

IN THE SPECIAL IMMIGRATION APPEALS COMMISSION

Appeal No. SC/165/2019
Hearing date: 14, 15 and 17 January 2021
Date of Judgment: 25th March 2021

Before:

THE HONOURABLE MR JUSTICE LANE
UPPER TRIBUNAL JUDGE RINTOUL
MRS J. BATTLE

BETWEEN

B9

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

MR R. SHARMA (instructed by Mayfairs Law Limited) appeared on behalf of the Appellant.

MR R. PALMER QC and MR W. HAYS (instructed by the Government Legal Department) appeared on behalf of the Respondent.

MR. D. LEMER (instructed by the Special Advocates' Support Office) appeared as Special Advocate.

OPEN JUDGEMENT

MR JUSTICE LANE:

1. B9 is a citizen of Albania, born in 1984. In February 2012, B9 was issued by the respondent with a residence card, as the spouse of an EEA national, who is a citizen of Latvia. In August 2017, B9 was issued with a permanent residence card, as the spouse of the same Latvian citizen.
2. On 2 September 2019, the respondent decided to make an exclusion order in respect of B9, pursuant to the Immigration (European Economic Area) Regulations 2016 (“the 2016 Regulations”). On 6 September 2019, B9’s permanent residence card was revoked.
3. The exclusion decision was taken under regulation 23(5) of the 2016 Regulations. The respondent certified the decision under regulation 38(4)(b) and (c) on the basis that it was taken in the interests of the relationship between the United Kingdom and another country and otherwise in the public interest.
4. B9 appealed against the exclusion decision. As a result of the certification, his appeal lies to the Commission.
5. It is common ground that the decision to exclude B9 cannot lawfully be taken in respect of him, as a person with a right of permanence residence under regulation 15, except on serious grounds of public policy and public security. The respondent bears the burden of demonstrating such grounds.
6. Although the 2016 Regulations were revoked by reason of s.1 of and para.2(2) of Schedule 1 to the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020, with effect from 11 p.m. on 31 December 2020, the effect of savings provisions in regulation 82 of, and Schedule 3 to, the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (Consequential, Saving, Transitional and Transitory Provisions) (EU Exit) Regulations 2020 is that the relevant provisions of the 2016 Regulations continue to apply to an undetermined appeal brought under the 2016 Regulations. B9’s appeal is of this kind.
7. The respondent’s reason for making the exclusion order was that B9 is assessed to be an influential member of a UK-based Albanian Criminal Community that imports Class A drugs and arranges their distribution across the UK. It was assessed that, if B9 should be allowed to continue to reside in or enter the UK, there would be a serious risk that he would remain a central facilitating figure for the importation and distribution of such drugs. The

respondent also considered that B9 is capable of engaging in extreme violence. There was, accordingly, a significant risk that, if in the UK, B9 would inflict or attempt to inflict serious violence against those who acted contrary to his interests. It was further assessed that B9 had been involved in assisting non-EEA nationals to enter the UK illegally from Albania via mainland Europe and there was a corresponding risk that he would continue to be involved in such activities within the UK.

8. Given B9's level of involvement in serious and organised criminality and the level of future risk that he posed, the respondent decided that B9's presence in the UK represents a genuine, present and sufficiently serious threat to the UK's public security and safety.
9. The first OPEN statement filed by the respondent assesses that B9 carries out large-scale importation of drugs in the United Kingdom with a number of criminal associates, including Mentor Maci, Ajmir Gashi, Azghan Dauti, Isuf Dauti, Madrid Lleshi, Myftar Lumeshi, Alfred Malaj, Dorian Llapi, Alexander Qafa and Marciano Leuwol.
10. The first OPEN statement says that in July 2013 a vehicle was stopped at Coquelles, France, whilst waiting to enter the UK. 65,000 Euros were found within a concealment in the vehicle's dashboard. The sole occupant of the vehicle was Mentor Maci, who claimed to be the owner of the car. Phone analysis at the time revealed contact between Maci and B9 before and after the cash seizure. Paragraph 6 of the first OPEN statement ends as follows:-

“The case (sic) was examined forensically for DNA and the result was shown positive to [B9]. [B9] was later arrested on 5 March 2014 as a suspect in this case. He was interviewed and no further action was taken. The NCA [National Crime Agency] assesses that this money was the proceeds of drug distribution.”
11. B9 is assessed to use vehicles with purpose-built concealments and to be involved in cash smuggling and laundering criminal proceeds via the export of expensive vehicles to Albania and possession and/or importation of firearms.
12. The NCA also assesses that B9 has been involved with large-scale hydroponics production (of cannabis plants).
13. The statement alleges that in January 2018 B9 met Azghan Dauti in Germany, in connection with the supply of Class A drugs into the UK. Azghan Dauti was arrested by German law enforcement in February 2018 for supply of cocaine. During searches of his premises, police found a customer list in the apartment, showing outstanding payments amounting to several

- thousand Euros. The NCA assesses that Azghan Dauti was running a large-scale drug distribution network. Azghan Dauti was found guilty of the supply of cocaine and in July 2017 was sentenced by the German criminal courts to two years and six months custody.
14. Madrid Lleshi is said to have been arrested by the Metropolitan Police in September 2018 for possession of a small quantity of cocaine. He was not charged.
 15. B9 is said to have travelled from the UK to Albania in June 2018. B9 is said to have family and business interests in that country. However, B9 is also assessed to have met with criminal associates, while in Albania, in order to discuss the movement of Class A drugs across Europe. B9 returned to the UK in September 2018 and is said to have met regularly with his criminal associates. B9 is also assessed to be involved in large-scale importation of cocaine into the UK, sourced from Holland.
 16. The NCA assesses that B9 used Alexander Qafa in connection with the supply of cocaine. B9 was observed meeting Qafa and it is assessed that Qafa held B9's cocaine stash and was involved in its distribution. In April 2019, Qafa, who was in the UK illegally, was arrested and found to be in possession of £3,000 and three mobile phones. Within Qafa's flat, the NCA seized four kilos of cocaine, several sets of scales, bags, heat-sealing equipment, chemicals, more cash, several further phones and a number of passports (Albanian, Hungarian, Romanian, Greek and Lithuanian). Qafa pleaded guilty to the possession of Class A drugs with intent to supply and was sentenced to imprisonment.
 17. The NCA further assesses that B9 has been involved with assisting non-EEA nationals to enter the UK illegally from Albania via Belgium.
 18. The first OPEN statement assessed B9 as associating with known criminals. Dorian Llapi was observed meeting B9 in October 2017. The purpose of the meeting was assessed to be to discuss the importation of Class A drugs. Llapi was arrested in December 2017 following the seizure of 1 kilo of cocaine. He was subsequently sentenced to 12 years' imprisonment in relation to this and another seizure of Class A drugs.
 19. Gee Mason, formerly known as Gokhan Aydin, was released from prison in 2014, having served half of an 18-year prison sentence for attempted importation of 200kg of heroin. Mason ran a business called "Selective Car Hire" and "Optimum VR Limited" from an address in Enfield. The business rented out high-value vehicles. Many of these vehicles were leased by Optimum from Wendex Vehicle Rentals Limited. B9 was regularly

