



Upper Tribunal

(Immigration and Asylum Chamber)

Appeal Number: RP/00006/2019

THE IMMIGRATION ACTS

**Heard at Manchester Via Teams
On the 25 August 2021**

**Decision & Reasons Promulgated
On the 28 October 2021**

Before

UPPER TRIBUNAL JUDGE LANE

Between

**THTN
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Mohzam

For the Respondent: Mr Tan, Senior Presenting Officer

DECISION AND REASONS

1. The appellant is a female citizen of Vietnam who was born in 1967. She appealed to the First-tier Tribunal against a decision of the Secretary of State dated 31 January 2019 refusing her human rights claim and revoking her protection status. The First-tier Tribunal, in a decision promulgated on 16 March 2021, dismissed her appeal. The appellant now appeals, with permission, to the Upper Tribunal.
2. The appellant was sentenced on 17 April 2015 to 11 years and six months imprisonment for kidnapping. She remains on licence. By a conclusive positive grounds decision, she has been recognised as a victim of trafficking. Full details of her criminal offending and immigration history are set out in the First-tier Tribunal decision at [2-5].

Revocation of refugee status

3. The appellant had been granted refugee status in 2010 because, as the renewed grounds of appeal to the Upper Tribunal put it at [2(g)], the respondent accepted at the date of the grant of asylum that the appellant would be a risk from traffickers coming to her mothers' house in Vietnam and because she would be unable to find accommodation for herself. The First-tier Tribunal cites the principles of law relevant to revocation at [46-47]. At [62-63], the judge concluded that 'the situation in Vietnam has greatly improved since the appellant was granted refugee status ... there is legislation in place prohibiting trafficking. There are shelters and support organisations in place for returning victims of trafficking some of which are accessible and contactable before leaving the United Kingdom ... the respondent is successful in demonstrating that there has been a significant and non-temporary change in circumstances in which the appellant was recognised to be a refugee and the appeal is unsuccessful on the refugee ground.'
4. The appellant challenges that conclusion. She complains that the judge, in assessing the evidence, failed to notify her in advance that he intended to attach less weight to the appellant's expert report than the CPIN report because the latter had been prepared more recently and the judge was required to assess the evidence regarding Vietnam at the date of the First-tier Tribunal hearing. In consequence, the judge perpetrated an unfairness by the denying the appellant the opportunity to apply for an adjournment to seek more up to date evidence.
5. The challenge is without merit. The website Gov.uk states that 'Country policy and information notes (previously known as country information and guidance reports) are used by UK Visas and Immigration officials to make decisions in asylum and human rights applications. The notes also give information on asylum seekers' countries of origin.' CPINs, which are drawn from and which reference evidence from a variety of sources found in the public domain, are cited on a daily basis in the IAC as background material in asylum appeals, including country guidance cases before the Upper Tribunal. Mr Mohzam, who appeared for the appellant in the Upper Tribunal, relied on *MD (Women) Ivory Coast CG* [2010] UKUT 215 (IAC), part of the headnote of which reads, '*Operational Guidance Notes should not be regarded as country information. They are not produced by the Country of Information Service. They are, in essence, policy statements and as such fall into a different category.*' The Tribunal provided its reasoning at [263-266]:

263. Ms Kiss produced the Operational Guidance Note (OGN) of 13 February 2009.

264. We are of the view that this document should not be regarded as country information. The Country Information and Policy Unit of the Home Office last prepared an Assessment in October 2001. These were followed by a series of Bulletins, the last of which was published in June 2005. Since then, the Home Office's own material has been in the form of Operational Guidance Notes. These OGNs are not produced by the Country of Information Service. The current COIS

reports are a selection of background material provided from sources other than the Home Office and without comment or analysis. Whilst the editorial selection of the passages is a matter of choice for the editor of the Report, (and therefore potentially liable to subjectivity), he comes from a part of the Home Office, RDS, that is independent of policymakers and caseworkers. The Research, Development, Statistics section of the Home Office describes itself as made up of specialist staff, communication professionals and scientists. The selection of material is subject to peer review and the overall scrutiny of the Chief Inspector of the Border Agency acting through the Independent Advisory Group on Country Information, formerly the Secretary of State's Advisory Panel on Country Information, (APCI).

