



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: DA/01989/2013

**THE IMMIGRATION ACTS**

Heard at: Field House  
On: 15<sup>th</sup> March 2016

Determination Promulgated  
On: 15<sup>th</sup> April 2016

Before

UPPER TRIBUNAL JUDGE BRUCE

Between

A  
(anonymity direction made)

Appellant

and

Secretary of State for the Home Department

Respondent

For the Appellant:  
For the Respondent:

Mr Walsh, Counsel instructed by Bindmans LLP  
Mr Tarlow, Senior Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. The Appellant is a national of Azerbaijan whose identity is protected for the purpose of these proceedings by an order for anonymity.
2. On the 24<sup>th</sup> September 2013 the Respondent made a decision to deport the Appellant pursuant to s3(5)(a) of the Immigration Act 1971 (as amended) on the grounds that his deportation would be conducive to the public good. The event

which had led to this decision was the Appellant's conviction, on the 20<sup>th</sup> December 2012, of three counts of possessing "control identity documents with intent" for which he had received a concurrent sentence of 12 months in prison<sup>1</sup>.

3. The Appellant appealed against that decision and in a determination promulgated on the 4<sup>th</sup> February 2015 the First-tier Tribunal dismissed his appeal on all grounds. The Appellant appealed that decision to the Upper Tribunal and in a written decision dated the 2<sup>nd</sup> February 2016 I found the determination of the First-tier Tribunal to contain errors of law such that it must be set aside. My written reasons are attached to this determination at 'Appendix A'. In summary it was accepted by the Secretary of State that the First-tier Tribunal had misunderstood certain aspects of the evidence so that the decision was in part based on errors of fact. The errors were such that the reasoning as a whole could not be upheld. Having set the decision aside I directed that that it be re-made in the Upper Tribunal.
4. When the matter came back before me on the 15<sup>th</sup> March 2016 Mr Tarlow had not had sufficient time to prepare for the hearing. He requested some additional time, which I granted. When the hearing began at 11.30 I heard evidence from the Appellant and three additional witnesses, and submissions on behalf of both parties. I reserved my decision, which I now give.

### **Legal Framework and Matters in Issue**

5. The legal framework was agreed between the parties to be as follows. The decision to deport is made with reference to s3(5)(a) of the Immigration Act 1971 (as amended). Because the Appellant has been convicted of an offence leading to a sentence of 12 months in prison his deportation is deemed to be in the public interest. In this appeal the burden lies on the Appellant to show that he falls within one of the 'exceptions' set out in the Immigration Rules. The Appellant relies on the exceptions contained at paragraph 397:

397. A deportation order will not be made if the person's removal pursuant to the order would be contrary to the UK's obligations under the Refugee Convention or the Human Rights Convention. Where deportation would not be contrary to these obligations, it will only be in exceptional circumstances that the public interest in deportation is outweighed.

In respect of the Refugee Convention it is for the Appellant to show that he has a well-founded fear of persecution in Azerbaijan for reasons of his imputed political opinion. The standard of proof is lower than that normally applicable in civil matters and can be expressed as a 'reasonable likelihood' or a 'real risk'

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<sup>1</sup> Certificate of conviction dated 11<sup>th</sup> October 2013 issued by the Crown Court at Isleworth at page 1, bundle 1B

that he would face such harm. In respect of the Human Rights Convention the Appellant relies on Article 3 ECHR. He contends that if returned to Azerbaijan there is a real risk that he would face torture or inhuman and degrading treatment. If the Appellant succeeds in showing that he is a refugee, or that his removal would violate the United Kingdom's obligations under Article 3, his appeal must be allowed.

6. If the Appellant fails to demonstrate that he will come to serious harm if returned to Azerbaijan, he relies in the alternative on his relationship in the United Kingdom with his wife, a Lithuanian national. The Appellant contends that his wife is exercising treaty rights and that he is therefore the family member of an EEA national "qualified person". If that is so the question of his deportation falls to be assessed with reference to the Immigration (European Economic Area) Regulations 2006 ("the Regs"):

#### **Exclusion and removal from the United Kingdom**

19.

...

(3) Subject to paragraphs (4) and (5), a person who has been admitted to, or acquired a right to reside in, the United Kingdom under these Regulations may be removed from the United Kingdom if –

...

(b) he would otherwise be entitled to reside in the United Kingdom under these Regulations but the Secretary of State has decided that his removal is justified on the grounds of public policy, public security or public health in accordance with regulation 21.

#### **Decisions taken on public policy, public security and public health grounds**

21. – (1) In this regulation a "relevant decision" means an EEA decision taken on the grounds of public policy, public security or public health.

(2) A relevant decision may not be taken to serve economic ends.

(3) A relevant decision may not be taken in respect of a person with a permanent right of residence under regulation 15 except on serious grounds of public policy or public security.

(4) A relevant decision may not be taken except on imperative grounds of public security in respect of an EEA national who –

(a) has resided in the United Kingdom for a continuous period of at least ten years prior to the relevant decision; or

(b) is under the age of 18, unless the relevant decision is necessary in his best interests, as provided for in the Convention on the Rights of the Child adopted by the General Assembly of the United Nations on 20th November 1989(1).

(5) Where a relevant decision is taken on grounds of public policy or public security it shall, in addition to complying with the preceding paragraphs of this

regulation, be taken in accordance with the following principles –

- (a) the decision must comply with the principle of proportionality;
- (b) the decision must be based exclusively on the personal conduct of the person concerned;
- (c) the personal conduct of the person concerned must represent a genuine, present and sufficiently serious threat affecting one of the fundamental interests of society;
- (d) matters isolated from the particulars of the case or which relate to considerations of general prevention do not justify the decision;
- (e) a person's previous criminal convictions do not in themselves justify the decision.

(6) Before taking a relevant decision on the grounds of public policy or public security in relation to a person who is resident in the United Kingdom the decision maker must take account of considerations such as the age, state of health, family and economic situation of the person, the person's length of residence in the United Kingdom, the person's social and cultural integration into the United Kingdom and the extent of the person's links with his country of origin.

...

7. Because the evidence before me falls to be divided thematically, that is the way I have structured my determination. I first consider the evidence and submissions on asylum/Article 3 ("the protection issues") and make my findings. I then address the question of deportation under the Regs.

