work, accommodation and to survive in an economic manner as a citizen. In light of the background material, the vulnerabilities of the appellant that I have already set out, and the conclusions set out in the report of Christine Beddoe I cannot find that in the particular circumstances of the appellant, internal relocation is realistic. I find the appellant is likely to encounter difficulties securing the certificate of registration that is required and the appellant would remain very much on the margins of society. Once again the mental state of the appellant is of utmost relevance to his ability to interact in a community sense. Because of his particular vulnerabilities, I find that he is likely to be seen very much as a vulnerable individual to be exploited.

I am quite satisfied that whether he returns to his home area or elsewhere, he remains very much at risk of being re-trafficked. I do not find that the efforts of the authorities, would offer him any safety or protection.

49. In my judgement, the appellant would be at risk upon return to Vietnam and it follows that his appeal is allowed on asylum grounds.

Notice of Decision

50. The appeal is allowed on asylum grounds.

51. An anonymity direction is made.

Signed **V. Mandalia**
2021

Date

20th January

Upper Tribunal Judge Mandalia