



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/10804/2017

**THE IMMIGRATION ACTS**

Heard at Bradford  
On 4<sup>th</sup> February 2019

Decision & Reasons Promulgated  
On 8<sup>th</sup> March 2019

Before

DEPUTY UPPER TRIBUNAL JUDGE D E TAYLOR

Between

LP  
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the Appellant: Ms Chaudary of Bankfield Heath Solicitors  
For the Respondent: Mrs R Pettersen, Home Office Presenting Officer

**DECISION AND REASONS**

1. This is the appellant's appeal against the decision of Judge Moxon made following a hearing at Bradford on 12<sup>th</sup> June 2018.

**Background**

2. The appellant is a citizen of Vietnam born on 26<sup>th</sup> March 1990. She claimed asylum in the UK on 11<sup>th</sup> May 2016, having been trafficked here. In February 2015 she accepted the offer of work in Europe where she was mistreated. She managed to escape her traffickers and, following her arrest, subsequently claimed asylum. The respondent

accepted the appellant's account of having been trafficked but considered that there was a sufficiency of protection available to her in Vietnam.

3. In addition to fearing a return to Vietnam on the basis of being a single woman with an illegitimate child who would be at risk of being re-trafficked, the appellant also claimed that she had attended demonstrations in May 2014 and that an arrest warrant had been issued against her.
4. The judge considered the evidence which the appellant had adduced, including an expert report, but concluded that he could not be satisfied that the appellant had ever engaged in political activity in Vietnam. He rejected the evidence that she would be unable to access family support on return but in any event, there was no basis upon which to conclude that the traffickers would have any interest in her. On that basis he dismissed the appeal.

### **The Grounds of Application**

5. The appellant sought permission to appeal on the grounds that the judge had erred in his assessment of the arrest warrant which had been authenticated by a country expert accepted by the Tribunal, had materially erred by using Section 8 as a starting point when considering the appellant's credibility in relation to the lack of support she would receive on return to Vietnam, and had made no mention of the positive NRM report confirming that the respondent found the appellant to be credible in relation to her account of having been trafficked.
6. Permission to appeal was granted by Judge Pedro for the reasons stated in the grounds on 8<sup>th</sup> August 2018.
7. On 2<sup>nd</sup> October 2018 the respondent served a reply defending the determination.

### **Submissions**

8. Ms Chaudary submitted that the judge had given inadequate reasons for rejecting the expert's assessment of the arrest warrant, had not taken into account all relevant factors in concluding that there was a sufficiency of protection available to her upon return, in particular not mentioning the requirement to register and/or re-register her ho khau on return.
9. Mrs Pettersen submitted that the judge had given proper reasons for rejecting the authenticity of the arrest warrant and was entitled to conclude that she would not be at risk on return as a trafficked woman because she would have access to family support.

### **Findings and Conclusions**

10. This is a sustainable determination.
11. The expert in this case, Dr Tran Thi Lan Anh, is an academic who has worked as a senior official for the Vietnamese government. She is not however an expert on Vietnamese documentation. She did analyse the arrest warrant in some detail in an

addendum report, stating that the warrant appeared to be genuine and correct in terms of the form, paper quality, content and language that had been used which were consistent with official standards. She said that the stamp appeared to be genuine and was very sharp and clear, and the address on the top left of the invitation letter matched with the name of the local police force on the stamp.

12. The judge acknowledged Dr Tran Thi Lan Anh's expertise. She holds a PhD in international law from the University of Leeds and her main research interest is international human rights law specialising in socialist countries.
13. He was entitled to reach a contrary conclusion to her for the following reasons.
14. He observed that the arrest warrant contained a lack of detail including the fact that there was no date given for the alleged offending. He took into account the fact that the appellant had been asked a straightforward question about whether she had been detained in any country and she disclosed her arrest in Huddersfield. She did not disclose the arrest in Vietnam. It was open to him to conclude that there would be no reason for the authorities to have any interest in seeking to re-arrest the appellant three years after having done so. Finally, the warrant was dated May 2017 but not disclosed to the Home Office until November 2017 in spite of the fact that she speaks to her mother every month, and it was her mother who told her of police attending her home.
15. It was for the judge to decide how much weight he ought to place upon the arrest warrant. Whilst he was obliged to take into account the opinion of the expert who believed it to be genuine, he was not obliged to accept it. He gave relevant and logical reasons for deciding that he could not.
16. So far as sufficiency of protection on return is concerned, it was the appellant's evidence that she was in monthly contact with her mother. On that basis the judge reasonably rejected her assertion that she would not have family support available to her. Whilst it was the expert's opinion that there would be very little protection available to the appellant on return, that was on the assumption that she would not be able to access assistance from her family.
17. At paragraph 5.1 of the report, Dr Anh said:

"The risk of being re-trafficked or exploited depends on the individual circumstances. If the victim has the support and protection of their family, relatives and close friends they are less at risk. In the case of a person without family support and protection (or relocated people) such as the appellant and her son the victim would be considered at high risk of being exploited or trafficked (though not necessarily from their former traffickers) if they live without support and protection of their family".
18. It was clearly open to the judge to conclude from the fact that the appellant was in regular contact with her mother, that her family know of her son and that in all likelihood they would be able to afford her the help which she needs.

19. So far as the lack of reference to any difficulties in re-registering is concerned, whilst it would have been helpful if the judge had addressed the point, given his overall conclusions, it is not fatal to the determination. He was entitled to rely on the Home Office evidence on the point.
20. In conclusion, the judge accepted that it was not disputed that the appellant was a victim of human trafficking. He did not apply the Section 8 considerations to his assessment of the sufficiency of protection, as argued, but based his conclusions upon the appellant's own evidence of contact with her family. There are however clear Section 8 issues in this case, since the appellant did not claim asylum until after her arrest. They were highly relevant to his assessment of her credibility. Moreover, it is now four years since the appellant was trafficked to the UK which was a relevant consideration for him in deciding whether there was a real risk that her traffickers would have any interest in her now. They have not done so to date.

### **Notice of Decision**

The original judge did not err in law. His decision stands. The appellant's appeal is dismissed.

An anonymity direction is made.

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

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

*Deborah Taylor*

Signed

Date 23 February 2019

Deputy Upper Tribunal Judge Taylor