observed visiting Selective Car Hire and it was assessed that high-end vehicles were being leased to individuals in the UK, who would then leave the jurisdiction with them. B9 had regularly been observed driving different high-end vehicles that were either owned or leased by Selective Car Hire. These included a Bentley, a Range Rover, a Jaguar and a number of Mercedes and BMW vehicles.

20. An examination of B9's finances showed that he had "almost no financial footprint in the UK, with only one bank account being identified with legible turnover". All financial transactions appeared to be undertaken in cash or paid for by a third party. Although the NCA accepted that B9 was involved with a number of businesses in Albania, it was considered that B9 funded his lifestyle, including driving high-value cars, through being involved in the importation and supply of Class A drugs. Wendex Vehicle Rentals went into administration in August 2018.
21. B9 was regularly observed moving between a series of cafes and restaurants, where he met face to face with other individuals, who were assessed to be involved in serious and organised crime. Many of these individuals led a similar lifestyle to that observed in respect of B9, "not working and driving high-value cars sourced from Selective Car Hire". These meetings were assessed as being to further B9's criminal activities. During those meetings, B9 was observed to be in possession of multiple phones and often showed his phone screen for others to read. On occasions, B9 would travel a significant distance before meeting an individual for just a few minutes. These meetings were assessed as being to facilitate connections between criminal associates and to pass instructions for the purposes of conducting criminal activities.
22. In January 2018, B9 was observed collecting an associate from a hotel in North London and driving him to Liverpool, where they paused for ten minutes before driving to Manchester. The individual was identified as a Dutch national, Marciano Leuwol. The meeting was assessed to be in the furtherance of criminal activities.
23. In April 2018, B9 met Alket Dauti and other males at the Shisha Bar in North London. Alket Dauti was sentenced to ten years' imprisonment by the Belgian authorities for his involvement in organised immigration crime. In January 2019, Alket Dauti was extradited to Belgium to begin serving his sentence.
24. Whilst driving, B9 was assessed to have used anti-surveillance driving techniques in order to frustrate surveillance teams prior to meeting with individuals. This included rapidly

increasing and then decreasing his speeds on roads, making numerous loops and turns in residential streets and doubling back on himself.

25. On 21 October 2012, a male who was in dispute with door staff is said to have telephoned B9 for assistance. B9 drove a Range Rover onto the pavement outside the nightclub in question and is said to have used a four-inch flick knife in order to stab three times a Bulgarian national, who suffered life-threatening injuries. B9 is then said to have fled the same day to Albania, but was later arrested and charged with s.18 wounding/grievous bodily harm. It is said that, when the victims were spoken to by the police, they stated they were very scared of B9 due to his reputation. They declined to support a prosecution and returned to Bulgaria, following which the criminal charges were dropped. The investigating officer later dealt with another male, said to be the cousin of B9. This person spoke about the stabbing and said that B9 was not someone to be “messed with and the Bulgarians had been paid very well for agreeing not to pursue the investigation”.
26. In November 2014, an NCA officer on border investigation duties in Dover had cause to examine B9’s mobile telephone. This contained images of B9 with firearms. One showed him in what appeared to be a garden area holding an AK47; another showed a male, assessed to be B9, lifting his top in order to show the handle of a gun tucked down his trousers. The NCA assess that B9 had previously had access to firearms and was familiar with their operation.
27. Assessing the risk to public security imposed by B9, the NCA consider that he is a significant criminal facilitator with a wide range of criminal associates and a wide reach across a number of serious organised crime areas. B9 enables and emboldens criminals operating in the UK at all levels to further their own criminal enterprises. B9 is assessed as being willing to use extreme violence in the UK himself in order to protect what he perceives to be his own interests. The NCA considers that the availability of drugs has a significant impact on the level of related crime in the UK, as well as the number of drugs-related deaths. It was stated that B9’s continued presence in the UK “will undoubtedly contribute to the level of drug-related crime”. As well as a risk of violence, there was a risk that B9 will continue to be involved in bringing non-EEA nationals into the UK. All of this meant that, in the assessment of the NCA, B9’s presence in the UK represents a genuine, present and sufficiently serious threat to the UK’s public security and safety to warrant his exclusion.

