



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM CHAMBER**

Appeal No: UI-2022-002678  
First Tier No: PA/54034/2021  
IA/11782/2021

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:  
On 16 January 2024**

**Before**

**UPPER TRIBUNAL JUDGE BRUCE**

**Between**

**KO (Algeria)  
(anonymity order made)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Ms Anifowoshe, Counsel instructed by Elkettas and Associates  
For the Respondent: Mr Tan, Senior Home Office Presenting Officer

**Heard at Manchester Civil Justice Centre on 14 November 2023**

**DECISION AND REASONS**

1. The Appellant is a national of Algeria born in 1977. He appeals with permission against the decision of the First-tier Tribunal (Judge Andrew Davies) to dismiss his appeal against a refusal to grant him leave on human rights and protection grounds.
2. The parties have my apologies for the delay that there has been in promulgating this decision.

**Background and Decision of the First-tier Tribunal**

3. The facts of this case, and in particular the way that those facts have unfolded, is important to an understanding of this appeal. It is therefore necessary to set these out at some length.

4. The Appellant arrived in the United Kingdom on the 19<sup>th</sup> December 2018 in possession of a valid visit visa. He claimed asylum on the 23<sup>rd</sup> January 2019. The Appellant's claim was 'screened' that day. He told the officer that he was a police detective in Algeria. He is married with three children. Asked what had prompted him to claim asylum he said this:

"My life is in danger there is a group of party that I am scared of. If I return I will be put in prison and great possibility that they will kill me. This started about four months ago in Algeria because I discovered this group who sells drugs they're after me"

5. The Appellant was then asked to complete a 'preliminary information questionnaire'. He did so by submitting a witness statement drafted by his then solicitors, Elder Rahimi. It is dated the 3<sup>rd</sup> May 2020 and marked with the caution "instructions taken by phone due to Covid restrictions". He explained that he was an intelligence officer in the police. He often worked undercover. In 2018 he was in charge of an area of Algiers called Hoscindey. An individual named Kamal Sheikhi aka El Boucher arrived in the neighbourhood who immediately aroused suspicions. He had flashy cars and was able to build a large mosque; he bought seven properties in the area without any obvious source for his wealth. The Appellant started reporting on this man's activities to his superiors, who did not appear to be interested. Boucher's men approached the Appellant and tried to bribe him. The Appellant then states:

"On 29th of May 2018 a shipment of 250 kilogrammes of cocaine was intercepted coming from Spain to Algeria these drugs belonged to Boucher. The interception was made possible by the intelligence I had provided.

After the interception on the 31st of May 2018 I was called by one of my superiors and told to go to one of Boucher's villas. There were a lot of security personnel in the vicinity of the villa. When I got to the villa, I was confronted by a general. He asked me who I was. I told him my role in the police. The general said that I would be on a list of those put in jail. He was speaking of me as if I was a partner in Boucher's activities. I feared then that one of my superiors might have framed me".

6. Boucher was arrested. The next day one of his men approached the Appellant and told him that if anything happened to their boss, he would be killed.

7. In June 2018 the Appellant's brother was killed in Marseilles, France. In December 2018 he travelled to Marseilles to speak to the police conducting the investigation into his brother's death. From France he travelled to the UK, intending to only have a short break here over Christmas, as in fact he had done before. At the beginning of January 2019 one of his colleagues in Algiers called him to say that a number of his fellow police officers had been arrested or exiled, which the Appellant presumed to be connected to corruption, and links to Boucher. That was why he claimed protection.

8. The Appellant attended his substantive asylum interview on the 8<sup>th</sup> February 2021. After some preliminary questions comes the following exchange:

Q34: We will go into more detail, but for now can you briefly tell me in your own words, what you fear will happen to you if you returned to Algeria?

A34: If I go back to Algeria, I'd be imprisoned

Q35: Who would imprison you?

A35: I'm in a conflict with the army security services

Q36: When did your problems with the army security services start?

