



**Upper Tribunal  
(Immigration and Asylum Chamber)  
PA/00275/2018**

**Appeal Number:**

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 28 February 2019**

**Decision & Reasons  
Promulgated  
On 19 March 2019**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE I A LEWIS**

**Between**

**NAM TRAN**  
(ANONYMITY DIRECTION NOT MADE)

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr A Khan of Counsel instructed by Thompson & Co Solicitors

For the Respondent: Mr C Avery, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. This is an appeal against a decision of First-tier Tribunal Judge Sweet promulgated on 13 December 2018 in which he dismissed the Appellant's protection appeal.
2. The Appellant is a citizen of Vietnam.
3. It is common ground before me that the decision in the appeal requires to be set aside and the decision in the appeal remade before the First-tier Tribunal by any Judge other than Judge Sweet. In the circumstances it is

unnecessary to rehearse the Appellant's immigration history, or to set out in any great detail the basis of his claim for protection.

4. It is enough to note for present purposes that in support of his claim for protection the Appellant referred to activities both in Vietnam and political activities in the United Kingdom.
5. The latter activities - the so-called 'sur place' activities - were the consideration of findings adverse to the Appellant's overall claim at paragraph 32 of the decision of the First-tier Tribunal Judge. However, it is not possible to identify any findings in respect of the Appellant's account of the events that he claimed had befallen him in Vietnam, and had prompted his flight from that country.
6. The Judge, under the heading 'Findings and Decision' appears for the main part to have set out a rehearsal of the Appellant's narrative account. In so doing the Judge commented twice in respect of section 8 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004: he notes that there are doubts in respect of credibility because of the delay in claiming asylum (paragraph 32); he also notes there are doubts as to credibility because of the Appellant's failure to claim asylum, or otherwise seek protection, *en route* to the United Kingdom - including when passing through European countries (paragraph 35). Although the Judge expresses doubts as to credibility, he nowhere takes this forward into any clear findings - or indeed *any* findings - in respect of the narrative account.
7. In the grounds for permission to appeal Mr Khan has suggested it is implicit that the Judge accepted the Appellant's account. I do not consider that the Decision can bear that interpretation. It seems to me, unfortunately, that the Judge has quite simply omitted to make findings in respect of key elements of the account.
8. In those circumstances, the parties are agreed on the outcome. The Appellant's account has not been adequately considered, and it is appropriate that the appeal be sent back to the First-tier Tribunal for the decision to be remade. I decide accordingly.

### **Notice of Decision**

9. The decision of the First-tier Tribunal contained a material error of law and is set aside.

10. The decision in the appeal is to be remade before the First-tier Tribunal by any Judge other than First-tier Tribunal Judge Sweet, with all issues at large.

11. No anonymity direction is sought or made.

*The above represents a corrected transcript of ex tempore reasons given at the conclusion of the hearing.*

Signed:

Date: 15 March 2019

**Deputy Upper Tribunal Judge I A Lewis**