



**Upper Tribunal  
(Immigration and Asylum Chamber)** Appeal Number: PA/07772/2019 (P)

**THE IMMIGRATION ACTS**

**Decided under Rule 34 of the  
Tribunal Procedure (Upper Tribunal)  
Rules 2008  
On 22 June 2020**

**Decision & Reasons  
Promulgated  
On 02 July 2020**

**Before**

**UPPER TRIBUNAL JUDGE REEDS**

**Between**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Appellant

**And**

**AP**

**(ANONYMITY DIRECTION MADE)**

Respondent

**DETERMINATION AND REASONS (P)**

- 1.** The appellant is a citizen of [xxx]. I make a direction regarding anonymity under Rule 14 of the Tribunal Procedure (Upper Tribunal Rules) Rules 2008. I do so because this is a protection claim (see Guidance note 2013 No 1: Anonymity Orders). Unless and until a court directs otherwise the appellant is granted anonymity. No report of these proceedings shall directly or indirectly refer to her or her family members. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

The Background

- 2.** The Secretary of State, with permission, appeals against the decision of the First-tier Tribunal (Judge Howorth) (hereinafter referred to as the

“FtTJ”) who, in a determination promulgated on 16 January 2020, allowed her protection and human rights claim.

3. For the ease of reference, I intend to refer to the parties as they were before the FtTJ.

The factual background:

4. The background to the appellant’s protection and human rights claim is set out in the determination of the FtTJ and in the decision letter of the Secretary of State issued on 31 July 2019.
5. In a decision letter dated 31 July 2019 the respondent refused her claim for asylum. Reference was made to the referral made to the NRM and that following the reasonable grounds decision, a conclusion was reached that her account did not meet the definition of modern slavery or of a victim of trafficking.
6. The respondent set out issues of credibility relying upon inconsistencies in her account and that she had provided a number of different aliases. In determining her claim consideration was given to section 8 of the Asylum and Immigration (Treatment of Claimants, et cetera) Act 2004 noting that after she arrived in the United Kingdom she did not claim asylum but made a claim after being notified of a decision of removal. It was not accepted that she had any genuine subjective fear on return to [xxx] and that any fear was not objectively well-founded because there was sufficiency of protection provided by the authorities and because it was not accepted that should be at risk from her father’s enemies. The decision set out information from the US Department of State report at paragraph 79 - 81 and concluded at paragraph 82 that there was sufficiency of protection in relation to her claim. For the same reasons, her claim for humanitarian protection was refused as was a claim under Articles 2 and 3 of the ECHR. The decision letter also dealt with Article 8 and a consideration of discretionary leave on account of her medical circumstances.
7. The claim was refused on all grounds.
8. The appellant lodged grounds of appeal against that decision. The appeal against that decision came before the FtTJ on the 13 January 2020. The appellant was represented at that hearing however the respondent did not appear. There was no application for an adjournment and the FtTJ went on to decide the appeal on the evidence that was before him. In the decision promulgated on 7 October 2019 he allowed the appeal.
9. The FtTJ considered the evidence of the appellant alongside the documentary evidence that had been advanced on her behalf which included medical evidence. The judge set out his findings of fact at paragraphs 17-47.
10. The judge began his consideration with an assessment of the NRM decision in the context of medical evidence that had been served post that

decision. At paragraphs 18 – 26 the judge carried out an assessment of psychiatric evidence and at [26] concluded that he found the evidence to be reliable concerning the appellant’s account of her experiences which were consistent with the symptoms and diagnosis set out in the report. At paragraphs [27] – [31], the FtTJ also assessed a further medical report (on scarring of injuries) where it was stated that the scars were consistent with the explanations given. The judge accepted the evidence of Dr C “in its entirety”.