A36: It started in 2008 first of all, then the second time was 2018

9. It is here, for the first time, that the Appellant mentions the year 2008. This evidently piqued the interest of the officer interviewing him, because he is then asked to answer a lengthy series of questions essentially probing the Appellant's travel history and why he did not leave Algeria sooner. It is only after 26 questions that we return to the actual claim, and the Appellant is asked about his work as a police officer. He explains that he joined the force in 1999 and became a major investigation officer. He was assigned to the investigation and security services. The interviewing officer asks him about what happened in 2008. The Appellant then goes into a detailed explanation of an assignment that he was given by his line manager to essentially spy on other members of the security services. In response to Q70 of the interview he explains:

"the first task we overtook was discovered by the head of the army, they found us. When the army discovered our activities they contacted the head of our branch he checked on everything we were doing and asked us to close down the whole cell. He confiscated all of our equipment we were arrested all ten of us. They did an investigation into all our work and the intelligence we were providing. When they shut the whole cell down they put us in different areas and stations and the police general director went in with the army in a very difficult conflict. They murdered him in his own office in 2010. He was the Colonel Ali Tunsi, our general director..."

10. Having heard this, the interviewing officer took a break from the interview. When the interview is resumed the Appellant is asked about his arrest in 2008 and the conflict between the different factions in the army, secret service and the police in Algeria. He answers all the questions put to him. He confirms that the investigation conducted by the army at the time was very thorough, and that he encountered no problems after he had been arrested (and, presumably, released). He was allowed to continue working. As to why Ali Tunsi was murdered, he said that the relationship between the army and the police was "very tense and stressed" [at A78], and that it all had to do with "terrorism, cases of drug smuggling and corruption" [A79] but that he didn't really know the truth of it all. Asked if he experienced problems between 2008 and 2018, the Appellant said just that the army were causing "commotions and harassment" [A80]. Eventually, 84 questions into the interview, the Appellant is asked about the

recent events; the events that he had identified in his screening interview as the reason he was seeking asylum.

11. Asked about what happened in 2018 he reiterates the evidence he had already given in his witness statement about Mr Boucher, the cocaine and the investigation. He explains how he was threatened by an army officer at the scene of the raid on one of Boucher's villas: "he told me go back and tell your senior officer that all of you are going to prison" [A84]. The Appellant explains that he was there because he had actually been doing his job. He had conducted an investigation into Boucher's properties and companies and how they worked out that it all came from drugs. There is then this exchange:

Q85: When had you written the documents and reports about the drug dealer?

A85: I'm the one who wrote the report about this person it wasn't the army or anyone else because this is what I do best

Q86: But when was the report written?

A86: Six months prior to the discovery of the drug dealing

Q87: Why would this lead to you getting arrested again you had only been doing your job?

A87: Because the major thought that we were accomplices myself and Kamal Bushi [*it is accepted that this should read Boucher*] the army officer thought we knew what was going on and we were in the business with him the army thought we were the accomplices.

12. I pause to note that this, the answer to Q87, is one of the matters at the heart of the Appellant's case.
13. The interview continues with the Appellant being asked more about the investigation. He explained that Boucher was caught when a boat carrying 720kg of cocaine was intercepted coming to Algeria from Spain. Then:

Q90: Was the boat found after you had written your report?

A90: No this was intelligence research from America, it was a big smuggling business. Can I explain more? When there is a large quantity of drugs the Americans were following this trade I informed the Algerian army about the arrival of this ship. The report that I wrote was about the extreme wealth.