### **The Protection Issues**

8. The Appellant claimed asylum on the 29<sup>th</sup> January 2013. The basis of his claim was, in brief summary, that he had been a successful businessman with links to the ruling elite in Azerbaijan. He had started his career under the patronage of the Abdullayev brothers and persons associated with them. Those relationships had soured when the Appellant broke away and formed his own company. The Appellant describes the people he had been associating with as "like a Mafia". When he tried to distance himself from them they tried to regain control by claiming his assets, threatening him and pressurizing him with false criminal accusations. In early 2007 the Appellant enlisted the help of a man ('I') who acted as an intermediary between him and his enemies. He thought that the conflict was on the verge of resolution when 'I' was arrested. The Appellant fled from Azerbaijan, entering the United Kingdom with a visit visa. He has remained here ever since. He believes himself to be at risk of serious harm in Azerbaijan because he has intimate knowledge of the corrupt and criminal activities carried on by members of the ruling Aliyev family and their cronies. After he arrived in the UK he learned that the Azeri authorities were pursuing false allegations against him. In fear of these proceedings he executed a statutory instrument to change his name. His subsequent conviction related to his possession of false documents created in this new identity. The Appellant

submits that the situation in Azerbaijan has worsened since he left. The fall in the price of oil has placed the government under huge financial pressure and the impetus to “go after” Azeris with money has increased. The government believes the Appellant to be an individual of substantial net worth and as such it would be in their interests to pursue him with false criminal charges so that they could seize control of his assets.

9. This account requires the Appellant to demonstrate a) that he is indeed the successful businessman that he claims b) that his account of being harassed and threatened is true and c) that he is currently at risk on return in Azerbaijan today. The Appellant relied on three very large bundles of evidence and a number of supporting witnesses in order to discharge the burden of proof in respect of these three matters. I have looked with care at all of the documents that the parties referred me to. In his submissions Mr Walsh asked me to give particular attention to the evidence from the following sources:

- a) The Appellant’s own testimony (giving detail to the account summarised above), supported by documentary evidence
- b) Murad Gassanli
- c) Mike Cunningham
- d) Robert Chenciner
- e) Professor Bill Bowring

*The Appellant’s Evidence*

10. The Appellant adopted his witness statements dated 13<sup>th</sup> March 2013 and 14<sup>th</sup> April 2014 and gave live evidence.
11. The Appellant was brought up by his mother who was a single parent. He obtained good qualifications at school and in 1995 was enrolled in the National Academy of Aviation. After graduation in 1999 he became a lieutenant in the Azeri Air Force, flying the L39 and Mig 25. Between 2000 and 2004 he worked part time for the national airline and the Flight and Civil Aviation Authority<sup>2</sup>. During this time the Appellant’s real interest was in business: as he puts it, he “wanted to make something of myself”. He had a friend at school who was wealthy and well-connected. The Appellant and another friend had started a company producing CDs and this rich school-friend persuaded them that what they needed to make their business grow was powerful backers. To this end he introduced them to the Abdullayev family. The Abdullayevs were three brothers who ran a huge company called AMAY. The Appellant describes AMAY as being comparable to the Virgin group in the UK. For instance it owns shopping malls, hotels, restaurants, construction companies, banks and factories. The Abdullayev brothers were closely connected to the ruling Aliyev

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<sup>2</sup> ID card at page 36, bundle volume 1

family, in particular Jalal, the brother of the former President Heyder Aliyev. The Abdullayevs declined to invest in the Appellant's business but were impressed by him. One of the brothers, Yulat, offered the Appellant a job as his assistant and as a manager in one of the AMAY group companies, called AYF International. The Appellant worked there between 1998 and 2000.

12. The Appellant describes the system in Azerbaijan as being like a pyramid of patronage, centred around powerful clans. He worked for Yulat; Yulat and his brothers were sponsored by Jalal Aliyev, who in turn was backed by the President. Jalal's brother Heydar was the leader of Azerbaijan from Soviet times and when he stood down in 2003 his nephew, Heydar's son Ilham, took over as president. These relationships worked both ways. The more powerful individuals would offer protection to those below them, whilst those below would 'pay tribute' up the chain. It operated like a mafia, with the President acting as 'Godfather'. The system was propped up by a network of spies and the President would use the police and security services to suppress any dissent or commercial interests that posed a threat to the monopoly enjoyed by his family, and their friends like the Abdullayevs. A key feature of this system of patronage is the *krysha* - your *krysha* can be thought of as your patron, or protector. In mafia terms it would be your 'captain'.
13. In 2000 the Appellant was promoted and was given a job as a General Manager in AMAY and as an assistant to Abdulla Abdullayev. The Appellant was given this role because he had proved that he could be trusted, and because of his skills with IT and computers. Abdulla became the Appellant's *krysha*. One of the things the Appellant did when working for Abdulla was to create fake documents for planning permission which enabled Abdulla to take over buildings and land without difficulty. Not all of these deals were conducted with the knowledge or approval of Abdulla's *krysha* Jalal Aliyev: "there were certain business ventures that he did not want Jalal to know about. Having someone like me on board made this easier given my skills"<sup>3</sup>.
14. In 2001 AMAY bought Birlik Bank and an insurance company called Nishan Insurance. The Appellant was the Head of IT by this time and he was given a "small" share of between 1-2% in each<sup>4</sup>. He was appointed to the Board of Directors of Birlik Bank where he observed what he believed to be corrupt and illegal practices. His primary role was however to continue his work as assistant to Abdulla:

"He controlled all aspects of my life, dictating what I could and could not do. I would receive calls from his secretary telling me that Abdulla wanted to see me straight away. I was on call 24 hours a day

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<sup>3</sup> Witness statement dated 13<sup>th</sup> March 2013, paragraph 18

<sup>4</sup> Share certificate for Birlik Bank, page 12, bundle 4

and I had to drop everything for him. He dictated my life, my jobs, where I lived and my relationships”<sup>5</sup>.

Abdulla addressed the Appellant as “brother” and they had a very close working relationship. In 2002 Abdulla had a cash flow difficulty and the Appellant sold his house to help him out. Abdulla held this up to other Birlik Board members as an example of how they should behave.