- 11.** The FtTJ went on to consider matters of credibility that had been raised in the refusal letter dealing with the inconsistencies in her factual account. At paragraphs [32] – [35], the judge concluded that in view of the medical evidence (which he accepted as reliable and cogent ) it was likely that any inconsistencies in her account were due to the “sustained trauma that she had faced throughout adult life.” The judge then proceeded to set out his omnibus conclusions that he accepted the core of her claim to be true. The judge found that she had been the subject of a serious sexual assault by her brother as a child and that she had ended up in prostitution being controlled by a gang. He concluded that a combination of drug use, extreme and sustainable trauma and passage of time had resulted in inconsistencies in the retelling her account, particularly in respect of dates. He also found that in the light of the medical evidence that there were events the appellant had experienced were not recalled by the appellant at all (see report of Dr M). At paragraph [36] the judge also accepted her account in respect of the use of false names and concluded that that was behaviour that had been forced upon her as a result of criminal activity for the gang.
- 12.** At [37] he overall concluded that the NRM conclusive grounds decision was incorrect and that the decision-maker did not have access to the medical evidence that had been put before the FtTJ which would have provided reasoning for inconsistencies in the appellant’s account. The FtTJ therefore concluded that the appellant was a victim of trafficking who had had escaped trafficking when she was arrested in 2016.
- 13.** In accordance with the jurisprudence the judge noted that former victims of trafficking and “former victims of trafficking for sexual exploitation” are capable of being members of a particular social group within Regulation 6 (1) (d) of the Protection Regulations and found that she formed part of a “particular social group” as a former of victim of trafficking. This was in response to the parts of the refusal letter in which it was asserted that there was no Convention reason in the appellant’s claim.
- 14.** At paragraph [40] the judge made reference to the appellant’s father and whilst he accepted her account in respect of his criminality and that he was a gang member, wanted by the police and other criminals, the judge did not find that his enemies would seek to harm her in any way.
- 15.** However, at [41] when considering risk on return, he reached the conclusion that she would be at risk of being re-trafficked or punished for reporting crimes of her traffickers, or for escaping the traffickers. The

judge made reference to evidence in the appellant's bundle of "rife gang membership across [xxx], and that the objective material reported 2484 gang members in those [xxx]".

- 16.** At [42] he took into account the length of time since the appellant had resided in the [xxx] and that "it may be that the appellant would not be at risk". However, the judge went on to state "I have found that she was trafficked from [xxx] to the UK in either 2000 or 2005 that she has been under their control until 2014 - 2015. I do find it likely that the persons whose control she was under in the UK are likely to have links to [xxx] (place of return) gangs and that the appellant would be under significant risk of being re-trafficked if returned."
- 17.** He therefore concluded that it was reasonably likely that the appellant would be re-trafficked on return and therefore found that she had a well-founded fear of persecution for a convention reason.
- 18.** At paragraphs 45 - 46 the judge went on to consider sufficiency of protection.
- 19.** At [45] the FtT) said this: "sufficiency of protection appears unlikely since the [xxx] Guardian report refers to the police force as overburdened and this would appear from the objective evidence to be the case. Secondly, the appellant has previously, when being controlled by the gangs, had not been sufficiently protected by the police against the gangs. Finally, Dr M refers to the appellant as being more distrustful and not wanting to tell professionals what has happened to her. This is also likely to be the case if returned to [xxx] and even if the police could protect her, I find it unlikely due to her mental state that she would seek such protection."
- 20.** At "[46] In respect of whether the appellant could live safely elsewhere in [xxx], I find that in accordance with the previously cited report, gang membership is prevalent throughout [xxx] and the appellant would be at risk all over the country."
- 21.** He therefore allowed her appeal on protection and human rights grounds (Articles 2 and 3).
- 22.** The appellant applied for permission to appeal the decision advancing two grounds.
- 23.** Ground 1: it was submitted that the FtT) had materially erred in law when finding that the appellant would be at risk of being re-trafficked in [xxx] at paragraph [42]. The FtT) in his own findings questioned whether the appellant would be at risk having been absent from there for 15 - 19 years. This cannot be reconciled with the judge later finding that the appellant would be at significant risk of being re-trafficked.
- 24.** Furthermore, the judge noted that the appellant was no longer under the gang's control in the UK from 2014/15 and ceased to have contact with them. However, the judge failed to have regard to the fact the gang since 2014/15 demonstrated they no longer had an adverse interest in the

appellant or did not have the means to locate her despite their previous lengthy time of controlling the appellant. This analysis of the evidence was critical to the assessment as to whether she would be at real risk of being re-trafficked. It was submitted that the findings were devoid of sufficient reasons and were unsafe.