28. In his amended grounds of appeal, filed by Mayfairs Law Solicitors on 10 August 2020, B9 submits that his exclusion breaches EU law and his rights under Article 8 of the ECHR. B9 states that there is no evidence to suggest his personal conduct represents a genuine, present and sufficiently serious threat affecting one of the fundamental interests of society. It was also submitted that the effect of “CLOSED” procedure in the Commission has seriously impacted upon B9’s ability to have a fair hearing: in particular, were he to be unable to attend and submit his case in person.
29. Following the filing of the amended grounds of appeal, the respondent filed a second OPEN statement in support of her action against B9. The second open statement contained further material in respect of Gee Mason. He is said to be a British national, born in Turkey. Financial enquiries identified a high volume of cash credits to Selective and Optimum VR, together with Mason’s personal bank accounts. In the period 2014 to 2017, Selective received cash credits totalling £854,527. In 2016/17, Optimum VR received cash credits totalling £180,710, whilst Mason’s own accounts received cash credits of £161,475 in the same period. In contrast, Mason’s total declared income between 2005 and 2018 was £12,574.14. Such a high volume of cash trading was said to be indicative of money laundering and would not be expected of businesses of this nature trading legitimately. Mason’s business model was assessed as having significant benefits for organised criminals. Hiring high-value lease vehicles for cash to organised criminals allowed criminal cash to be laundered through the provision of high-value vehicles, a status symbol amongst those in the criminal fraternity. Those hiring the vehicles were not the registered keepers; nor were they named on insurance policies, thereby ensuring a level of anonymity. In May 2019, the NCA executed a number of search warrants at premises associated with Mason. He was out of the country at the time, and so avoided arrest, and is not believed to have returned to the UK since. Mason has been circulated as wanted and is liable for recall to prison for breach of his prison licence.
30. The second OPEN statement referred to B9’s assertion, in his witness statement, that he had casual employment from Mason, delivering and picking up cars, on occasion acting as a chauffeur. That assertion was said to be not corroborated. At an interview with immigration officers in July 2017, B9 indicated that he introduced to Mason prospective clients who wished to purchase high-end vehicles from which he earned commission. He was asked directly whether he worked for Mason, to which he responded, “No, I help him. Basically, I never work ... I don't work for him, but I help him”. B9 explained to the interviewing

officer that in return for introducing clients, Mason would take money off the lease price of B9's Volkswagen Golf vehicle "like £50, or £100".

31. The second OPEN statement also dealt with B9's description in his statement of his association with Leuwol. B9 said that he chauffeured Leuwol on one occasion. Describing the observations made on 24 January 2018, the second OPEN statement describes the vehicle travelling to Liverpool, where it briefly stopped in a supermarket car park, with no one observed to exit or enter the vehicle. It then travelled to Manchester City Centre where Leuwol exited the Range Rover and entered a black Mercedes. Commenting on the assertion of B9 that this trip was him engaging in his employment as a chauffeur, the NCA assess that, whilst B9 could have been providing a service to Leuwol by escorting him north, there was a criminal motive on the part of the parties undertaking the journey.
32. The final part of the second OPEN statement concerns the assertion of B9 that he was nothing more than a driver/chauffeur for Mason. The statement contends that there are documents to indicate that B9 personally leased a Bentley Bentayga, valued in excess of £233,000, from Mason's company Optimum VR. Investigations with the National Vehicle Crime Intelligence Service disclosed that the Bentley was leased from Liberty Leasing Ltd to Wendex Vehicle Rental Ltd, a primary supplier of leased vehicles for Mason's Optimum VR company. On 8 June 2018, Mason signed a sub-hire agreement leasing the vehicle from Wendex to Optimum VR.
33. Also on 8 July 2018, a contract hire agreement was signed by B9 and Mason in respect of Optimum VR, leasing the Bentley to B9 for a monthly rental of £4,600, with a deposit of £58,690. According to a further rental agreement between Optimum VR and B9, the vehicle pick-up date was 8 June 2018 and the deposit paid was £58,890, with three-monthly payments of £4,600, together with a billing address at Sheldon Square, London. The vehicle return date was given as 6 September 2018.
34. On 27 June 2018, B9 drove the Bentley in convoy with a BMW vehicle to the outbound controls of the Eurotunnel in Ashford, where both vehicles were stopped by Border Force officers. B9 produced an Albanian passport and told the Border Force officer he was driving to Albania for one month and that the vehicle belonged to his uncle's hire company, Optimum VR. He said he was driving it to Albania for his uncle to use it to drive around when he got there. B9 said his uncle's name was Gee Mason; he was not his real uncle, B9 said, but a distant family relative. B9 further stated that he was attending a wedding on 14

July and was then having two weeks on the beach before returning to the UK. He gave his home address as Sheldon Square, London, and stated that his wife was Albanian. B9 said that he worked doing loft conversions, driving for his uncle (Mason) as well as doing some repairs and servicing and taking cars for MOT.

35. Following interception by the Border Force, B9 produced a letter headed “Optimum Vehicle Rental” addressed to B9 at Sheldon Square, dated 26 June 2018, giving him permission to drive the Bentley Bentayga from the UK to Albania through any European international borders. This document was signed by Gee Mason. The pick-up date for the vehicle was 26 June 2018 and the return date was 23 September 2018. The driver of the BMW vehicle, who was said to be in convoy with B9, was identified as Lulzim Petku.
36. On 8 August 2018, Liberty Leasing Limited terminated the lease agreement with Wendex for the Bentley, as Wendex had gone into liquidation. The notice of termination stipulated that consent for Wendex to possess the vehicle had been withdrawn and that the vehicle should be returned. The NCA believe that at some point after that date, the Bentley was seized from B9 by the Albanian State Police.
37. Martin Matthews is Operations Manager within the NCA’s Investigations Directorate. He leads a multi-functional team of investigators, directing the gathering of intelligence and evidence. In his witness statement of 12 February 2020, Mr Matthews describes the purpose of this gathering exercise as being “to identify and disrupt those causing harm to the UK through their involvement in serious organised crime”. When tasked with an investigation, Mr Matthews undertakes the role of senior investigating officer, meaning that he is responsible for the conduct and direction of the investigation, ensuring it remains lawful, proportionate and that all reasonable lines of enquiry are explored. Certain responsibilities are delegated by him to a deputy SIO, who is responsible for the day-to-day running of the investigation, including the deployment of resources in the wider case team.
38. Mr Matthews describes B9 as being identified in 2017 as a subject of interest, being assessed to be the leader, within the UK, of an ethnic-Albanian Organised Crime Group (OCG) which was actively engaged in drug importation, money laundering and migrant smuggling throughout Europe. In August 2017, Mr Matthews become the deputy SIO for the operation involving B9, latterly becoming its SIO. The operation not only focused on B9 but also on those assessed to be his criminal associates and members of the wider OCG. The exercise proved highly successful, with intelligence and evidence gathered pursuant to