265. Operational Guidance Notes fall into a different category. They are, in essence, policy statements. On many occasions, the Operational Guidance Notes will be supported by references to background material and may have sought assistance from RDS, as well as Tribunal case law taken from reported decisions. Insofar as they include background material, the background material is to be regarded like any other background information, subject to the fact that its selection may not have the same objectivity and is not independently scrutinised.

266. In the case of the Ivory Coast Operational Guidance Note, much of the contents are supported by references to key documents and the FCO Country Profile and other background material. Such background material must be evaluated in the normal way. Insofar as its contents are a statement of policy, it should be regarded as the Secretary of State's submission. It should not be regarded as country information in the normal sense but as the caseworker's own assessment of that material. As such, it is to be assessed on its merits but should not be treated as if it were an expert report or having greater authority solely by reason of its coming from the UK Border Agency.

6. The names of the reports issued by the Country Information and Policy Unit of the Home Office since 2010 have changed by the distinction between the two basic kinds of reports identified by the Upper Tribunal in *MD* is still relevant. A CPIN is, in essence, the same as a COIS report; it is not an OGN (Operational Guidance Note). It is not correct, as Mr Mohzam submitted, that the CPIN on Vietnam which the judge gave evidential weight should be treated in the same way as an OGN. On the contrary, the CPIN (as the *MD* acknowledges) cites sources of evidence in the same way as the appellant's expert report. The point made by the judge was that the sources cited by the CPIN were more recent than those cited in the expert report. That was a fact obvious on the face of the papers; there was no need for the judge to bring it to the attention of the appellant's representative. The appellant chose to rely on evidence which she would have been aware pre-dated that advanced by the respondent. The judge did not treat her unfairly by putting more weight on the more recent material. Mr Mohzam also submitted that many of the sources cited in the CPIN dated from the same period (2019) in which the expert report had been written. However, as Mr Tan, who appeared for the Secretary of State, pointed out the sources cited by the expert report dated from an even earlier period. In my opinion, the judge was fully entitled to attach more weight to the CPIN than the expert report for the reasons clearly given in his decision.

7. The grounds also complain that the judge failed to state why he believed that the appellant no longer owes money to those in Vietnam who might seek to harm her. This challenge is also without merit. Contrary to what is asserted in the grounds, the judge has given full reasons for his finding at [50]. *Inter alia*, he noted the absence of any attempts by creditors to chase money owed since 2016; other than a brief mention in her solicitor's representations in 2016, 'there is no other evidence of any visits nor any chasing of debt.' The appellant's daughters had remained in Vietnam until 2011 and one daughter had returned there on a visit with her partner. It was plainly open to the judge to find that the appellant would not be pursued for any debt from 15 years ago. The Tribunal's decision on the matter of the revocation of the appellant's refugee status is sound in law and I do not intend to disturb it.

The appellant's medical condition

8. The appellant asserts that the judge failed to consider properly the expert medical evidence concerning, in particular, the appellant's mental health. This ground is without merit. The judge made cogent and clear findings that, whilst the appellant's mg condition may deteriorate if she does not receive treatment, she would be able to access such treatment as she requires in Vietnam. The judge's analysis is careful, thorough and even-handed; the ground amounts to nothing more than a disagreement with a finding which was manifestly available to the judge on the evidence.
9. Considered as a whole, the decision of the First-tier Tribunal is sound in law, its findings based firmly and rationally on a careful assessment of the evidence before it. For the reasons I have given, the grounds fail to establish that the judge erred in law such that I should interfere with the judge's conclusions. Consequently, the appeal is dismissed.

Notice of Decision

The appeal is dismissed.

Signed
Upper Tribunal Judge Lane

Date 25 September 2021

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellants are granted anonymity. No report of these proceedings shall directly or indirectly identify them or any member of their family. This direction applies both to the appellants and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.