- 25.** Ground 2: the FTTJ's findings on internal relocation are flawed at [45]. Whilst the judge noted at [41] that the background evidence suggested that there were 2484 gang members operating in [xxx] which highlighted the prevalence of gangs, it is submitted that the evidence is wholly insufficient to suggest that the entirety of the islands are affected by gangs. He failed to support his findings with objective evidence as to how he had reached such finding which falls foul of Budhathoki (reasons for decision) [2014]UKUT 341 (IAC) where the tribunal found that "it is generally unnecessary and unhelpful for first-tier Tribunal judgements to rehearse every detail or issue raised in the case. This leads to judgements becoming overly long and confused and is not a proportionate approach to deciding cases. It is, however, necessary for judges to identify and resolve key conflicts in the evidence and explaining clear in brief terms their reasons, so that the parties can understand why they have won or lost."
- 26.** It was submitted that the FtTJ's defective findings had not given the Secretary of State any proper explanation as to why the appeal was allowed therefore the decision was wrong in law.
- 27.** Permission to appeal was initially refused by the First-tier Tribunal however on 3 March 2020 Upper Tribunal Judge Mandalia granted permission to the Appellant on Ground 2 only. UTJ Mandalia stated as follows:
- "At paragraph [42] of the decision, the judge refers to the length of absence from [xxx]. It is of course possible that because of that length of absence the appellant would not be at risk. However, the judge found that the appellant was trafficked to the UK and that she has been under gang control until 2014/15. The judge found it is likely that the persons whose control she was under in the UK, are likely to have links to [xxx] gangs and the appellant would be under a significant risk of being re-trafficked if she is returned. That was a finding open to the judge on the evidence and permission is refused on ground one.
- However, the judge arguably failed to give adequate reasons for finding at paragraphs 45 and 46 that there is insufficient protection available to the appellant and she could not internally relocate. Although the respondent was not represented at the hearing of the appeal, the judge does not appear to have engaged with the background material that was referred to in the respondent's decision. Permission is granted on ground 2 only."
- 28.** The matter was then listed for an oral hearing. The matter was adjourned in the light of the COVID-19 pandemic and the Upper Tribunal issued directions sent out on the 29<sup>th</sup> April in the light of the Covid-9 pandemic, inter alia, indicating that it was provisionally of the view that the error of

law issue could be determined without a hearing and inviting submissions on that issue and also the error of law of issue.

The submissions of the parties.

The submissions on behalf of the Secretary of State:

- 29.** On 15 May 2020, the Secretary of State responded. It was acknowledged that permission had been granted on ground 2 only and that the secretary of state continued to rely upon this ground.
- 30.** It was submitted that the FtTJ's findings on sufficiency of protection/internal relocation were flawed at paragraphs [45] and [46]. Whilst the FTTJ noted at [41] that there were 2484 gang members operating in [xxx] which highlighted the prevalence of gangs on the island, that evidence was wholly insufficient to suggest the entirety of the islands would be affected by gangs when the objective material suggested that the activities were predominantly in areas on [xxx].
- 31.** Furthermore, the judge failed to address the obvious point that a person who is of interest to a particular group is not automatically of interest to every gang in the islands. As the threat was from a nonstate agent, the judge had erred in law by collectively grouping "gangs" as a singular risk or in the alternative failed to provide reasoning by way of reference to evidence in coming to that conclusion. The FtTJ had rejected the appellant's claim that she would be at risk due to any links with her father (former gang member) at [40]. At [42] whilst acknowledging that those who traffic the appellant and the UK may have links to gangs in the islands, it is submitted that the judge had failed to apply those findings to the consideration of whether there would be a sufficiency of protection, or internal flight alternative. As the appellant has had no contact with the traffickers since 2014 - 15 in the UK, it is unclear why they would be willing or able to locate her on return especially as she has not been there since at least 2005, or provide reasons why she would be of interest to all traffickers regardless of location. The judge failed to conduct an individualised assessment as required.
- 32.** As to the issue of sufficiency protection the findings at [45] are wholly inadequate. The judge only referred to one source of evidence in relation to the abilities of the authorities to provide protection and failed to engage with the argument and the objective material outlined in the refusal decision at paragraph 78 - 87.
- 33.** Furthermore, the judge appeared to support his findings based on the failings of the police to protect the appellant in the past. As they were events that took place at least 15 - 20 years previously, the judge erred in law by conducting a consideration of the issue on historical evidence rather than current. Even if the appellant could be considered to be hesitant to approach the authorities, the judge should have adequately assessed the provision of protection in order as part of a holistic assessment of the issue.

- 34.** The judge failed to support his findings with objective evidence and that fell foul of the decision in Budhoki (as cited above).

The appellant's submissions:

- 35.** The appellant's solicitors sent submissions in reply on 20 May 2020. It was submitted that the FtTJ made clear and adequate findings in respect of matters of risk of persecution upon return, the sufficiency of protection available and to internal relocation set out at paragraphs 41 – 48 of the decision.
- 36.** At paragraph [41] the judge identified reasons as to why he found that the appellant remained at risk of being re-trafficked or punished by her traffickers which related to being punished for reporting crimes of the traffickers or from escaping from them.
- 37.** At [42] the judge acknowledged the period of time that the appellant had resided outside of the place of return and had considered this as a material fact as part of the decision but was entitled to view it in the light that the appellant had been under gang control in the UK from either 2000 – 2005 until 2014 – 2015 and that it was likely that those whose control she was under in the UK were likely to have links to the gangs in the place of return. As this was as recently as 2014 – 2015, it was open to the judge to find that there was a reasonable likelihood to be a more recent connection between the appellant and the gangs operating in the place of return. It was therefore open to the judge to find that there was a risk to the appellant from gangs in the place of return who had links to her traffickers.
- 38.** The written submissions refer to the background material which referred to by the judge at [41] which demonstrates the prevalence and existence of gangs in the place of return. However, the judge made clear findings as to why the appellant would specifically be at risk from a traffickers and gang members affiliated to those who are trafficked. Consequently, the reference to the background material is irrelevant to the overall findings in respect of the risk to the appellant upon return.
- 39.** At [43] the judge had found that the appellant had previously been subjected to persecution and whilst not expressly stated, paragraph 339K applied in assessing the risk the appellant on return which gave further reinforcement to the reasoning of the FtTJ.
- 40.** As to the issue of sufficiency protection, the FtTJ referred to having considered the available background material. In particular, the judge found that after considering the background material there was evidence that the police force was “overburdened”. Whilst it was not explicitly stated, it is reasonable to imply that finding referred to an inadequacy of state protection in the place of return. This was sufficient reasoning on the part of the judge.
- 41.** The Judge also found at [45] that the appellant had previously, when controlled by the gangs, had not been sufficiently protected by the police

against them. Furthermore, at [45] the judge found that due to the appellant's mental state, even if the police could protect her, she would be unlikely to seek such protection. These were not contrary findings and that the judge had considered the appellant's ability to seek protection if it were available.

- 42.** It is further submitted that the judge had viewed the background material as set out in the refusal letter and had made an informed and proportionate decision in reaching the findings of fact. Whilst the respondent had failed to attend the court hearing, the judge acknowledged and engaged with the arguments set out in the decision letter.
- 43.** In conclusion it was submitted that no error of law had been made by the FtTJ and that the determination should be upheld.

