



**Upper Tribunal
(Immigration and Asylum Chamber)
PA/03370/2017**

Appeal Number:

THE IMMIGRATION ACTS

**Heard at Manchester CJC
Reasons Promulgated
On 10 April 2018**

Decision &

On 13 April 2018

Before

UPPER TRIBUNAL JUDGE PLIMMER

Between

MOHAMMED BOUDOUAIA

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the appellant: Mr Greer, Counsel

For the respondent: Mr Bates, Senior Home Office Presenting Officer

DECISION

1. In its decision dated 7 June 2018, the First-tier Tribunal made clear findings of fact in support of its conclusion that upon removal to Algeria the appellant would face inhuman and degrading treatment, such that the appeal was allowed pursuant to Article 3 of the ECHR.
2. The appellant has appealed against the decision to dismiss the appeal on humanitarian protection ('HP') grounds. There was no cross-appeal.

3. At the beginning of the hearing before me both representatives agreed with my provisional decision that that the decision dismissing the appeal on HP grounds contains an error of law. Mr Bates expressly accepted that the unappealed findings of fact are such that the appellant faces serious harm in Algeria and is entitled to HP.
4. Both representatives therefore entirely agreed with the following:
 - (1) The First-tier Tribunal decision is set aside because it contains an error of law in its approach to the appeal on HP grounds.
 - (2) The decisions to dismiss the appeal under the Refugee Convention but allow the appeal under Article 3 of the ECHR, given the findings of fact, are not infected by any error of law.
 - (3) I remake the decision by allowing the appeal on HP grounds.
 - (4) It follows that the appeal is allowed on HP and Article 3 grounds, but dismissed on Refugee Convention grounds.

Signed:

Ms M. Plimmer
Judge of the Upper Tribunal

Date:
10 April 2018