15. It was whilst he was associated with Birlik Bank that he met his first wife, K. She was employed in the Human Resources Department. In 2002 they decided to get married. This caused some difficulty for the Appellant. Abdulla was not particularly happy about the proposed marriage. Looking back on it the Appellant thinks that perhaps Abdulla was concerned that he would lose some control over him if he were married. Also her father was a member of the opposition party. Abdulla came to their engagement party but only briefly, to ‘show his face’<sup>6</sup>. He did not attend the wedding. Although they had previously been so close, after the wedding Abdulla started to become “cold” to the Appellant. Although they still enjoyed a cordial business relationship the Appellant understood that something had changed, and that he may not now make the hoped for progress under his patronage. Although the Appellant continued his work in Abdulla’s businesses he also decided to set out on his own. In 2004 he therefore started his own business. He sold a flat that Abdulla had given him (as compensation for having sold his home to help him) and invested it in establishing a new software company called Aliksoft<sup>7</sup>.

16. The business did well and quickly expanded. Through his connections the Appellant was able to get the relevant licences and found “open doors”. He continued to sit on the Board of Birlik. The Deputy Director of Birlik Bank was a man named Fakhredin Efendiyev. He and the Appellant got on well and decided to set up another business together. In 2005 they established FZ Credit Union<sup>8</sup>. They also both continued to pursue other projects. Fakhredin Efendiyev was subsequently appointed to be the Director of Birlik Bank, having proved himself willing to turn a blind eye to certain corrupt practices. The Appellant won contracts for Aliksoft and established other smaller companies<sup>9</sup>. In early 2006 he was considering establishing his own cable TV company. In April of that year he attended a party in a restaurant in Baku. Whilst there he

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<sup>5</sup> *Ibid*, paragraph 23

<sup>6</sup> A series of stills from the video of the Appellant’s engagement party, depicting Mr Abdulla Abdullayev, are in bundle 1B at 51-53

<sup>7</sup> Documents relating to the Appellant’s ownership of Aliksoft at are in bundle 1B at page 74 (tax documents), 77-103 (accounts), 105-122 (financial statements) 131, (website screenshot), and 137-138 (extracts from the State Registry of commercial organisations)

<sup>8</sup> The Appellant relies on Azeri tax documents which show him to have been one of two registered proprietor of FZ Credit Union, bundle 1B page 73, company accounts at page 161, and bank statements at bundle 3, page 87

<sup>9</sup> Documents relating to the Appellant’s ownership of other companies such as Diamond Ltd at bundle 1B, pages 140-160

had a brief meeting with a journalist with a view to discussing the news channel. It was over in about 15 minutes and the Appellant returned to the party.

17. Some days later the Appellant received a call from Fakhredin Efendiyev. He told the Appellant that they needed to speak straight away. He was busy but agreed to meet. He went to the bank to see him. The first thing that Fakhredin Efendiyev did was to take the Appellant's mobile telephone from him, and remove the SIM and battery. He told the Appellant that the MTN had been to see him. This is the name for what used to be the KGB. They had brought with them a statement about the Appellant and his activities and that they knew that he had branched out on his own with "no backing". Fakhredin told the MTN officer that he backed the Appellant and that he supported him. He advised the Appellant to slow down and that he was "attracting the wrong kind of attention". He said that the Appellant should stop expanding his businesses. The MTN had told him that they had the Appellant under surveillance and that they had seen him in the restaurant in Baku. The Appellant was very frightened and shaken by what Fakhredin Efendiyev told him. He trusted him however and believed what he said.
18. At that point the Appellant's combined businesses were turning over \$100 million per annum. Fakhredin Efendiyev advised the Appellant that in order to lower his profile he should transfer all of his shares in six of his businesses to him. He would hold them on trust for the Appellant. When Fakhredin suggested this solution the Appellant understood that he was trying to get control of all of his assets. He refused to accept the offer. Fakhredin Efendiyev informed him that he would make his life very difficult. True to his word, the Appellant started having problems with government at all levels, and was even threatened by local gangs.
19. By May 2006 the Appellant was very worried. He decided to approach Abdulla Abdullayev directly. He was forced to wait for an appointment. Once the day arrived the Appellant was subject to further humiliation by being made to wait 3-4 hours before being called in. Once the meeting started the Appellant apologised to Abdulla for trying to make it on his own. He explained the nature of his businesses and offered to make Abdulla a partner in all of them. Abdulla did not let the Appellant finish talking. He interrupted him asking whether the thought that he was stupid. He told the Appellant to "get to fuck and to find a good lawyer". It was at that point that the Appellant understood that his life was in danger and there was nothing he could do about it.
20. In the weeks which followed all of the Appellant's businesses started failing. Fakhredin Efendiyev was a partner in most of them and the Appellant knew that it was his doing. Employees left in droves. The Appellant's calls and movements were being tracked and he was left with only 2-3 close friends who stood by him. In October he was in his office with his father-in-law when two



plain clothed policemen entered. They arrested the Appellant and took him to the police station. He was in the waiting room when a random woman he had never met came up to him and started insulting him in extreme language. The Appellant was very confused. He now realises that this had been an attempt to provoke him – he was supposed to have assaulted the woman and this would have given them a pretext to imprison him. The officers came and took him to an interrogation room. One of them punched him and took his ID card. He looked at the card and told the Appellant that he was going to get a new one saying that he was a criminal. The Appellant was trying to explain that all of this was a misunderstanding when the door to the interview room opened and a Sergeant came in. He said that the Chief of Police had ordered his release. When he got out he saw his father-in-law and the local Councillor. They drove him away. His father-in-law explained that his old friend the Councillor had made a call and authorised his release.

21. The Appellant was panicking and terrified about what might happen next. He went into hiding in the private house of a friend. He was trying to sell his assets so that he could prepare to leave Azerbaijan. He wanted to kill himself because he could not see a way out. He thought about slashing his wrists and even wrote a letter saying goodbye to his sister. The police started to look for him. They contacted his former driver and asked him to inform on where the Appellant was hiding. He genuinely did not know where the Appellant was and so could tell them nothing. He subsequently passed on a message to the Appellant through the Appellant's friend that the police wanted him to come in for questioning. In December 2006 the public prosecutor started putting pressure on his father-in-law. The Appellant's wife became frightened and divorced him. She did this in order to protect herself and their son.
22. Someone advised the Appellant that he needed to get some protection. A friend introduced him to 'I', a gang member in Baku. This man offered to mediate on the Appellant's behalf in return for 50% of his assets. By January 2007 'I' had managed to secure agreement from the police in Baku that they would not try and arrest the Appellant. The Appellant became hopeful that perhaps his problems could be resolved. However in February 2007 'I' was arrested at his offices by a Colonel Usubov, the son of the Minister of Police.
23. The Appellant left Azerbaijan in February 2007 using his own passport<sup>10</sup> and a valid UK visit visa. He was very frightened boarding the plane but did not experience any problems.
24. In July 2007 the Azeri authorities issued a warrant for the Appellant's extradition<sup>11</sup>. The charges related to allegations that the Appellant swindled two investors of \$32,000 when he was working at Birlik Bank. The Appellant

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<sup>10</sup> Page 35, bundle volume 1

<sup>11</sup> Documents relating to the extradition proceedings are at pages 1-26 of bundle 1B

states that the allegations were a complete fabrication. He was a Director with a role in IT and had no contact with the bank floor or lending decisions. He had no means or motive to steal any money. These allegations have now been dropped but they serve as an illustration of how determined the authorities are to go after him.

