



KNOWLEDGE-BASED HARMONISATION OF EUROPEAN ASYLUM PRACTICES

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Case Summary

Country of Decision/Jurisdiction	United Kingdom
Case Name/Title	AZ (Trafficked women) Thailand CG
Court Name <i>(Both in English and in the original language)</i>	Upper Tribunal (Immigration and Asylum Chamber)
Neutral Citation Number	[2010] UKUT 118 (IAC)
Other Citation Number	
Date Decision Delivered	23 April 2010
Country of Applicant/Claimant	Thailand
Keywords	Internal relocation
Head Note (Summary of Summary)	<p><i>1. Whilst former victims of trafficking in Thailand constitute members of a particular social group, not all will be at risk of serious harm on return; the risk will depend upon a number of factors and must be assessed on a case by case basis.</i></p> <p><i>2. Relevant factors will include the age, marital status, domestic background, educational level, qualifications and work experience of the appellant. The availability of employment and a familial or other support network will also be significant factors.</i></p> <p><i>3. Although anti-trafficking legislation has been implemented, the involvement of corrupt officials with traffickers and/or criminals has weakened the steps taken by the government to combat trafficking.</i></p>
Case Summary (150-500)	<p>The core of the appellant's claim was accepted by the Secretary of State.</p> <p>The appellant, a Thai citizen born on 16 August 1983, had a deprived and abusive childhood. She was tricked into coming to the UK as a visitor in early 2006, and then beaten, raped, and forced to work as a prostitute. She escaped from her trafficker in September 2006. She was prosecuted and imprisoned by the UK authorities for trying to leave the country with a false passport. Whilst in detention, she was referred to the UK Human Trafficking Centre, and claimed asylum on 15 July 2007.</p> <p>The asylum claim was refused on 17 October 2007. The UK authorities found that she could avoid being re-trafficked, that she was not a member of a particular social group, and that protection would be available to her in Thailand.</p>
<i>Facts</i>	<p>The asylum appeal was allowed on subsidiary protection grounds by an Immigration Judge. It was found that the appellant was known to the gang that trafficked her to the UK, was in debt to them, that her experiences had left her psychologically vulnerable, and she had no family support. The risk</p>



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	<p>of re-trafficking was high. The appellant was not entitled to the protection of the Refugee Convention as she was not a member of a particular social group.</p> <p>The Secretary of State challenged the decision of the Immigration Judge. An order for reconsideration was granted for reason that the Immigration Judge had given inadequate reasons for finding that the traffickers would be able to trace her on return to Thailand, and for finding that she could not internally relocate within the country. The appellant challenged the finding of the Immigration Judge that she was not a member of a particular social group.</p>
<p><i>Decision & Reasoning</i></p>	<p>The Upper Tribunal found on the evidence, including the evidence of experts, that she was trafficked by a gang, rather than an individual. That gang had links to the Thai authorities, and possibly to officials within the British Embassy in Thailand. She would have no effective family support on return. She was found to be a member of a particular social group, <i>'young females who have been victims of trafficking for sexual exploitation'</i>.</p> <p>On the general risk of being re-trafficked, the Tribunal found,</p> <p><i>'144. The risk will depend on the age and personal circumstances of the applicant. Factors such as her marital status, domestic background, familial support network, educational level, qualifications, past work experience and availability of employment are all relevant factors and this list is not exhaustive. Also significant will be the applicant's state of mind. Someone suffering ongoing trauma will be more vulnerable to the risk of persecution because of an inability to re-integrate into society. The reliance upon a shelter to provide help may also ironically place an applicant at risk because it will identify her as a former trafficked victim and as a woman without the means of other support. Such a vulnerable female may well be targeted by traffickers. We referred earlier to the absence of a missing persons list in Thailand and we observed that a woman without a family network would not be missed if she 'disappeared'.</i></p> <p>The Tribunal found the appellant to be a particularly vulnerable young woman, that she remained seriously traumatised by her experiences, and <i>'that it would be very difficult for her to reintegrate into Thai society and support herself without falling back into the hands of traffickers because her fragility would inevitably attract the wrong kind of attention. We are also cognisant of the fact that she has no family support, no home and limited education'</i>.</p> <p>On the prospects of employment, away from her home area, the Tribunal found that this would only be available in the tourist industry, which includes a rampant sex trade where traffickers operate. This would put her at additional risk of being re-trafficked. Her past persecution was indicative of future risk.</p> <p>The Tribunal found that she would not be free of the risk of re-trafficking by</p>



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internally relocating due to her psychological and economic vulnerability, and the lack of family support. Shelters for victims of trafficking existed, but may not be available to the appellant. In any case, they only provided short-term support. The shelters were like detention centres and the appellant's acute psychological state militated against her being detained in this way. She would be unlikely to be able to continue her therapy in Thailand, and may fall apart without it.