the investigation directly leading to numerous arrests, the seizure of kilos of Class A drugs and the detention of illegal migrants. Despite this, however, admissible evidence of B9's criminal activities, which could lead to his arrest and prosecution, was limited. B9 was said to have been aware of law enforcement tactics and appeared actively to seek to thwart them. According to the statement, at the start of 2019 it became apparent to the NCA that the arrest and prosecution of B9 was unlikely, due to the lack of admissible evidence. The case team, therefore, sought an alternative strategy to disrupt B9's criminal activities. It was considered that B9's leading role in the OCG's UK-based activities was dependent on his continued residency in the UK, and that his physical presence in the country provided him an opportunity to exert influence over the OCG, orchestrating its activities through face-to-face meetings with other criminals and using force and intimidation when needed. The fact that B9 was able to remain lawfully in the UK was assessed as giving B9 a higher status than other criminals who were present unlawfully.

39. Mr Matthews says that the case team reached the conclusion that B9's removal would significantly disrupt his criminal activities and, therefore, mitigate the harm that the OCG was causing to the UK. The case team collated evidence and intelligence in respect of B9, which led to a recommendation to the Home Secretary and the making of the exclusion order.

40. LM filed a witness statement on 13 February 2020. LM is the senior operations manager in the Internal Far Europe Desk ("Far Europe"), which is part of the intelligence and operations division of the NCA. LM's statement describes, in general terms, the NCA's perception of Albanian organised crime in the UK. Significant numbers of Albanians arrived as a result of the war in Kosovo, which took place between 1998 and 1999. The majority of those claiming to be Kosovan Albanians were, according to LM, actually from Albania. Around this time Albanian criminality in the UK began to emerge. Serbian OCGs, who since the early 1980s had been working closely with the South American drug cartels to move cocaine to Europe, began to form contacts with Albanian crime groups settled in the UK. This saw the Albanian OCGs moving into the cocaine market. The Serbian crime groups were content with this development, since the Albanian OCGs followed the Kunan Honour Code and would comply with any undertaking they gave:- "so that when they gave their word that they would deliver drugs of a high quality they would, the drugs would be delivered at the time they said they would be delivered and the price for that product would be the agreed price, hence creating a reliable and efficient working relationship."

41. In or around 2006, law enforcement agencies began to see the first indications of Albanians operating directly in South America, with a decrease in the reliance of the South American cartels on the Serbian OCGs. Those cartels began to have closer links with the Albanian crime groups. The Albanian OCGs established themselves across the Balkans, Europe and the UK, involving themselves in multi-commodity criminal transactions, including drug trafficking of all types, people smuggling, document fraud, modern slavery, money laundering and, to a lesser degree, firearms trafficking.
42. Research by the NCA has shown, according to LM, that Albanian-organised crime controls the cocaine market across the main city and suburban areas of the UK, with the exception of Merseyside. The control is mainly down to threats and intimidation. Although the older generation of Albanian organised criminals had until recently been reluctant to carry out any form of violent retribution, kidnap and torture in the UK, the younger generation of Albanian criminals is starting to lose the reluctance of the older generation to do anything that would bring them to the attention of law enforcement agencies and, consequently, there are now said to be increasing numbers of murders being investigated in Albania and the wider Balkans in northern Europe, which are being attributed to members of Albanian crime groups.
43. LM's statement concludes by saying that the threat from Albanian organised crime is viewed as a significant national threat to the UK, and that over the last two years Albanians "have become the largest number of foreign national offenders within the UK prison system. Those arrested adhere to a code of silence with family members back in Albania being taken care of. On release Albanian ex-prisoners are welcomed back into their crime group fraternity, generally reintroduced into criminal activity".
44. B9 has filed a witness statement dated 10 August 2020. He describes himself as currently residing in Tirana, Albania. B9 says that he is originally from Has in the north of Albania, but wishes "to confirm at the outset that I have not and have never been involved in any sort of organised criminal activity".
45. B9 denies that his brother "is also involved with the OCG". B9's statement then addresses his alleged associates as follows.

Mentor Maci: B9 states that he is related to Maci, who is a cousin through B9's grandmother and Maci's grandmother. B9 says that he does not know what the

phone analysis described by the respondent was; nor the significance, if any, of DNA. B9 says that he was arrested and questioned about the incident (when Maci was found in a car containing the 60,000 EUR) but B9 was never charged “so I fail to see how that implicated me with organisation criminal activity”.

Ajmir Gashi: B9 says that this name does not mean anything to him, but, if he is Albanian, B9 may have come into contact with him in Albanian cafes and bars. He might be able to comment further if shown a photograph of Gashai. The respondent provided no information to support the assessment that Gashai “is a significant criminal”.

Azghan Dauti: B9 says that he is related to Azghan Dauti, in that they are “distant cousins but I have not met him for a number of years”. B9 denies that he met Azghan Dauti in Germany in 2018. B9 was unable to comment further about him.

Madrid Lleshi: B9 says that he knows Madrid Lleshi as a friend who frequents the same cafes and bars and that they regularly play card games, such as poker, at these places. No further information is provided as to why the respondent assessed Lleshi as a significant criminal.

Myftar Lumeshi: B9 says he knows Lumeshi, as he is B9’s mother’s cousin. Lumeshi is a successful businessman living in Albania. During the course of one visit to London, B9 showed Lumeshi around the tourist sites. To B9’s knowledge, Lumeshi has never been involved in any form of criminal activity.

Alfred Malaj: B9 knows Malaj from the Albanian cafes and bars. B9 believes that Malaj works in the nightclub industry. No further information is provided as to why the respondent asserts Malaj is a significant criminal.

Dorian Llapi: B9 says this name does not mean anything to him although, if Albanian, B9 may have come into contact with him in Albanian cafes and bars, where many Albanians gather. B9 might be able to comment further if shown a photograph of Llapi. B9 is unable at present to confirm whether he met Llapi on 2 October 2017.