14. Coming to the conclusion of his story, the Appellant reiterates that the army was in conflict with his 'big boss' in the police force [at Q93]. The army had found some information that established that the Appellant's boss was a friend to Boucher. When the Appellant reported the army officer's threats to his boss, he had been told to ignore them. Subsequently this boss, and others connected to him, have been imprisoned in Algeria. The police chief was arrested in June 2019 and the Appellant's immediate boss in July 2019.
15. The Appellant himself travelled to France in the weeks after the raid on the villa, because of his brother's death. He spent a few weeks in France in June 2018 and

returned to Algeria. He carried on his work, whilst putting up with harassment and intimidation from the army. As he puts it [at A110] “they were cooking something, but I didn’t know what”. Then in January 2019, while he was here, his friends contacted him to tell him that “things in Algeria had got very bad”. They had received two summonses asking for the Appellant to report, and officers had gone to the Appellant’s mother’s house and issued threats against him. The interviewing officer asks the Appellant why, if the army had been interested in him all along, they had permitted him to leave the country at all. The Appellant explains [A113] that visas are something independent of the army and that entering/leaving the country is something judicial: “they can’t stop you from leaving the country or travelling without something from the judicial system” [A113].

16. This then, was where the Appellant’s case stood after he had submitted his claim to the Respondent. He was an undercover police officer in Algeria who had crossed not only a major international drug dealer but the corrupt officers he was working with within the Algerian security forces; because of the nature of the corruption he is unable to say with certainty who was working with Boucher and who was not. He has also been caught in the turf war between the Algerian police and army, who want to see him imprisoned, presumably because of his association with his allegedly corrupt former boss. It is also important to note that a good deal of corroborative documentary evidence was supplied about all of this.
17. The Respondent refused the claim on the 30<sup>th</sup> July 2021. She found that the claim was not one that engaged the Refugee Convention because the Appellant not shown that the harm he feared was for a ‘Convention reason’. Although the Respondent accepted that the Appellant was a police officer in Algeria she rejected his account on the basis of discrepancies about the dates in which he started to investigate Boucher (was it December 2017 or the beginning of 2018) and whether it was his research or the Americans’ which led to his arrest. She further considered that the Algerian army would have arrested him sooner if they were genuinely interested in him and/or prevented him from leaving the country.
18. At some point after the asylum interview, the Appellant changed representatives. The new representatives, Elkettas and Associates, appear to have adopted a completely different case theory about why the Appellant feared for his life in Algeria from that which I summarise above. Seizing on the historical background information he provided at his asylum interview, and the documentary evidence he was able to provide about his service as an undercover police officer, the new representatives chose to emphasise this, earlier phase of the Appellant’s life when they presented the appeal to the First-tier Tribunal. They went so far as to say that Elder Rahimi, the solicitors who had initially represented him, had done a poor job, and that in fact what this case was all about was the Appellant’s involvement in a secret spying cell some 14 years earlier. In the bundle prepared for the First-tier Tribunal they prepared a further witness statement dated the 4<sup>th</sup> November 2021 which consisted of a list of people the Appellant knows who have been either killed or arrested in Algeria, with no attempt to offer context or explanation as to how they might connect to his current claimed fear. At its highest what can be said is that these were all men who were, like him, police officers who paid the price for getting in the way of one or more bad actor.

19. It is against this background that Judge Andrew Davies was tasked with determining whether the Appellant is at risk in Algeria.
20. It is important to note, first of all, that Judge Davies accepted much of what he was being told. Given the novel nature of the evidence, the detail with which the account was given, its internal consistency and the fact that it was supported by external documentary evidence, this was in my judgment the only rational conclusion that he could have reached, applying the lower standard of proof applicable in this appeal. He accepted that the Appellant was a police officer who was “involved in a special unit which was outside the normal structures of the army and the police”. He further accepted that the Appellant was involved in the Boucher arrest and that in the “ongoing competition between the army and the police” he came under suspicion because of his professional association with his boss [FTT §72]. The Tribunal accepted that there is corruption in the Algerian government, police and army [§82, 88-90].
21. He did however make a series of negative credibility findings which ultimately lead him to conclude that the Appellant is not at risk. Those findings are:
  - i) At its §43 the Tribunal puts no weight on the “omission to mention the spy cell in the Appellant’s very brief account at the screening interview”. It goes on to say “however, by May 2020 I am satisfied that the Appellant would have been able to provide his own solicitor with the full account..”, this being a reference to the fact that the ‘spy cell’ material was not included in the original witness statement prepared by Elder Rahimi. This point is reiterated at FTT §50 where it is described as a “noteworthy omission”, and again at §61;
  - ii) At FTT §56-57 a further ‘discrepancy’ is identified in that the Appellant said that he was part of the spy cell for 2 years whereas he also said that it was disbanded after their first operation;
  - iii) At FTT §61-68 the Tribunal concludes that while the Appellant might have suffered some unpleasantness, if I can put it like that, in the years 2008-2018, none of this amounted to persecution;
  - iv) That nothing happened to the Appellant in the months following Boucher’s arrest and his departure for France and the UK [FTT §72-76] and he was allowed to leave the country on his own passport. See also §98;
  - v) He has not faced specific threats or dangers [FTT §96];
  - vi) There is “no concrete evidence” that the Appellant is at risk from either the army/drug gang [§97]
  - vii) The Appellant has not established why his brother’s death in Marseilles placed him at any increased risk [§84-87].