25. The Appellant believes that he remains at risk. He remains at risk in part because they know that he hid a lot of money and they want it<sup>12</sup>, but also because he knows a lot of their secrets, ie the corrupt and illegal mechanisms the elite used to make money. These activities go to the “heart of government”.

*Murad Gassanli*

26. Mr Gassanli adopted his witness statement dated 14<sup>th</sup> April 2014 and gave oral evidence. He is a British citizen of Azeri origin and has a long history of involvement in politics in Azerbaijan. In 1999 he established an organisation called the Vatan Society for Azeri students in the UK. During this period he had close links with the Azeri embassy in London and the regime in Baku. He was friends with President Aliyev’s granddaughters who were also studying in London. However these relationships became strained after the Vatan Society tried to promote democratic debate during the 2003 elections. The embassy accused him of disloyalty because he had organised a meeting and invited opposition candidates to speak. This changed his view of politics in Azerbaijan. He was subsequently appointed as the Director of the Azerbaijan Democratic Association – UK, a pro-democracy group. He has served as a senior advisor to the Azerbaijani opposition presidential candidate Jamil Hasanli. He is a graduate of LSE and is currently working on his PhD at Cardiff University. He is a regular commentator on Azeri politics for instance speaking at events at Chatham House and on the BBC. In 2013 he was elected as a Labour Party Councillor in Westminster and since then has ceased his direct involvement in Azeri politics. In response to Mr Tarlow’s questions Mr Gassanli confirmed that he is not giving evidence as an entirely impartial ‘expert’ witness. He has been deported from Azerbaijan and in 2005 was badly beaten by the Azeri police whilst attending a rally in Baku. He cannot therefore be described as a “friend” to the regime, however his views simply reflect the standpoint taken by human rights organisations, the UK government and members of the United States’ Congress.

27. Mr Gassanli has known of the Appellant since 2005. He wanted to establish a website called [www.times.az](http://www.times.az) to promote education and political debate in Azerbaijan and was looking for a way to build and promote it. He was told by people in Baku that a company called Aliksoft would be able to help. It was the first company in Azerbaijan to provide a complete package of solutions

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<sup>12</sup> The Appellant relies on various bank statements. An example is the AtaBank statements at page 55 of bundle 1B which show the Appellant to have a current account balance of US\$4,406,445 in March 2014

including IT software and security. Mr Gassanli recalls one of his colleagues coming back from a meeting with Aliksoft and being very impressed. They produced a “really slick design” for the website and provided very professional international standard brochures. However, the connection between Aliksoft and AMAY was brought to Mr Gassanli’s attention. He and his colleagues were very concerned about this. Since they were an opposition group they could not be seen to be using the services of a pro-regime company. They could not trust Aliksoft. Also, they feared that Aliksoft would pull the plug once they understood the nature of the website; once they realised that this was not just another “media start-up”. Mr Gassanli explains:

“It made sense knowing that Aliksoft was part of Jalal [Aliyev]’s fiefdom. There is no way it could have developed at the rate it did, coming out of nowhere to being a market leader without government backing. You need a government licence to provide internet services in Azerbaijan. [The Appellant] has recently told me that he got all his licences from the Ministry of Communication, confirming what we thought at the time. This is virtually impossible unless you are highly connected and yet [the Appellant] managed to organise these within a month. The only way [the Appellant] would have got these licences was because everyone thought he had the protection of Jalal Aliyev. If people knew he had gone rogue, there is no way he would have been able to make the success of his business that he did...

At the same time I also heard some disparaging remarks about [the Appellant]. People talked about him and said that he was Jalal Aliyev’s man, that he was a bit of a lothario and was spending a lot of money. There was a rumour going round Baku at the time that he had bought 12 BMWs for his friends and just handed them out...<sup>13</sup>”

28. In his statement Mr Gassanli sets his personal knowledge of the Appellant in the context of his understanding of Azeri society as a whole. He states that the former President Heydar Aliyev was from the Nakchivan enclave and that when he came to power he installed into all the relevant positions of power people from his own clan. All the key positions in the country are all held by people from that clan. He states:

“Before that, these people were farmers, Soviet-era administrators and old nomenclature staff, with little understanding of modern realities and technologies, and would have needed people like [the Appellant] to show them how to switch on a computer and send an email...<sup>14</sup>”

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<sup>13</sup> Witness statement Murad Gassanli dated 14<sup>th</sup> April 2014 paragraphs 27-28

<sup>14</sup> *Ibid*, paragraph 31

Mr Gassanli gives Abdulla Abdullayev as an example of a Nakchivan “nobody” who became powerful under Aliyev patronage. He has watched the video of the Appellant’s engagement party and can confirm that Abdulla is in it and made a speech.

29. Mr Gassanli did not meet the Appellant in person until 2009 when they met in London. He was introduced to the Appellant by his father. Mr Gassanli had just returned from a lobbying trip to America and was looking for investment to establish a satellite TV channel. He made it clear to the Appellant that he was an opposition activist and this was the purpose of the new station. The Appellant declined to get involved. He wasn’t interested in politics and in Mr Gassanli’s opinion was just interested in making money. Mr Gassanli found him to have a “sense of entitlement”. He gave the impression that he believed that in the UK, as in Azerbaijan, anything could be bought. Mr Gassanli was not impressed.