Alexander Qafa: B9 says he knows Qafa from the Albanian bars and cafes, but that he is not a friend of B9. No details are provided of the supposed meeting between

B9 and Qafa. B9 describes as “nonsensical” the allegation that B9 used Qafa for the control of cocaine supply. None of the materials apparently found at the time of Qafa’s arrest relates to B9, as far as the latter is aware.

Marciano Leuwol: B9 does not know Leuwol, but remembers his name as a result of B9’s work as a chauffeur. On one occasion, B9 says that he chauffeured a Marciano Leuwol, but no information is provided to why the respondent asserts Leuwol is a significant criminal.

Alket Dauti: Alket Dauti is said by B9 “to be another distant cousin of mine whom I would meet very occasionally in London”. Whether B9 met Alket Dauti on 19 April 2018 at the Shihi Bar, B9 cannot now recollect. B9 “was shocked to find out that [Alket Dauti] had been involved in immigration crime” and “certainly had no knowledge of or part of any of that criminal activity”.

Gee Mason: B9 says he knows Mason, who is a businessman “involved in car hire and rental and seemed to know a lot of people in the Albanian community”. B9 says that he first met Mason in or around 2014, when playing poker in a bar. Eventually Mason offered B9 a casual job driving for him , delivering and picking up cars and on occasion acting as a chauffeur”. B9 had not had any contact with Mason for about 18 months.

46. B9 describes as false the contention that he has been involved “with large-scale hydroponics production”. He also describes as false the contention that he has been “involved with assisting non-EEA nationals to enter the UK illegally from Albania via Belgium”.
47. So far as driving high-end vehicles is concerned, B9 says that he has “chauffeured and delivered and picked up cars on an intermittent basis many more than ten”. He describes as correct the contention in the first OPEN statement that he has business interests in Albania.
48. B9 agrees that he has attended a series of cafes and restaurants as “it is part of Albanian culture to do so”. The assessment of the purpose of those meetings in the OPEN statement is “frankly bizarre”. No individuals were named. So far as mobile telephones are concerned, B9 says that he had two of these when in the UK, one for domestic calls and one primarily for telephoning family and friends in Albania.

49. B9 denies having any criminal associates either in Albania or elsewhere. So far as anti-surveillance techniques are concerned, B9 says "I was not even aware there were such techniques". He denies having employed any such techniques.
50. B9 denies that he is willing to use "extreme" or "serious" violence. B9 says "I was outside a nightclub on 21 October 2012 when an altercation took place". B9 says that he was questioned and charged but no further action was taken, which he took to mean that "it was accepted that I played no part in any stabbing or other criminality". There is no evidence that any alleged victim was scared of B9 or left the United Kingdom on that basis. As for the allegation that a cousin of B9 spoke with the police, B9 says that this "is something that I cannot comment upon because again I have not seen such evidence". B9 can, however, say that he did not pay anybody anything and did not stab anybody.
51. B9 does not know why he is said by Mr Matthews to have been identified as a subject of interest in 2017. Nor does B9 understand what is meant by the contention that he was aware of law enforcement tactics and appeared actively to seek to thwart them. B9 considers the interest in him to be based on "nothing more than speculation and conjecture and the fact that I am an Albanian from the north of that country". B9 denies the "baseless accusation" concerning his possession and/or importation of firearms. He denies that he has laundered criminal proceeds by the export of expensive weapons to Albania and/or the importation of firearms.
52. So far as his financial footprint in the UK is concerned, B9 says this "ignores that it is accepted elsewhere that I do have business interests in Albania and did work in the United Kingdom. ... I used to play poker for money".
53. Referring to the Director's Guidance Streamline Process (MG5) (see below), B9 says that he does not remember an occurrence over seven years ago when a Dutch telephone with a number ending 9064 contacted him between 23 and 24 July 2013.
54. Insofar as issue appears to be taken with B9's wife's financial footprint, B9 notes that it is accepted "she has various business interests". The exclusion of B9 has, he said, caused his wife and him "real distress. This has taken a great toll on both of us". B9 says that his wife is now back in the United Kingdom and he would like to resume his life with her.
55. The respondent has filed two documents entitled "Director's Guidance Streamline Process". The first describes the circumstances surrounding the discovery at Coquelles on 24 July

2013 of 64,450 Euros in cash behind the dashboard of the vehicle driven by Maci and the subsequent investigation in respect of that incident. The satellite navigation system of the car gave a home address at “The Avenue”, London and an address in Amsterdam, Netherlands.

56. Under the heading “Forensic Enquiries”, there is the following:-

“The cash was examined by a Forensic Officer for DNA (Deoxyribo Nucleic Acid) recovery. The cash was bound together by elastic bands, four of which were removed and sent for DNA processing. The DNA results were received showing a positive match to [B9] [date of birth] ... 1983.”

57. Analysis of seized mobile telephones from Maci showed communication between him and B9 prior to and after the cash detection. Between 23 July and 24 July 2013, there were two calls from B9, two calls to B9 from Maci’s number, ending 544, and eight calls between B9 and Maci on Maci’s number ending 599. Just before Maci was stopped on 24 July 2013, he called B9 twice at 11.25 hours and 11.27 hours on number ending 544. After Maci had been stopped and the cash found, B9 called Maci four times on the numbers ending 554 and 599; at 16.04 hours, 17.45 hours (twice) and 18.45 hours.
58. The first Streamline Process document then describes an incident in Essex. On 6 September 2013, NCA officers intercepted a vehicle in Hornchurch and discovered one kilo of cocaine within the vehicle body panels and two kilos of cocaine in a small black rucksack inside the vehicle. The packages were wrapped in brown tape. Written on the packages was the word “Kusho”. Within this vehicle were insurance and ownership documents relating to the vehicle that had been driven by Maci on 24 July 2013.
59. The driver of the vehicle intercepted in Hornchurch on 6 September 2013 was identified as Vlamarjo Xhamallati (“Mr X”), Mr X was carrying false identification in another name. An image taken from the Facebook belonging to Mr X showed him leaning against the vehicle driven by Maci and intercepted on 24 July 2013.
60. In September 2013 Mr X pleaded guilty to possession of Class A drugs with intent to supply and was sentenced to six and a half years’ imprisonment.
61. Within the contact list of the mobile telephone of Maci ending 554 is the name “Kusho.H” with a Dutch mobile phone number. That Dutch telephone contacted Maci on the number

ending 554 on a number of occasions between 23 and 24 July 2013. The same Dutch mobile telephone also contracted B9 between those dates.