The respondent 's reply:

- 44.** The Secretary of State responded in submissions sent by email on the 21 May 2020.
- 45.** It was submitted that whilst the FtTJ finds the appellant is at risk from her former traffickers at [41], the FtTJ relies on an overall prevalence of gangs to establish a current risk. As the appellant's interaction with her traffickers was historical, it was therefore incumbent on the FtTJ to identify evidence that clearly demonstrated the link between her traffickers and which portion (if any) of the 2484 gang members placed her at risk, and therefore their ability to locate her or pose a risk across the entirety of [xxx].
- 46.** It is further submitted that the FtTJ provided inadequate reasons as to why the same risk is present on return some 15 years later given the appellant's profile, and how it would not be alleviated through protection from the authorities or internal flight.
- 47.** As to the consideration of the issue of sufficiency of protection this is extremely brief and the FtTJ referred to one item of evidence in that regard at [45]. Also, the FtTJ addressed internal relocation very briefly at [46] as argued in the previous representations.
- 48.** In answer to the submissions on behalf of the appellant, the fact that the FtTJ cited the refusal decision at some point in the determination did not indicate that the judge had regard to the State Department report and its contents.
- 49.** Furthermore, the finding in relation to the appellant being mistrustful of the police in the past due to their lack of diligence does not automatically mean that she would feel/act the same on return. It is noted that Dr Murphy's report at para 170 is silent on how the appellant would act in the future. It is submitted that this finding at [45] is not supported by the evidence, and the FtTJ fails to provide adequate reason as to why given the appellant's experience she would now not be willing to seek assistance



from the authorities if required. Given the developments in law enforcement since 2005 and focus on victims as set out in the refusal decision, it again highlights the need for the FtTJ to have engaged with the current objective evidence.

- 50.** I have carefully considered all of the submissions that have been provided by the parties in reaching a decision on the relevant issues and I have done so in the light of the documentation before me including the decision under challenge.

Decision under Rule 34 of the Tribunal Procedure (Upper Tribunal) Rules 2008

- 51.** Having had full regard to the Pilot Practice Direction: Contingency arrangements in the First -Tier Tribunal and Upper Tribunal, the Presidential Guidance Note No 1 2020 and all documents submitted by the parties, I have reached the decision that the decision on this appeal should be made without a hearing.

- 52.** In the preceding paragraphs I have set out the submissions advanced on behalf of the appellant and the respondent. In my judgment there is no complexity which necessitates an oral hearing to ensure fairness. The parties have been given full opportunity to advance their respective submissions and to fully participate in the decision-making process. Each party has submitted their written submissions and have been asked to address the issues identified by the Upper Tribunal. There are no issues or concerns to which fairness demands the parties be given a further opportunity to respond or a hearing and both parties have been given a full opportunity to engage in the proceedings and to advance their respective cases. Neither party have requested an oral hearing and I have therefore concluded that the matter can be fairly and justly determined without a hearing and that I should go on to consider those issues which the parties have provided their respective submissions on.

Decision on the error of law:

- 53.** It is accepted on behalf of the Secretary of State that permission has been granted on ground 2 only. The original grounds as pleaded assert that the FtTJ's findings on internal relocation were flawed based on the FtTJ referring to the level of gang membership in the place of return and that it did not demonstrate the prevalence of gang membership throughout. The ground also asserted that the FTTJ's "defective" findings did not give the Secretary of State an explanation as to why the appeal was allowed. Ground 2 is a "reasons challenge."
- 54.** The subsequent written submissions go further than the original grounds as pleaded but as the appellant has been given the opportunity to address those issues, I am content to deal with them.
- 55.** When considering the grounds and the written submissions which now seek to raise the issue of sufficiency of protection as well as internal relocation, it is important to set out the evidence which the FtTJ accepted and formed the factual basis for his assessment of risk.