### **Proceedings in the Upper Tribunal**

22. This matter first came before me on the 18<sup>th</sup> October 2023, when the Respondent was represented by Senior Presenting Officer Mr Bates, and the Appellant, as he was in the final hearing, by Ms Anifowoshe of Counsel. In my written judgment of the same date I found that the decision of the First-tier Tribunal had to be set aside. My reasons for so finding are set out under the

heading immediately below. I directed that at the resumed hearing I be addressed simply on the question of whether the Appellant faces a real risk of persecution, and if he does whether it would be “for reasons of” one of the five Convention reasons.

23. At the hearing on the 14<sup>th</sup> November 2023 I heard submissions from the parties and I reserved my decision. My findings are set out below under the headings ‘Risk’ and ‘Convention Reason’.

### **Error of Law: Discussion and Findings**

24. The grounds (not drafted by Ms Anifowoshe) raise several issues with the findings of the First-tier Tribunal, some of which make no sense and are factually inaccurate. I do not propose therefore to deal with all of the grounds.
25. Ms Anifowoshe wisely confined her submissions to this point: the two ‘discrepancies’ that were identified by the Tribunal are not in truth material discrepancies at all. As to (i) above, the ‘omission’ to mention the spy cell in the screening interview and witness statement was, as I think my foregoing commentary illustrates, not material because the ‘spy cell’ evidence was not central to the Appellant’s claim. It was no more than background to the antagonism between the different factions of the army and the police, and illustration as to the grave consequences when those tensions rise. What is particularly odd about the fact that the Tribunal mentions this omission three times – and in doing so evidently reaching a generally negative view of the Appellant’s evidence – is that elsewhere the Tribunal appears to accept that the Appellant was in fact part of this cell as claimed. I agree that the reasoning on this matter is confused and contradictory.
26. As to finding (ii) above Ms Anifowoshe submits that the ‘discrepancy’ identified by the Tribunal about how long the Appellant might have been in this cell is based on an error of fact/misunderstanding of the evidence. The Tribunal has read the Appellant’s evidence that the cell was disbanded after the first operation to be somehow inconsistent with his evidence that it existed over a two year period. It is the Appellant’s case that in fact both of those things are true. He has never claimed otherwise. I accept that this is so, and further that again, the generally negative inference that the Tribunal draws from this finding is hard to square with its acceptance elsewhere that the Appellant was in fact involved in the ‘spy cell’.
27. What of the rest of the Tribunal’s conclusions? There is the finding that nothing amounting to persecution was inflicted on the Appellant in the years 2008-2018. That is uncontested, and not a matter logically capable of undermining the credibility of his present fear. Similarly the Appellant has never claimed that his brother’s death was in any way connected to any of this. It is therefore unclear what purpose might have been served by the Tribunal’s dissection of the evidence produced about that.
28. I accept that all of these criticisms of the findings are made out. This being the case, I am satisfied that none of these negative inferences drawn by the Tribunal were justified on the evidence.
29. I now turn to the crux of the case, to Mr Bates’ submission that none of the foregoing errors were material, and to the *Robinson* obvious errors that emerged during the course of the hearing.