62. Under questioning, Mr X confirmed that the photograph on his Facebook page showing him with a vehicle was his vehicle. He had purchased the vehicle in order to start a business and get a National Insurance number but decided to sell it when told that he could not get an NI number. He had sold the vehicle for cash and the purchaser asked him to leave the insurance on the vehicle in order to enable the purchaser to drive the car. It was dark when he sold the vehicle and he could not be sure of the identity of the purchaser but believed it to be Maci. Maci was identified by Mr X on a Facebook image, showing B9 and Maci together on a night out.
63. The same report makes reference to an incident that occurred on 13 July 2013, when another vehicle was stopped at the UK control zone at Coquelles, France. The driver of this vehicle was Mujo Cahani. The vehicle was examined and found to have “an identical concealment to the one Mentor Maci had when arrested on 24 July 2013 in vehicle index ...” Cahani’s vehicle was seized, under powers conferred by s.88 of the Customs and Excise Management Act, on the basis that it was “an adapted vehicle, for the purpose of concealing goods”.
64. On 13 December 2013, a different vehicle was stopped at the control zone at Coquelles. Cahani was driving and B9 was a passenger in this vehicle. They said they were returning from a trip to visit family in Brussels.
65. The final matter of relevance which is contained in this document relates to the financial enquiries made into B9. On 5 March 2014 B9 was arrested at Sheldon Square, London. B9 gave a bail address of Swinton Street, the property rented and lived in by his spouse and her parents. Material seen by the NCA showed B9 as being employed by East London Lofts, with earnings of £1,400 per month. His outgoings were listed as £800 per month. The document records that “it is unclear as to what [B9’s] main source of income is”. Inspection of his bank statement showed two credits from East London Lofts and four credits from a company whose director was B9’s spouse, namely FJ Mart Ltd. HMRC information indicated that B9 started work at FJ Mart Ltd on 6 April 2013 and that B9 had no other legitimate income.
66. An examination of B9’s HSBC bank account showed that activity in it “is mainly expenditure”. The document contains a table outlining what is said to be significant expenditure between 3 July 2012 and 14 March 2014. Amongst the items in this table are

payments of £699.64 on 3 July 2012 in respect of “Pangea, Puerto Jose” and £306.96 on 4 July 2012 in respect of “Ocean Club Marbella”. On 22 July 2013 payments of £610.68, £663.78 and £885.04 occurred in respect of “Marbella” as to the first payment, and “Ocean Club Marbella” as to the second and third. Other payments related to “Prada Outlet Bicester”, “Tripsta, Athens”, “Val D Isere”, various airlines and “Zap Clothing”.

67. Altogether, between July 2012 and 14 March 2014, payments from the HSBC account amounted to £19,771.61.
68. Between 25 April 2012 and 17 February 2014, £23,743.16 was credited to the account: two credits, of £1,120 and £1,400, related to East London Lofts. Four credits, of £1,000, £1,050, £1,050.92 and £3,153.16 related to FJ Mart Ltd “salary”. The remaining credits are all cash deposits.

The document states:-

“This is the only account which we are currently aware of.

From close inspection of the statements of account, there is a lack of daily activity such as utility payments and general expenditure seen in an average current account. The expenditure shown in the account is for the majority, high-value purchases.

The deposits into the account are mainly cash credits. It is unclear as from where these credits have derived. They appear to be in addition to his only source of income from East London Lofts”.

69. A search revealed “a number of utility bills in the joint names of [B9] and [his spouse], however there are no bill payments shown leaving his known bank account”. B9 was, at the time of his arrest, in possession of a hired Mercedes. A search of this vehicle revealed “a number of V5 documents all of which were hire cars. There are, however, no payments being made to hire car companies leaving his known current account”.
70. The second Director’s Guidance Streamline Process document is redacted. It relates to the stabbing incident relied upon by the respondent. It is described as “a police report”. The report records that at about 3.20 hours on 21 October 2012, “AK was standing outside the ‘Arda 2 Club’ in Seven Sisters Road talking to TK”. Also present “was a short fat man”. In the background was TD.

71. The report describes how “a couple of minutes later” a black Range Rover drove slowly onto the pavement outside the club and a white man believed to be B9 got out of the driver’s seat. On CCTV he could be seen to hold something in his hand. This “is believed to have been a knife”. Several other men got out of the Range Rover, all of whom were believed to be Albanians. As they emerged “the fat man punched [TK] in an unprovoked attack. At this point TD entered the fight and tried to separate the fat man and TK. The fat man and the group then started to attack TD and the fat man “can be seen making stabbing motions to [TD]”. Simultaneously, B9 “wrestled with [TK] and they can be seen disappearing out of CCTV shot together. Seconds later [B9] comes back into frame followed by [TK] who is stumbling and is grasping his heart area where he was stabbed three times. The only person that could have stabbed him was [B9]”. The “other group” was then said to have pulled TD’s jacket over his head “and he received several more stab wounds to his body”. The “Albanian group then get back into the Range Rover and drive off”.
72. The report states that B9 “immediately fled to Albania, but later returned, was arrested and charged”. The report then says that “there is an update on 13/12 [13] from [redacted] stating that this matter was discontinued due to the two Bulgarian victims withdrawing their statements, and then fleeing the country.” The victims did not return and were said not to be willing to assist the investigation. Although the CCTV “showed a melee”, this “was not sufficient evidence to offer to continue a victimless prosecution”.
73. The same report describes the earlier entry as referring “to an incident which I investigated under CRIS Reference ...”. The two victims were said to have spoken “with an unknown man who is believed to have been involved in criminality, who is referred to as the Fat Man”. The author states that according to reports “the Fat Man felt slighted by a comment that one of the Bulgarians said” and had called “an accomplice [B9] on his phone. The accomplice was believed to have been out in a Central London nightclub at the time”. B9 “can be seen as the driver of a dark-coloured Range Rover which mounts the pavement outside the Arda 2 Club”. B9 “gets out and speaks briefly with the fat man”. The author states that “at this point a large fight breaks out and [B9] can clearly be seen assaulting [AK]. He can be seen bundling AK towards the camera from which the CCTV was derived “and out of shot performing stabbing motions”. During the attack B9 is said to have stabbed the victim three times around the heart “in an entirely unprovoked attack”. According to doctors who treated AK, the latter was lucky not to have received fatal injuries. TD was

also said to have been stabbed by the Fat Man in his lower back, receiving injuries to one of his kidneys.