162. *The correct approach to the issue of internal relocation was laid out by Lord Bingham in [Januzi\[2006\] UKHL 5](#) and confirmed in [AH \(Sudan\) \[2007\] UKHL 49](#). It is whether a claimant can reasonably be expected to relocate or whether it would be unduly harsh to expect him to do so. It is important to bear in mind that the test for relocation must not be equated with a well founded fear of persecution or a real risk of ill treatment. This is reflected in paragraph 3390 of the Immigration Rules HC 395, as amended. The assessment must be directed to the situation of the particular appellant, whose age, gender, experience, health, skills and family ties may all be relevant. Thus the circumstances of each applicant must be carefully assessed. For some, relocation may well be a possibility.*

163. *We have above set out in some detail why we have found the appellant to be particularly vulnerable. We have also explained why we found that she would be unlikely to obtain employment that would keep her safe from a risk of being re-trafficked. We heard evidence that sex traffickers operate throughout Thailand and that poorer areas are particularly targeted. Single, young women can be at risk in any part of the country if they live without family support and are not strong enough to withstand the risk of being duped into the sex trade. Their socio-economic conditions have a direct bearing on the extent of risk they are likely to face.*

164. *We take note of the fact that there are some shelters for victims of trafficking in Thailand. We have addressed this issue in paragraph 159. The evidence from Ms Pollock and Ms Skrivankova is that (unlike the evidence on shelters in Nigeria in [PQ](#)), these focus mainly on providing short-term assistance to those who have been trafficked into the country. Moreover, they are described as resembling detention centres with women unable to come and go freely. That would have a negative impact on the appellant who has already struggled with restrictions on her movements when she was living at the Medaille Trust as this was reminiscent of her period of trafficking. The evidence has also been that the appellant would find it difficult to access assistance because of her fragile state of mind. Even if the appellant felt able to approach the authorities for help, the US State Department report, as cited earlier, observed that funds for fighting trafficking or aiding its victims were limited as was the availability of psychological counselling.*



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	<p>165. <i>We have heard evidence that if the appellant is removed from her therapy, she would essentially fall apart. We had the opportunity to observe the appellant give oral evidence in court and we noted her extreme distress and her inability to physically move or compose herself upon completion of her examination. In our judgment, such a reaction could not have been feigned and indeed the lengthy medical reports that are before us confirm that the appellant has reacted in that way throughout her weekly therapy at the Helen Bamber Foundation although there are now some fragile signs of improvement. The evidence before us is that counselling in Thailand is extremely limited and we accept that the appellant is not somebody who would be able to approach the relevant bodies for assistance. Her limited education, her timidity and her perception that officials have connections with trafficking gangs would all serve to increase her reluctance to do so. We note that she was not even able to seek help in this country and only came to the attention of the Foundation following a hospital referral after a suicide attempt. Her feelings of unworthiness and her description of herself as defiled and dirty would only put further obstacles in the way of accessing assistance. In the light of all these factors we find that it would be unreasonable to expect the appellant to relocate and we also find that due to her personal circumstances she would be vulnerable wherever she went.</i></p> <p>166. <i>Ms Brewer did not seek to argue that the appellant's human rights were engaged because she was a suicide risk and we have not therefore considered it necessary to address this point. Whether or not she is a suicide risk, it is clear that her psychological condition is fragile and that is relevant to how she would cope on return and also to how she would be perceived by others, particularly traffickers who might find her to be an easy target. We have considered her state of mind in that context.</i></p>
<p><i>Outcome</i></p>	<p>The appeal was allowed. The appellant was found to be entitled to the protection of the Refugee Convention.</p>