30. They did not meet again until in November 2013 the Appellant contacted Mr Gassanli through Facebook using his assumed identity. When they met again Mr Gassanli described the Appellant as being “like a different person”. He was no longer the rich kid who could buy anything, but appeared to be humble, depressed and fearful. The Appellant told Mr Gassanli what had happened with the changed identity, the false documents and the conviction. He seemed “rattled”. He told Mr Gassanli that when he had first come to the United Kingdom his friends had advised him not to claim asylum but he now realised that he should not have listened to them. Following this meeting Mr Gassanli contacted friends in Baku to ask about the Appellant. A friend at a news agency confirmed the Appellant’s involvement with Aliksoft and said that he had “got done” by Jalal, meaning that his business had been taken over. Mr Gassanli concludes:

“[The Appellant] is in this position because he was naïve. He didn’t think it was suicide to go out on his own. [The Appellant] thought that as he wasn’t competing with anyone and he wasn’t taking any business away from Jalal Aliyev then he didn’t have to give them a cut. If he gave them a cut he would have had a few more years before his businesses were taken over. For them it was a case of ensuring a precedent wasn’t set. They couldn’t allow a kid that they took out of university when he was nobody and who used to make their tea to be seen as someone who was now handing out BMWs to their friends.<sup>15</sup>”

31. In closing his oral evidence Mr Gassanli underlined that he was not giving evidence because he a friend to the Appellant. As far as he was concerned the Appellant and his like were all part the problem. The business class, and their

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<sup>15</sup> *Ibid*, paragraph 43

culture of nepotism, repression and corruption have left most of the Azeri population in poverty, suffering terrible human rights abuses. He has chosen to give evidence because he firmly believes the Appellant to be at risk should he be returned home. It is systematic: once you fall out of favour, they come after you. If you leave the country, they will come after you until they have all your money. In his statement he gives several examples of individuals who have hitherto had close relationships with the Nakchivani clan, only to end up in jail. Once they have you, there is a "100% risk of torture". Ironically, as a political prisoner you would have some level of protection because of international pressure. 'Economic cases' enjoy far less scrutiny and accordingly the chance of physical harm is far higher. Because of the collapse in the oil price the situation for the Appellant and people like him has become far worse, as the Aliyevs scabble around for money to fill the black hole in the country's budget. Their solution appears to be to "go after the next tier down" and recoup money that this group has made over the years:

"There has been massive devaluation of the currency and an economic collapse because of the drop in oil price. The whole façade is falling apart. The clique at the top who were siphoning off the oil money – when that collapsed the whole thing fell apart. The Minister for National Security is currently under house arrest being investigated for fraud. The head of the International Bank has been arrested – he was a close friend of the President and now he is being shaken down. Its like the final scene in a gangster movie where they all turn on each other. The relevance to [the Appellant] is that they will want to get his assets in the UK. I am giving statements in two other extradition matters that are the same – the state coming after rich Azeris who are living abroad to try and get their assets"<sup>16</sup>.

32. Mr Gassanli stated that as far as he is aware, the extradition proceedings were dropped against the Appellant but that another investigation has started. There is been a policy decision to go after anyone with assets of more than a million dollars. After spending millions on events like the Eurovision Song Contest there is now a budget hole of \$10 billion and they need to go after any penny they can get. If they pursued another criminal case against the Appellant – the most likely scenario – he would be very unlikely to receive a fair trial. The judiciary are not independent and human rights abuses are endemic.

*Michael Cunningham*

33. Mr Cunningham adopted his witness statement dated 14<sup>th</sup> April 2014 and gave oral evidence. Mr Cunningham is a former Director of British Aerospace who has worked as a consultant for the British government and the private sector for

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<sup>16</sup> Oral evidence

over three decades. He worked in Saudi Arabia for many years and after the collapse of the Soviet Union he was sent by the British government to “get a feel” for potential defence contracts in the new post-Soviet states and to advise on the privatisation of their space industry. In this role he spent a lot of time in Azerbaijan. He now acts as a private consultant for the business community and it was in this context that he was introduced to the Appellant in a London law office in 2007.

34. Mr Cunningham described the Appellant as being “impulsive” and “out of his depth” in the UK. He failed to understand that in London, things were not as they are in Baku. He thought that any problems one had, for instance with the authorities, could be solved by money. Mr Cunningham tried to advise him and stop him being taken advantage of. After he had known the Appellant for about a year the Appellant informed him that he had been forced to flee Azerbaijan and that he was in trouble for having defied the ruling family. At the Appellant’s behest Mr Cunningham travelled to Baku in August 2008 in order to try and secure the release of some of the Appellant’s funds. These assets were invested in an Azeri bank called Eurobank and it was the Appellant’s intention to acquire a controlling interest in the bank so that he could then liquidise his funds.
35. Mr Cunningham arranged a meeting with the Director of Eurobank. He was advancing the case for the acquisition of shares by the Appellant, but using the Appellant’s pseudonym. At some point during the meeting Mr Cunningham’s interpreter used the Appellant’s real name. In his live evidence Mr Cunningham described how, upon hearing it, the faces of those present immediately dropped. One of those present became very aggressive. He said that the Appellant was “finished”. Mr Cunningham understood this to mean “finished” in more than just the business sense. He was told that the Appellant had crossed the ruling family and that he was a “very foolish boy” who had been arrogant and had tried to operate independently of the Aliyevs. For this he would be punished. The bank officials present at the meeting explained to Mr Cunningham that the Appellant had been forced out of Azerbaijan because he had shown a “lack of respect” for the Aliyevs. His life had been made impossible there by a constant stream of visits by the police, tax officials and ‘mafia’ like groups. He was described as a “young Turk” who was being held up as an example to others of what happens if you step out of line. In subsequent meetings with officials from other banks Mr Cunningham heard similar assessments of the Appellant’s position: he had been stupid enough to take on “the family” and he could “expect severe punishment”.
36. Mr Cunningham has made 6 visits to Baku since that trip in 2008, the most recent of which was in 2014. At a dinner on that occasion someone else mentioned the Appellant’s name and it provoked a “furious response” from those present. Mr Cunningham was assured by those present that the Appellant was being sought and that “he would be taught the meaning of respect”. Mr

Cunningham states that in his opinion, based on his understanding of Azerbaijan and what he has witnessed, that if the Appellant were to be returned to Azerbaijan he would likely face torture, extreme humiliation and probably execution.