30. In his submissions Mr Bates pointed out that none of what might normally be termed the 'negative credibility findings' had any impact on the case at all. To the extent that they *should* not have mattered, he is right. That is not however the same as saying that they had no impact on the outcome. Reading the decision as a whole, I am unable to understand why the Tribunal decided as it did that the Appellant is not at risk of harm *unless* I weigh in those negative findings. The core of the Appellant's case was that he was forced to claim asylum in January 2019 when he heard from colleagues that the Army had, after a period of some months "cooking something up", swung into action and started arresting people. Why did the Tribunal reject that claim? Absent the generally negative findings to which I have referred, no reason is given at all, save the fact that the Appellant left Algeria during the operative period without being stopped at the border. That reason alone does not seem to me to be a safe basis upon which to reject a detailed, consistent and compelling claim. Setting aside the lack of clarity about whether the Army might have had the operational reach to man the borders, it was the Appellant's case that he was *not directly targeted himself until the first summons arrived on the 1<sup>st</sup> January 2019*: it seems irrational to reject that assertion on the basis that he - could? - should? - would? - have been targeted earlier.
31. That is the first *Robinson* obvious error: a failure to give rational reasons for the conclusions on risk. The conclusion that the Appellant had not faced specific threats or dangers [FTT §96] simply failed to engage with his case that it was only in January 2019, by the time he had arrived in the UK, that such threats and dangers manifested themselves. The second *Robinson* obvious point arises from the Tribunal's comment at paragraph 97 that there is "no concrete evidence" that the Appellant is at risk from either the army/drug gang. This is to my mind a clear misdirection. The Appellant was not obliged to provide 'concrete' evidence of anything. The standard of proof was the relatively low *Sivakumaran* one. Ordinarily I might overlook a direction such as that as an immaterial slip, but in the context of this case, where so much has been expressly accepted, I am unable to do so.
32. Having read all of the documents with care, including the refusal letter and the record of the HOPO's submissions before the First-tier, I find that there was in truth no reason to reject anything that the Appellant had to say. Mr Bates pointed out that the documentary evidence was assessed in the *Tanveer Ahmed* round, and indeed the Tribunal does refer to those principles at its paragraph 29. However the Appellant's evidence was *in material part accepted*: it is therefore odd, to say the least, that documents entirely supportive of the case are apparently given "no weight" at all.
33. I have set out my criticism of Judge Davies' decision, which must, in its conclusions at least, be set aside. I now want to say something in his defence. This was a simple case rendered inordinately more complicated by the Appellant's current representatives who appeared to consider that the crux of the Appellant's case was not, as he himself had thought, about him being caught in the crossfire, both metaphorical and real, between the army, police, corrupt actors and drug traffickers. On the contrary, they chose to direct the Tribunal's focus to largely irrelevant events that occurred some fifteen years ago and a decade before the Appellant left Algeria. This left Judge Davies with a hugely confused picture. He not unreasonably concluded that the events of 2008 had not placed the Appellant at a risk of serious harm, and this being the focus of the submissions before him, left him more inclined to dismiss the appeal. Once the



unhelpful and rather unprofessional<sup>1</sup> written submissions are stripped away, and the reader is left with the case as it is framed by the Appellant himself, the account can be seen for what it is. A detailed, credible and consistent claim which is entirely consonant with the country background material.