74. The report ends as follows:-

“Having viewed the CCTV footage of the attack and having spent many hours researching [redacted] [B9], I have absolutely no doubt at all that he is the man in the CCTV footage that stabbed [AK]. I remember speaking with one of the doctors at the hospital where he was treated, who said that the grouping of the stab wounds was very close together and that the victim was very lucky to be alive, due to the proximity of the wounds to his heart.”

75. An unsigned witness statement dated 10 May 2015 of DJC, an officer of the NCA, then employed on border investigation duties in Dover, describes examining a mobile telephone used by B9. The officer came across a number of images of firearms on the device. One showed a weapon in the image of an Israeli Weapon Industry Jericho 941 self-loading pistol, with a silencer and the magazine removed with three hollow-tipped bullets on show. Another image showed an AK47S being held by B9 in what appeared to be a garden area. A third image showed a male lifting his blue, with white and red stripes top, to show the handle of a gun tucked down his trousers. The male also had two mobile phones in his hand and was wearing a Rolex watch. Another image showed B9 wearing the same top and watch in a nightclub. Photographs were exhibited to the statement. At the hearing, colour, as opposed to black-and- white, copies were produced by the respondent.

76. The appeal was listed for three days, beginning on 13 January 2021. On the morning of that day, however, Mr Sharma applied for an adjournment. The Commission had on 12 January 2021 refused in writing an application made by letter dated 11 January 2021 by Mayfairs. The Commission refused Mr Sharma’s application, giving its reasons orally on 13 January. The application was for the hearing to be adjourned for, at least, several weeks. In summary, the Commission was not satisfied that B9 needed more time to prepare for the hearing.

77. The Commission was, however, unable to proceed substantively on 13 January because there was no appearance via Skype video link by B9. Arrangements had been made for B9 to give oral evidence from Albania by such means. The Commission was, however, informed by Mr Sharma that flooding in northern Albania had, apparently, affected B9’s ability to access the internet and, hence, join the hearing remotely.

78. The Commission, therefore, decided that B9 should be given the opportunity to travel from north Albania to another part of the country, such as Tirana, in order to establish the requisite internet connection. The Commission adjourned until 9.30 a.m. on 14 January. At that time, B9 duly appeared by Skype, adopted his written statement and answered in examination in chief some questions regarding the photographs of firearms.
79. B9 gave his evidence in English, and the Commission is entirely satisfied that B9's ability to speak and understand English was satisfactory for this purpose. B9 did not have the trial bundle with him, although this had been provided to him in Albania. He said that he had left it at home.
80. B9 was asked at the end of cross-examination where he had been on 13 January. He said that he had been in his village. There had been problems with internet access and he had therefore driven to Tirana early in the morning of 14 January. The problems he had encountered on 13 January were that he had not been able to link his mobile telephone to Skype. There had been a lot of snow and B9 considered that the weather might have accounted for his difficulties. When asked if he had stated that it was due to localised flooding that he had been unable to join, B9 said that it had not been because of flooding. He could not get on to Skype. When he was asked if there had been internet-access problems affecting his area, B9 said that there had, but not the entire area. There had been one and a half metres of snow.

DISCUSSION

81. The Commission has assessed the evidence before it, both written and oral, in totality in order to determine whether it is more likely than not that B9 is an influential member of a UK-based Albanian criminal community that imports Class A drugs and arranges their distribution across the UK. We also assessed the evidence, as a whole, in order to decide whether it is more likely or not that B9 is capable of engaging in extreme violence so that, if in the UK, there would be a significant risk of him inflicting or attempting to inflict serious violence against those who act contrary to his perceived interests. On the same basis, we also considered whether B9 is more likely than not to have been involved in assisting non-EEA nationals to enter the UK illegally from Albania via mainland Europe and that he would continue to be so involved, if in the UK.

82. After making our findings of fact, we must decide whether B9's presence in the UK would represent a genuine, present and sufficiently serious threat to the UK's public security and safety as to necessitate his exclusion from this country.
83. It is convenient to note at this stage that, despite what is said in the grounds of appeal, Mr Sharma did not, in the event, pursue any contention that the present proceedings lacked fairness. He was, in the Commission's view, correct not to do so. We are entirely satisfied that B9 has had a sufficient opportunity to participate meaningfully in the appeal.
84. Notwithstanding what we have said about examining the evidence as a totality, one has to start somewhere. We begin by considering the Coquelles cash discovery on 24 July 2013. B9's evidence about whether his DNA was found is strikingly inconsistent. Having accepted that "my DNA was on a rubber band", B9 then contradicted himself, saying "It was not my DNA". He said there was no reason why his DNA should have been found.
85. Mr Matthews' evidence is that DNA taken from a rubber band which was wrapped around a bundle of cash is significant in that many different sets of DNA might be found on the notes themselves, as currency in public circulation. The DNA on the rubber bands, by contrast, points to the packaging of the bank notes by the person concerned.
86. Faced with this obvious difficulty in his client's case, Mr Sharma attempted to cast doubt on the written evidence. He got Mr Matthews, in cross-examination, to opine that the word "case" in the phrase "the case was examined forensically for DNA ..." in para.6 of the first open statement was meant to be a reference to the investigation itself. Another alternative (see para.10 above) relied on by Mr Sharma is that "case" is a misprint for "cash", which he contended was not accurate in the light of what we have said about the bank notes and the rubber bands.
87. We are entirely unpersuaded by these submissions. The key documentary evidence in this regard is, unarguably, the passage from the first of the Director's Guidance Streamline Process documents in para.56 above. The first OPEN statement is plainly intended as a reference to this evidence. The passage makes it entirely clear that a positive DNA match for B9 was found on the elastic bands.
88. In itself, this direct forensic link between B9 and the large amount of cash, deliberately concealed in a secret compartment in the vehicle being driven by Maci, makes it more likely than not that B9 was involved in the international transportation of the cash, in

circumstances where there was perceived to be a need to conceal the same from discovery by the authorities.