- 56.** The FtTJ made clear, adequate, and sustainable findings that the appellant had been the subject of serious childhood abuse and trauma in the place of return (see [35]). She had also been the subject of serious sexual assaults and was forced into prostitution between 1994 - 2000. That there were three locations where she had been the victim of trafficking-from the US to [xxx] (the place of return), being trafficked from the place of return to the UK in 2001 and being forced into prostitution and being subject to ill treatment (beaten by gang members) until she was able to escape/arrest in 2016.
- 57.** The FtTJ accepted the medical evidence in the form of a scarring report and a psychiatric assessment and gave reasons for reaching the conclusion that the evidence contained was reliable and cogent and treated the evidence as being capable of corroborating her account that she had been a victim of trafficking and had suffered significant trauma (at [38]).
- 58.** In reaching those findings, the FtTJ gave consideration to the credibility points raised in the decision letter and expressly considered the inconsistencies and discrepancies including the use of false names. He concluded at [21] and [32 - 36] that the inconsistencies in her account were due to the sustained trauma that she had faced throughout adult life.
- 59.** The FtTJ therefore found her to be a former victim of trafficking who continued to present and function as a vulnerable woman who was suffering from complex PTSD, depression with suicidal thoughts and physical problems (as set out in the report of Dr M).
- 60.** The account in the appellant's witness statement was that she had no connections to the place of return nor any support and would be vulnerable due to her mental and physical health needs and having been a victim of trafficking (see paragraph 41).
- 61.** Against that background the FtTJ considered the issues of risk on return. Whilst the FtTJ did not accept that she would be at risk on account of her relationship with her father, the judge reached the conclusion that on the evidence before him that she was at risk of persecution on return and this was as a result of the risk of being re-trafficked.
- 62.** Contrary to the grounds the FtTJ did give adequate and sustainable reasons for reaching the conclusions set out at paragraphs [41] - [46]. The FtTJ concluded that the risk of re-trafficking was as a result of her particular background history (see paragraphs 41 - 42) and expressly found the risk as a result of being punished for reporting the crimes against her traffickers and for having escaped those who had trafficked her. The judge found that the persons who had controlled her until 2015 would likely to have links to the gangs in the place of return and that she would face "a significant risk of being re-trafficked."
- 63.** This is based on the evidence from the appellant and also the objective material in the appellant's bundle. The appellant's account and evidence

were that the majority of gang members who controlled her in the place of return were nationals of that country and had a wide network (paragraph 34). The appellant made reference to the place of return as being very small (paragraph 28) and that it consisted of a “tightknit community” where gang members had connections to the place of return. She believed that the traffickers would easily locate her because it was a small country with a tightknit community controlled by corrupt police and violent gangs and that this was as a result of having spent so long under their control and in different houses and brothels throughout [xxx] (the place of return) (see paragraph 37).

- 64.** It is not as asserted in the grounds that the FtTJ relied on an overall prevalence of gangs within the place of return to establish a current risk. The FtTJ referred to the issue of gangs within [xxx] as background evidence to his assessment but did not solely rely upon this in his assessment of risk. The FtTJ accepted the appellant’s account that there was a reasonable likelihood that those who had trafficked/controlled her in the UK up until 2015/2016 still retained links with those who are trafficked her from the country of return and therefore she was likely to remain at risk.
- 65.** The FtTJ considered this alongside the issue of sufficiency of protection. The grounds submit that the FTT ‘s assessment of this was “wholly inadequate” and failed to engage with the arguments and objective material in the decision letter set out at paragraph 78 – 87.
- 66.** I have given careful consideration to those written submissions but when seen in the light of the material before the FtTJ alongside his factual assessment, I consider that the criticism is unwarranted. I shall set out my reasons for reaching this view.
- 67.** This was a hearing where the respondent did not attend and therefore the FtTJ was required to consider the evidence submitted on behalf of the respondent and the issues raised in the decision letter (see Surendran guidelines).
- 68.** The FtTJ also had a bundle provided on behalf of the appellant which included the full reports of the US State Department report on human rights and the trafficking report alongside other material relating to gang memberships and issues of trafficking. By contrast, there were only extracts in the decision letter from those main reports which was selective.
- 69.** The points raised in the decision letter relating to sufficiency of protection were set out at paragraph 79 – 84. Paragraph 79 is an extract from the US State Department human rights report and the extract cited gives simply a description of the police and the coastguard before an acknowledgement that “there are issues with the police force” but concluded that there was still a functioning police force from whom the appellant could obtain sufficiency of protection.