*Mr Robert Chenciner*

37. Mr Chenciner is an academic with substantial experience in the former Soviet Union. He is a Senior Associate Member of St Antony's College Oxford and an Honorary Member of the Russian Academy of Sciences, Daghestan Filial. His report has been prepared specifically to address two questions raised by the evidence: was the Appellant a businessman as claimed, and to describe the nature of the *krysha* system of protection.
38. In respect of the latter Mr Chenciner gives a detailed history of how the system of patronage in modern day Azerbaijan evolved from the Soviet *blat* system and how the 'Nakhivan mafia' made particularly effective use of it. In essence the underlying principle is that you cannot derive a benefit without also incurring a debt. The term *krysha* translates as 'roof', ie overhead protection. He explains how there has developed a rivalry between different factions of the Aliyev family and that this has affected the fortunes of those below them. Abdulla Abdullayev was himself a victim of this when he was recently arrested after Jalal Aliyev lost faith in him. These complex relationships are interwoven with cultural expectations and mores though which a clear understanding of what is happening is concealed, or sometimes revealed. For example Abdulla's decision not to attend the Appellant's wedding would have been widely perceived as an insult and a signal that he was withdrawing patronage. Marriage in Azerbaijan continues to be very often arranged, if not by natal families, by patrons. Abdulla is likely to have taken the Appellant's decision to marry against his wishes as a "deep family insult".
39. In respect of the Appellant himself Mr Chenciner has considered his account in the context of his personal knowledge of Azeri society. He considers it to be plausible at every stage. In respect of current risk the report highlights the arrest and prosecution of Abdalla Abdullayev who in April 2014 was refused bail, facing charges of embezzling funds from AMAY. The breakdown of Abdulla's relationship with his *kryshas* in the Aliyev family illustrates how vulnerable the Appellant would be, particularly if Abdulla begins to give evidence against former colleagues.

*Professor William Bowring*

40. Bill Bowring is a recognised expert on the countries of the former Soviet Union. He is fluent in Russian and has published widely on the Russian language,

history, culture, law and practice. He was called to the Bar in 1974 and continues to practice at the European Court of Human Rights. He is a Professor of Law at Birkbeck College, University of London. He has for a number of years been an advisor to the UK government on human rights issues in the former Soviet Union. I have been provided with a copy of a report that Professor Bowring prepared for the benefit of the Magistrates in the Appellant's extradition proceedings. Since it was directed at those proceedings, which are no longer live, the report is of limited relevance to this appeal. The conclusions that are pertinent, drawn *inter alia* from Professor Bowring's analysis of information found on the Russian language internet, are:

- That Azerbaijan is one of the most corrupt and brutally repressive countries of the former Soviet Union, which despite having the constitutional form of a republic, is in fact akin to a monarchy, in which the son of the first President has succeeded to his father
- Today's Azerbaijan is run in a manner similar to the feudal system found in Europe in the Middle Ages
- Azerbaijan ratified the Statute of the Council of Europe in January 2001 and has since ratified an impressive list of Council of Europe treaties, including ECHR, but there are "serious doubts" about its compliance with regular credible reports of gross and systematic human rights violations
- Jalal Aliyev has used the courts in order to seize assets belonging to his erstwhile partners
- Birlik Bank was one of four Azeri banks which were found in January 2010 to be uninsured. By September 2010 it was subject to a thorough investigation and in January 2011 its licence was revoked. Its shareholders were listed at being 20 people. The Appellant is listed as number 10 and had a "substantial" holding. The Bank was declared bankrupt on the 27<sup>th</sup> July 2012.
- In 2006 Aliksoft won "Company of the Year"
- It is highly unlikely that the Appellant would receive a fair trial in Azerbaijan and all sources (Council of Europe Committee for the Prevention of Torture, US State Department, FIDH, Azerbaijan Committee Against Torture, United Nations Committee Against Torture), note numerous allegations of the use of torture and of harsh and inhumane conditions in prison



## Protection Findings

41. The Appellant did not claim asylum or human rights protection upon arrival in the UK. He instead changed his name and used illegal means to buy false documents, an offence for which he was subsequently convicted. The failure to make a prompt claim is something that I must weigh against the Appellant in my assessment of his credibility: s8 Asylum and Immigration (Treatment of Claimants etc) Act 2004.
42. When the Respondent assessed the claim, the predominant feature of his case was the fact that the Azeri government had issued an extradition warrant against the Appellant in connection with the theft of \$32,000 from two customers of the Birlik Bank. The Respondent – quite understandably in view of the chronology – took the view that the asylum claim was an attempt to avoid criminal prosecution. Although the warrant has now been cancelled I have kept in mind, throughout my assessment of the evidence, that it is a possibility that the entire account has been fabricated for that reason.
43. The documentary evidence in this case was substantial. The Appellant produced bank statements, share certificates, company accounts, contracts and the like relating to numerous companies with which he claimed connection. Two experts have produced reports and two additional witnesses have given their perspective on their dealings with the Appellant and their personal experience in Azerbaijan. That evidence was not always consistent or easy to understand. For instance the Appellant and Mr Gassanli placed emphasis on Aliksoft as a company of significance whereas it would appear from the conclusions of both experts that this was only a small part of the Appellant's holdings. The accounts and other documents did not always correspond in format to the way in which they would appear in the UK and this made deciphering their contents a challenge. I have taken into account such discrepancies that have been brought to my attention.
44. The Appellant was not a witness who impressed the First-tier Tribunal. He was found to be deceitful and evasive. Witnesses who spoke in his support before this Tribunal, Mr Cunningham and Mr Gassanli, described him as arrogant, naïve, out of his depth, and willing to buy his way out of any trouble. He is characterised, in his own evidence, as someone who benefitted hugely by the corrupt and criminal practices of the Azeri elite: as Mr Gassanli put it, he was “part of the problem”. Many would argue that the oligarchs of Eastern Europe have been no friends to democracy, accountability or human rights. My decision cannot however be based on whether the Appellant is a likeable man or whether his past business practices are to be condoned. The decision can only be based on the evidence, and having considered it all in the round, I find it to point, in its totality, firmly in one direction.