## **Risk**

34. The evidence of the Appellant suggests that he fears a spectrum of harm. At one end he fears being arrested and interrogated in relation to crimes he is innocent of. At the other he fears being killed by the associates of Boucher for his involvement in the man's arrest. In between those two extremes lie various outcomes he wishes to avoid: he wishes to avoid being silenced by corrupt colleagues, the secret service or army, either by actual violence or the threat of it; he does not want to be sentenced to a term of imprisonment for crimes he did not commit.
35. In his submissions Mr Tan pointed out that prosecution is not the same as persecution, and that if the Appellant is innocent of any corruption he can simply return to Algeria to defend his character. The Country Policy Information Note *Algeria: Internal relocation and background information* (Version 1.0, September 2020) reports that the United States' State Department have no concerns about prison conditions so there would not be a risk of Article 3 violations while the Appellant was held pending trial [19.1.3]. There appears to be in place a proper system for the detection and prosecution of crimes. The risk from other actors was, in Mr Tan's submission, speculative.
36. Ms Anifowoshe pointed to the former colleagues of the Appellant who have been killed. Although we can never know who they were killed by, it is clear that their deaths were linked to their roles as former police officers. The Appellant had been expressly threatened by Boucher's men, and by the secret service/army. If he ends up being sentenced to a term of imprisonment because of false accusations this could also constitute serious harm.
37. I have considered the submissions of both representatives, and have also read the relevant parts of the CPIN referred to by Mr Tan, and an earlier document entitled *Algeria: Actors of protection* (Version 1.0 August 2020). Much of the general country background material therein is unfortunately not relevant to the very particular facts of this case. I have however noted that the intelligence services were "believed to hold the reigns of power for decades" in Algeria [3.3.1] and that despite measures of control, corruption remains a widespread problem, with officials being able to engage in corrupt practices with impunity [4.4.1]. At 4.4.2 it states:

"4.4.2 Freedom House noted in its Freedom in the World 2020 report, 'Anticorruption laws, a lack of government transparency, low levels of judicial independence, and bloated bureaucracies contribute to widespread corruption at all levels. Moreover, anticorruption investigations are often used to settle scores between factions within the regime.'

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<sup>1</sup> As well as creating the confusion that I refer to above, the written submissions make completely unjustified assertions about the competence of Elder Rahimi, and refer to Mr Boucher as 'the Butcher'.

38. I start with Mr Boucher. I accept and find as fact that in his capacity as a police officer the Appellant played a pivotal role in this man's arrest and conviction. I accept that Mr Boucher was sent to prison for his role in the importation of huge quantities of cocaine into Algeria, and that the scale of this operation was such that a very large amount of money must have been lost when that shipment was intercepted, and the operation dismantled by Boucher's imprisonment. I accept that Boucher and his men are likely to want to do the Appellant harm as a result. They are ruthless criminals and I accept that this could include murdering him.
39. The question is whether the Algerian state are able to protect the Appellant from such a risk. This in turn begs the next question: is the Appellant also at risk from elements within that very apparatus. The Appellant has, as I have found, provided an extremely detailed and cogent account of his time as a police officer in Algeria. I accept his evidence that various colleagues of his have suffered serious harm over the years. His former commander Colonel Tounsi was murdered back in 2010, shot in his own office. The man put on trial for that killing, another former police commander Mr Oultache, protested his innocence at trial, claiming that it was the secret service who had carried out the assassination. More recently Rachid Khames was found dead in his car in April 2021, having been shot in the head; Rachid Bachara, Hichem Ladjal and Amine Chamrak have all disappeared. As I have noted the Appellant is of course unable to say with certainty who perpetrated any of these murders or disappearances. He is not even able to say that they are in any way connected with the investigation into Mr Boucher. What he is able to do, after two decades of working in the Algiers Police, is give an educated guess that all of these men - all close associates of his - have died, or are presumed dead, because of their involvement in the internecine struggles between different factions within the Algerian security forces. He is able to speak to that matter with a greater degree of certainty in respect of his former boss, Nouredine Berrachedi, the Chief of Police in Algiers who ordered the Appellant to arrest Boucher, only to be arrested himself by the secret services and be sentenced to 4 years in prison. The Appellant states that another former colleague, Farid Madaci was tortured and killed in March 2021, allegedly at the hands of the secret service. The fate of these men gives context to the threat made against the Appellant at the time of Boucher's arrest, by Colonel Mourad Zeghdoudi of the secret service, and of Colonel Zeghdoudi's subsequent issue of an arrest warrant against him. The Appellant's description of these events accords with what Freedom House refer to as the 'settling of scores' between factions within the regime.
40. I have considered all of that evidence, alongside the documentary evidence supplied by the Appellant. This documentary evidence includes an article from the Algiers Herald about the arrest and imprisonment of Boucher. This article reports that Boucher had videotaped his dealings with one Khaled Tebboune, the son of the President of Algeria, Mr Abdelmadjid Tebboune. It reported that Khaled was close to Boucher, and had personally intervened to unblock real estate projects financed by Boucher but restricted by the land administration. The article concludes "there is also the very real possibility that Kamal Chikhi [Boucher] holds compromising information on the involvement of Khaled Tebboune in the cocaine trade". Another article, this time from Asharq al-Awsat and dated the 10<sup>th</sup> November 2018, reports on the arrest of Nouredine Berrachedi and his "exploitation of his job to gain quick profits" through hard drugs trafficking and real estate. The investigation is said to have "brought down dozens of military civilian officials and led to the imprisonment of senior army officers".