- 70.** The extract provided in the decision letter does not make reference to the full report or “the issues” which had been highlighted. Those problems were the “open-ended investigations which “created a climate of impunity”, corruption with officials including the police (page 136), allegations that the police had close relationships with gang members and accepted bribes to facilitate human smuggling and trafficking (page 137) and that the police often hesitated to engage in domestic violence law and that serious sexual assault/abuse was a pervasive problem (page 138).
- 71.** The material in the appellant’s bundle (2019 crime and safety report) referred to the serious risk of crime and violent crime to the general population (page 179) and that the majority of violent crime was gang related.
- 72.** The Guardian article referred to by the FtTJ referred to the prevalence of gang membership and the article also referred to the lack of convictions made under the Anti-Gang Act 2018, passed in 2019 but that this had been ineffective with no convictions.
- 73.** At paragraphs 81 – 84 under the heading “protection” there were three paragraphs which were taken from the Trafficking in Persons report. The judge had the benefit of the full report in the appellant’s bundle at paragraph 107 – 111. The three paragraphs cited in the decision letter were selective when seen in the light of the contents of the full report. Whilst the material made reference to protection for victims of trafficking, there was reference to the antitrafficking law 2011 that had been passed but had not secured a conviction, that there was a lack of screening of victims and due to this the government penalised some of the trafficking victims. The section quoted in the decision letter missed out the following “there was insufficient government funding for comprehensive victim care”, victims often did not receive services (with CTU) and the government had kept and screened trafficking victims in detention without providing them with victim care. The shelters referred to in the refusal letter made no reference to observers having reported an absence of appropriate shelters with adequate staff and security personnel. A further matter not set out in the refusal letter referred to there being corruption in police and immigration which had been associated with facilitating prostitution and sex trafficking (see page 110).
- 74.** It was not necessary for the FtTJ to make reference to all the material that was before him and it is plain that the FtTJ did have regard to the case advanced by the respondent from the decision letter as set out at paragraph 9 and the reference to the credibility issues which he resolved in his factual assessment.
- 75.** In the light of the material before the FtTJ, it was open to him to reach the conclusion that there was a reasonable likelihood that there would be no sufficiency of protection for this particular appellant. Whilst he referred to the police as being “overburdened” the material relied upon by the respondent (although not set out in the extracts) made reference to the

failings within the police including issues of corruption and links to gang members involved in trafficking of women.