45. The Appellant is not a refugee. Having heard the persuasive and cogent evidence of Mr Gassanli, Mr Walsh conceded that he could not make out a case that any feared harm was for one of the five reasons included Article 1A of the Refugee Convention. If the Azeri authorities wish to do the Appellant harm, it is not for reasons of his race, nationality, religion, membership of a particular social group, or political opinion – imputed or otherwise.
46. I am however entirely satisfied that the Appellant is at risk of serious harm because a) he is perceived to have slighted powerful members of the Azeri elite by trying to make it alone without the protection of a *krysha* and b) they now wish to seize his assets for themselves. The Appellant has shown, to the lower standard of proof applicable, that his return to Azerbaijan would be reasonably likely to result in a violation of Article 3 ECHR.
47. My reasons are as follows.
48. The Appellant has demonstrated that he was a successful businessman in Azerbaijan. The Appellant's statements are extremely detailed. His account of progressing, with the assistance of contacts, from his career in aviation to a managerial role in AMAY, and from there working his way up to positions of increasing influence is one that is internally consistent and plausible in the context of the background material. Although the Appellant was not from one of the powerful families who run Azerbaijan he was young, willing and talented. As Mr Gassanli put it, the old guard "would have needed people like [the Appellant] to show them how to switch on a computer and send an email".
49. Mr Gassanli was a very impressive witness. He brought a level of understanding of Azeri politics akin to that of an expert but made it clear that he did not appear on that basis. He appeared simply to confirm what he knew about the Appellant personally, and was blunt in expressing his own opinion that the Appellant and his like "were part of the problem". I have attached significant weight to his evidence which I found to be clear, credible, objective and helpful. Mr Gassanli described how, upon a visit to Azerbaijan in 2005 he came to know about the Appellant, whom people in Baku spoke of as "Aliyev's man". The Appellant had by then gained some notoriety for his ostentation, giving away new BMWs to his friends and apparently using his influence to full effect, fast gaining a licence for his new business Aliksoft. The Appellant's evidence about Aliksoft growing quickly to become an influential company is supported by Mr Gassanli who was recommended its services during that 2005 trip. He describes it as producing impressive and "slick" work which was new for the Azeri IT sector. It is further supported by the evidence unearthed by Professor Bowring that in 2006 it was named Azeri "company of the year". The extent of the Appellant's connections is further confirmed by the stills from his

engagement video in which Abdulla Abdullayev is seen, standing up and giving a speech<sup>17</sup>.

50. The Appellant describes his relationships with the Abdullayev brothers and Jalal Aliyev in the context of the *krysha* system. There is nothing in the evidence I have heard which contradicts that claim. Mr Chenciner, Professor Bowring and Mr Gassanli all explain that this convention is the underpinning of the system of patronage in modern day Azerbaijan, with its roots in the mechanics of old-style Soviet government. It is a form of relationship based on absolute trust, respect and loyalty. The more powerful partner enables the lesser to operate with impunity, and in return receives a cut of any gain. The analogy with the mafia is apposite. I am satisfied that Abdulla Abdullayev was the Appellant's *krshya* and that this enabled him to grow a significant level of influence and wealth in Azerbaijan between 1998 and 2006. I accept that this included a position on the board of the Birlik Bank and that the Appellant was given a 1-2% share in this institution.
51. I am further satisfied, to the lower standard of proof, that the Appellant behaved in such a way that his relationship with Abdulla and his group of influence was eventually severed. The Appellant identifies his decision to marry K in 2002 as being the beginning of his fall from grace. The reasons for Abdulla's objections are not entirely clear. It may have been because she was the daughter of an opposition figure, or simply because, as Mr Chenciner suggests, because she was not the bride chosen by Abdulla himself. Mr Chenciner confirms that arranged marriages are still the norm in Azerbaijan and that they are an integral part of maintaining the feudal power structure. Although the marriage did not cause the breakdown of this *krysha* relationship, the Appellant's decision to proceed even after Abdulla had advised against it was perhaps the first indication that he had a spark of independence in him.
52. That willingness to 'go it alone' was subsequently exhibited in the Appellant's decision to set up his own companies and to strike deals without Abdulla's knowledge or consent. Having had regard to the Appellant's own detailed evidence, supported to a significant degree by the documentary evidence produced, I find that the Appellant did have involvement with a number of companies other than Birlik.
53. It was these deals which appear to have led, in early 2006, to the unravelling of the Appellant's life in Baku. The Appellant gives a compelling account of how, over a period of weeks, his world began to fall apart and it became very apparent that he had lost the support of the Abdullayevs. By the Appellant's account it began with the call from Fakhredin Efendiyev, who recounted the visit from the MTN. The Appellant explains with consistency and clarity his subsequent visit to Abdulla, how his businesses nosedived and what happened

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<sup>17</sup> A full copy of the DVD was made available but was not viewed during the hearing. Mr Gassanli confirmed that he had watched it and that Abdulla Abdullayev was present

when he was arrested. Having set his testimony about these matters in the context of the evidence overall I am satisfied that these events did take place. What is less clear is how and why overtly criminal gangs in Baku became involved. I do not understand, for instance, what possible benefit the Appellant believed he could gain from the intercession of 'Y'. I am nevertheless satisfied that the overall account is a true one, and in making that finding I have placed considerable weight on the supporting evidence of the two key witnesses, Mr Gassanli and Mr Cunningham.

54. I have already expressed my views as to the value of Mr Gassanli's evidence. He has nothing to gain in supporting the Appellant and he made it abundantly clear that in many ways he did not. Three factors have however persuaded Mr Gassanli that the Appellant is currently at risk in Azerbaijan. First he was alerted to a change in his fortunes by the transformation in the Appellant's demeanour when he met him again in 2013. He was no longer the flashy rich kid, but appeared frightened and "humbled". This led Mr Gassanli to make enquiries with friends in Baku who told him that the Appellant had been "done" by his former krysha. Setting this information in the context of his own understanding of what is happening in Azerbaijan today, Mr Gassanli has concluded that the Appellant is at risk. This is in part because he grew too big for his boots: "they couldn't allow a kid that they took out of university when he was nobody and who used to make their tea to be seen as someone who was now handing out BMWs to their friends". It is however primarily because those he has antagonised now desperately need his money: "Its like the final scene in a gangster movie where they all turn on each other". I am satisfied that Mr Gassanli's evidence provides independent corroboration that the Appellant is at risk.