41. I am satisfied, having had regard to the Appellant's detailed and credible evidence, the newspaper articles and the CPINs, that the generality of protection that may be available to ordinary Algerian citizens would not be available to the Appellant. The nature of corruption is that it is hidden. The Appellant himself does not know which actors in his narrative were honest, and who was actually in the pay of the narco-traffickers and/or corrupt officials. He cannot know who killed his friends or, ultimately, why: were they killed because they had uncovered information about powerful figures, or were they themselves targets for extra-judicial execution because of their own corruption. What I can say is this. That Boucher was involved in a business enterprise involving vast sums of money; that Boucher had connections to the very top of the Algerian security and political establishment; that he was arrested by the Appellant and his colleagues; many of those colleagues are now dead, disappeared or serving terms of imprisonment. Applying the lower standard of proof to those facts I am satisfied that the Appellant would face similar risks himself should he return to Algeria.
42. It follows that the appeal must be allowed with reference to Article 3 ECHR: the Appellant is eligible for humanitarian protection.
43. Although I am confident that the Appellant would be at risk, I am less confident about why.
44. I have considered whether the threat from Boucher (for which read 'Boucher and his organisation') could be said to be akin to the threat to honest actors from the drug cartels in central America. In EMAP (Gang violence - Convention Reason) El Salvador CG [2022] UKUT 00335 (IAC) myself and Upper Tribunal Judge Plimmer (as she then was) found that the circumstances in El Salvador were such that the gangs can be considered to be political actors and that violence perpetrated by them against opponents could be said to be politically motivated. I am not satisfied, on the evidence before me, that the equivalent situation can be said to exist in Algeria. Whilst it is clear that there is a good deal of corruption, and that those who seek to fight that corruption run the risk of facing extreme violence, on the evidence that I have, Boucher's motivation appears to be wholly financial. The Appellant is a police officer who caused them to lose a lot of money. The violence that Boucher would perpetrate against him would be retribution for that, and at its highest, a warning to others not to get in the gang's way. I am unable to find that this brings the Appellant within the refugee convention.
45. That leaves the internecine violence within the security services. I am willing to accept that the Appellant himself is free from blame, and that he did his job as a police officer with probity. Nothing else about this part of his claim is clear. Whilst the Appellant may have his own theories about why certain colleagues have been killed, disappeared or arrested, they are just theories. Because he himself was not corrupt, the relationships between the warring factions in the security services must remain to him, to a large extent, opaque. If he were to be killed, disappeared or arrested on return to Algeria, it seems to me unlikely that he would ever really know why. And again, on the evidence before me, it appears likely that the motivation of all of these factions is entirely financial.
46. It follows that the Appellant has not been able to discharge the burden of proof in showing that his claim is one that engages the Refugee Convention.

## Decisions

47. The decision of the First-tier Tribunal is set aside.
48. The appeal is allowed on human rights grounds.
49. The appeal is allowed on protection grounds (humanitarian protection).
50. There is an order for anonymity.

Upper Tribunal Judge Bruce  
Immigration and Asylum Chamber  
8<sup>th</sup> January 2024