- 76.** The FtTJ also gave further reasons which refer to the past experiences of the appellant where she had not been sufficiently protected by the police. It was open to the judge to consider that her previous treatment by the police, even if historic, when viewed alongside the more recent evidence, this highlighted continuing problems in terms of effective protection for the appellant.
- 77.** It was also open to the FtTJ to consider the effect of the appellant's vulnerability upon her ability to engage with the police (who had previously failed to protect). At [45] the FtTJ referred to the medical evidence where she had been described as being distrustful and not wanting to tell professionals about what had happened to her. The FtTJ concluded from the evidence that in relation to the appellant that this was also likely to be the case on return to [xxx] and that in light of her mental health needs (complex PTSD and depression) that she would be unlikely to seek protection from the police.
- 78.** The written grounds submitted on behalf of the respondent assert that a finding of past mistrust on the part of the appellant would not automatically mean that she would feel the same now and that the medical report was silent on how she would act in the future and therefore this finding of the FtTJ was not supported by the evidence.
- 79.** I do not accept that submission as it fails to take into account the evidence given by the appellant in her witness statement which was before the FtTJ and also the contents of the medical report by Dr M.
- 80.** The appellant made reference to the complicity of the police with the gangs and that she would not feel safe residing in a country where they would be her only protection (see paragraphs 28, 29 and 30). The medical report also referred to the appellant being mistrustful of the police after her experiences in [xxx] (the country of return) and that the police had never helped her and so why should she trust them? (see paragraph 87); she was never protected by people who are meant to protect her (paragraph 109) she had long-standing problems in trusting other people (paragraph 140) which were reflected in the current situation at paragraph 171 that she had never trusted the police after her experiences and as the police had never helped she would not trust them.
- 81.** I therefore consider that it was open to the FtTJ to conclude that there was a reasonable likelihood of the appellant being re-trafficked and that in her particular case she would not be provided with adequate or sufficient protection.
- 82.** The respondent also submitted that the FtTJ failed to address the issue of internal relocation and did so "briefly" at [46].
- 83.** The finding at paragraph [46] should be read alongside the findings of fact and earlier assessment of general insufficiency of protection at [45]

where the FtTJ concluded that the appellant was not likely to be offered effective protection against the risk of re-trafficking from the police. That being the case, it was open to the FtTJ to find that the risk was likely to arise wherever she lived in the country of return. The grounds fail to take account of the fact that the place of return is a small place which has a total population of 1, 300, 000 which was referred to by the appellant as a “small close-knit community”, and a place where the appellant described having been trafficked in a number of locations. The objective material made references to the links between gang members and the police therefore it was open to the judge to conclude overall that there was no safe place of relocation for the appellant.

- 84.** Having considered the written grounds of challenge in the light of the material that was before the FtTJ and his assessment, I am satisfied that the FtTJ did not fall into error and that he gave adequate and sustainable reasons to reach the conclusion that having been found to be a victim of trafficking that there remained a reasonable likelihood that she would be re-trafficked if returned to [xxx]. When considering claims of international protection, a judge is required to consider the core issues and to make findings upon them. Following Budhathoki (reasons for decisions) [2014] UKUT 341 (IAC) judges need to resolve the key conflicts in evidence and explain in clear and brief terms their reasons for preferring one case to the other so that parties can understand why they have lost. Reasons need not be extensive if the decision as a whole makes sense, having regard to the material accepted by a judge: Shizad (sufficiency of reasons: set aside) [2013] UKUT 85 (IAC), at [10].

### **Notice of Decision**

The appeal is dismissed. The decision of the First-tier Tribunal to allow the appellant’s appeal did not involve the making of an error of law.

### **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.

Signed Upper Tribunal Judge Reeds

Dated: 22 June 2020

Upper Tribunal Judge Reeds

---

### NOTIFICATION OF APPEAL RIGHTS

1. A person seeking permission to appeal against this decision must make a written application to the Upper Tribunal. Any such application must be received by the Upper Tribunal within the appropriate period after this decision was sent to the person making the application. The appropriate period varies, as follows, according to the location of the individual and the way in which the Upper Tribunal's decision was sent:
2. Where the person who appealed to the First-tier Tribunal is in the United Kingdom at the time that the application for permission to appeal is made, and is not in detention under the Immigration Acts, the appropriate period is 12 working days (10 working days, if the notice of decision is sent electronically).
3. Where the person making the application is in detention under the Immigration Acts, the appropriate period is 7 working days (5 working days if the notice of decision is sent electronically).
4. Where the person who appealed to the First-tier Tribunal is outside the United Kingdom at the time that the application for permission to appeal is made, the appropriate period is 38 days (10 working days, if the notice of decision is sent electronically).
5. A "working day" means any day except a Saturday or a Sunday, Christmas Day, Good Friday, or a bank holiday.
6. The date when the decision is "sent" is that appearing on the covering letter or covering email