55. Mr Cunningham was also an impressive witness. The evidence which supported his statement included documents indicating that the Appellant has made substantial donations to community institutions in Mr Cunningham's home town, and he confirms this in his written evidence. Elsewhere he is described as being the Appellant's business partner. These facts could possibly give rise to an inference that notwithstanding his long connection with the British government, Mr Cunningham may not be entirely impartial. I have weighed those matters in the balance and having done so I am wholly satisfied that Mr Cunningham is a reliable witness, who gave his evidence in a straightforward and detailed manner. What it revealed was that the Appellant is now regarded as "finished" and that in Baku it is widely believed that he faces "severe punishment" for taking on "the family". Mr Tarlow suggested that Mr Cunningham may not have the full picture and that he may simply have been talking to the "wrong people" on his trips to Azerbaijan. It is of course possible that other powerful figures in Baku may have a different view about the Appellant, but Mr Cunningham's evidence did not turn on what he was told at one meeting. He was consistently told at numerous meetings and dinners that the Appellant was - in effect - at risk. He relates that most recently

the mention of the Appellant's name at a dinner in 2014 provoked a "furious response" from those present who stated that if the Appellant returned "he would be taught the meaning of respect". This evidence is entirely consonant with what I have been told about the *krysha* system and the prevalence of human rights abuses. Mr Cunningham's evidence is of a nature rarely found in protection appeals. He is an independent witness who has had direct contact with the putative agents of persecution and can confirm first hand their malign intent.

56. I do not need to set out in any detail the country background material on human rights abuses in Azerbaijan since the Respondent accepts the country's record to be extremely poor. Mr Chenciner and Professor Bowring both confirm that in their view the Appellant would be likely to face "brutal", "harsh and life-threatening" conditions in detention in Azerbaijan. Mr Gassanli pointed out that unlike the many political prisoners in Azeri jails, the Appellant would not be in the protective glare of the international media spotlight and would therefore be more likely to suffer severe ill treatment.
57. Having weighed all of the evidence before me I am satisfied that the Appellant is at risk of serious harm in Azerbaijan for the reasons that he claims. He has therefore succeeded in showing that his removal pursuant to a deportation order would be contrary to the United Kingdom's obligations under Article 3 of the Human Rights Convention.

### **The EEA Regulations**

58. The appeal has been allowed on protection grounds but I address the question of the EEA Regulations in the alternative.
59. It is not now in dispute that the Appellant is married to a Ms Rosita Gert, a Lithuanian national. At the hearing before the First-tier Tribunal there was some doubt about whether she was in fact exercising treaty rights. Her evidence that she was a self-employed florist was then challenged by the Respondent. Although Mr Tarlow did not formally concede this matter he did not make any submissions about the evidence that is now produced to establish that she is a qualified person, and that by extension, so too is the Appellant. The Appellant relies on the following evidence:
- Accounts and Memorandum of Association for 'Foxy Rose Ltd' (the florists)
  - Screenshots for the Foxy Rose website, Facebook page etc and a letter to Ms Gert from Google advertising regarding Foxy Rose
  - Various invoices and receipts for services issued by Foxy Rose
  - Correspondence between HMRC and Ms Gert relating to Foxy Rose

- Confirmation from Jamie Aston Flowers that Ms Gert undertook a professional floristry course there in September 2013
  - Director's report and accounts for Monarch Private Investments Ltd showing that Ms Gert was appointed as a Director in December 2015
  - Dividend certificates issued by Monarch Private Investments Ltd showing Ms Gert to have received a net dividend of £50,000 in the year ending 31 March 2016
  - Santander bank statements for Monarch Private Investments Ltd showing payments made to Ms Gert
  - Payslips and a P45 showing Ms Gert to have been employed between May and November 2015 by Sterling Accounts and Taxation Office Ltd
  - Copies of Ms Gert's comprehensive private health care insurance policy
60. Ms Gert adopted her witness statements and gave live evidence. She explains that she started work when the Appellant was sent to prison. Her mother had been a florist in Lithuania and she had always been interested in it. She has identified a niche market in the Russian and Eastern European community in London and caters for events as well as regular clients. She is for instance often asked to provide flower displays for the Lithuanian embassy. She is currently operating from the garage of her home. Asked about the payslips etc from Sterling Accountancy Ltd Ms Gert explained that this was an office manager role. She had done this in order to gain experience of running a business. Because the flower business is only busy when a big order comes in Ms Gert is also running an investment company. In her live evidence she explained that this company specialises in providing advice to "high net worth individuals" from the former Soviet Union and India. She receives a salary of £5000 per month. Asked why she continues with the more modest venture of Foxy Rose if she is earning this salary from Monarch Investments Ms Gert says that it is because she loves it and she is hoping to expand it in the future.
61. Having taken account of all of the evidence before me I am satisfied on the balance of probabilities that Ms Gert is a qualified person. She is receiving a regular income from her role as Director of Monarch Investments and her income is supplemented by occasional contracts for Foxy Rose floristry. I am satisfied that she and the Appellant are in a genuine relationship and that he is therefore a qualified person. In order to deport him on grounds of public policy the Respondent must show that the decision is in accordance with each of the principles set out in Regulation 21 (5): the decision must be proportionate, based exclusively on the conduct of the Appellant, it cannot simply be because of his criminal conviction, and it must be shown that his personal conduct represents a genuine, present and sufficiently serious threat affecting one of the fundamental interests of society.
62. I was given very little evidence about the offence itself. I am told that the the Appellant bought the false documents in his new name after he had arrived in London. I have placed no weight on the Appellant's explanation that he did

this because he was fearful for his safety. There is a sufficiency of protection in the UK and there can be no justification for the procurement of false documents, which undermine immigration control as well as law and order. I am satisfied that the creation and use of false documents is capable of affecting one of the fundamental interests of society.

63. I am not satisfied that in all the circumstances, the Appellant presents a “genuine, present and sufficiently serious threat” to justify his deportation. He has committed a crime but I am satisfied that there is a very low risk of any reoffending. As Mr Gassanli and Mr Cunningham have both attested, the Appellant is a changed man: the events of recent years have underlined for him the difference between London and Baku. I am confident that the Appellant is remorseful and that he now understands that he cannot simply buy his way out of problems. I am satisfied that in the circumstances there is a very low risk of reoffending.
64. Accordingly I allow the appeal with reference to Regulation 21 (5).

### **Decisions**

65. The appeal is allowed under paragraph 397 of the Immigration Rules (human rights).
66. The appeal is allowed with reference to Regulation 21(5) of the Immigration (EEA) Regulations 2006.
67. The order for anonymity made in the First-tier Tribunal is maintained in the following terms:

“Unless and until a tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of his family. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings”.

Upper Tribunal Judge Bruce  
5<sup>th</sup> April 2016