



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

PA/00451/2018

**THE IMMIGRATION ACTS**

**Heard at Glasgow  
on 29 November 2018**

**Decision & Reasons  
Promulgated  
On 21 December 2018**

**Before**

**UPPER TRIBUNAL JUDGE MACLEMAN**

**Between**

**QUYET [N]**

Appellant

**and**

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

Respondent

For the Appellant: Mr J W Bryce, Advocate, instructed by Peter G Farrell,  
Solicitors

For the Respondent: Mr A Govan, Senior Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. The appellant, a citizen of Vietnam, has permission to appeal against a decision by FtT Judge MacKenzie, promulgated on 31 May 2018, dismissing his appeal on protection grounds. (He did not rely on human rights grounds.)
2. The appellant's position is clearly set out in counsel's note of argument dated 26 November 2018. The essence is that the FtT dealt inadequately with an expert report, by Professor Bluth; the FtT failed to make any finding on the contested issue of whether the appellant had been a catechist in the Roman Catholic Church in his diocese; the expert evidence rendered it inconceivable that if he was a catechist, he would not have been involved in the Formosa protests, or at least the authorities would

perceive him to be involved; and such a perception showed a risk of persecution.

3. Mr Bryce acknowledged that on further background evidence now available it was arguable that even if the decision was defective the claim "at highest" might not succeed. However, he observed that the respondent's decision turned on credibility, implicitly accepting that there might be risk, and submitted that if there was error, a fresh hearing would be needed to decide on both subjective and objective fear.
4. (A second element of the appeal is mentioned in the note, namely that risk on return as a failed asylum-seeker was ignored. However, this was developed no further, and it appears that the appellant left Vietnam on his own passport. There was nothing to show risk only from failure in an asylum claim.)
5. Having considered the appellant's written and oral submissions, and the submissions for the respondent, I am not persuaded that the making of the decision of the FtT involved the making of any error on a point of law.
6. The case turned primarily on the credibility of the appellant, which was for the judge to decide. She was bound to take note of the expert report, but she did so - Mr Govan pointed to [6], [36], [43] and [55].
7. The judge's main points in assessing credibility were these:

[38], claim to have circulated articles to students, but unable to remember whether those were published online; vague, and a pointer to fabrication.

[39] - [40], inability to locate articles claimed to have been posted on church noticeboards and uploaded to the internet; vague, and no explanation for absence of enquiries to trace these articles.

[41], claim in witness statement to have published online, contradicted by answers at interview that articles not published.

[42], oral evidence of usually adopting a different name, contradicted by witness statement that he did put his name to journal articles.

[43], vague and unlikely account of evading police detection; that view reinforced by respondent's CIPIN and report of Professor Bluth.

[44], unlikelihood of being able to evade police when stopped.

[45] - [46], contradictions between claim at interview to have gone into hiding, and in witness statement to have remained in his small village where he was known to the police, plus inadequate explanation in oral evidence, according to which he was not in hiding.

[47] No expert evidence to support validity of summonses; no explanation for originals being produced only on the day of hearing, a timing which denied the respondent the opportunity to carry out authentication checks.

[48] considering all evidence in the round, summonses and letters in support not found reliable.

[49] - [54] "for completeness", adverse findings under s.8 2004 act, based on delay in claiming, varying explanations for same, and failure to claim elsewhere.

8. The note of argument at [8] criticises [47] of the decision for taking production of original documents as undermining rather than enhancing credibility. However, as I understood Mr Bryce to accept at the hearing, the judge's point was not that originals were forthcoming, but that they appeared only at the last moment.
9. None of the other reasons has been said to be defective.
10. The judge separated her findings based on s. 8 of the 2004 Act. It may be an error to find against an appellant on such grounds alone, but they remain part of the overall assessment. However, the approach taken tended in the appellant's favour, not against him. The judge would have found against him, even apart from those issues, which were strong.
11. The judge's findings are not just statements of disbelief, they are reasoned and comprehensive. I am not persuaded that the decision is defective for absence of an express statement that the appellant had not shown that he was a catechist. Judges do not have to state findings on the evidence line by line. It has not been suggested that she was asked to make a specific finding, or that it was put to her that the case might succeed by such a finding, and no more.
12. The appellant's case fell well short of probation. If a specific finding did need to be read in, it would be negative.
13. The decision of the First-tier Tribunal shall stand.
14. No anonymity direction has been requested or made.



7 December 2018  
Upper Tribunal Judge Macleman