89. B9's direct involvement is, in any event, confirmed on balance by the phone calls between him and Maci. Maci is a form of a cousin of B9, by the latter's own admission. For the first time, in cross-examination, B9 contended that the reason for the calls that he put through to Maci on the relevant date was because Maci's father had been concerned over the whereabouts of his son and had asked B9 for assistance. As Mr Palmer observed, however, there is no explanation as to why the father would see the need to contact B9 for this purpose.
90. Mr Sharma attempted to show that there was an insufficient temporal connection between the calls and the interception and arrest of Maci at Coquelles. If, however, B9 was closely concerned with Maci's journey, and its purpose, the timing of the calls is significant. B9 would wish to establish that Maci had set off on his journey and, later, to check that he had got across the border. In the circumstances, it is more likely than not that this was the reason for the calls made to Maci's telephone by B9.
91. As against the weight of this evidence, no suggestion of any legitimate purpose on the part of Maci and B9 has been put forward. The events of 24 July are, we find, highly indicative of B9's involvement in a serious, organised criminal enterprise. When viewed by reference to the rest of the evidence, it is more likely than not that that enterprise concerns the illegal shipment and distribution of Class A drugs.
92. As we have seen from the Director's Guidance Streamline Process documents, Mujo Cahani was, on 13 July 2013, found in control of a vehicle that had an identical concealment to that of Maci's vehicle. Cahani's vehicle was seized, albeit that nothing was found in the concealment chamber. Exactly five months later, Cahani and B9 were stopped at Coquelles, whilst driving together, stating that they were returning from a trip to visit family in Brussels. In oral evidence, B9 agreed that this was so; but he denied knowing anything about the events of 13 July.
93. Viewed on its own, we agree with Mr Sharma that nothing in this piece of evidence would implicate B9 in any wrongdoing. But when it is placed in the context of the 24 July 2013 incident, the evidence regarding B9 and Cahani is a further pointer towards the correctness of the respondent's case against B9 in respect of that incident. It is stretching credulity too

far to consider what was found on 13 July to be a coincidence. B9 is significantly linked with two individuals, each of whom drove vehicles with identical secret storage spaces.

94. B9's evidence in respect of Cahani was evasive. He said that he could not remember whether he had travelled with Cahani on 13 December 2013, although he said he might have done.
95. There is an evidential strand, which goes to underscore the 24 July incident as being one of B9's actions as an important figure in the illegal drugs trade. This is the incident in Hornchurch, Essex, on 6 September 2013. As we have seen, the NCA discovered 1 kilo of cocaine within the body panels of a vehicle they had intercepted, along with 2 kilos of cocaine in a rucksack inside that vehicle. The word "Kusho" was written on the packages. "Kusho" is Albanian for "cousin". Whilst that, in itself, is unremarkable, the position is otherwise when one observes that within the vehicle in which the cocaine was discovered were documents relating to the vehicle that Maci had driven on 24 July 2013, which, as we have seen, has a direct and significant link to B9. The driver of the vehicle stopped in Hornchurch, Mr X, was shown leaning against the Maci vehicle. The name "Kusho" appears on one of Maci's mobile phones, in respect of a Dutch mobile telephone which was used to contact B9 between 23 and 24 July 2013. Taken together with the rest of the evidence, therefore, the Essex seizure contains a number of connections with B9, pointing towards his involvement in drug activities of the kind alleged by the respondent.
96. When asked about this by Mr Palmer, B9 said that he did not know why the "Kusho" Dutch mobile would be used to contact him, merely saying that "I know a lot of people". Again, we found that answer to be evasive.
97. A further link between Mr X (who pleaded guilty to possession with intent to supply) and B9 is that Mr X said that he sold the vehicle in which Maci was stopped on 24 July 2013 to a person whom he identified as B9, from a Facebook picture showing B9 with Maci. The circumstances surrounding the vehicle's sale, described earlier, can be described as highly problematic, being very far from what one would normally expect in terms of the sale and purchase of a car.
98. As we have said, these incidents, taken on their own, might not be sufficient to advance the respondent's case for exclusion. Under cross-examination, Mr Matthews appeared to agree

with Mr Sharma on that point. Nevertheless, we agree with Mr Palmer that they are relevant in building the overall picture.

99. We deal next with the nightclub stabbing. Once again, B9's oral evidence was highly unsatisfactory. At first, he denied that he had been present, which is an obvious lie. Faced with the contents of his witness statement, he then changed his position. Even then, however, B9 said that he did not remember anything about it and did not keep the facts in his head. He then said that he did remember being there. When pressed by Mr Palmer, B9 said that he did not wish to answer any more questions about the incident and that Mr Palmer could speak to B9's lawyer.
100. After a break, B9 said again that he did not remember things that he did not do and that "when I do bad things, I don't remember". When asked whether he had immediately fled to Albania, he said that he had purchased the ticket to that country some two weeks earlier. Asked about the victims withdrawing their statements and whether he paid them money in order to do so, B9 said that he wished that he had money and did not know what to say. When asked whether the victims were scared of B9, he questioned why they would say that. He had lived in England for 22 years and had not done anything to anyone.
101. In cross-examination of Mr Matthews, Mr Sharma sought to cast doubt on the contents of the second Director's Guidance Streamline Process document, which concerns the nightclub stabbings. To this end, Mr Sharma subjected the document to a detailed exegesis. Whilst there are undoubtedly some infelicities in the report of the investigating officer - in particular, the passage that states B9 could be seen bundling TK towards the camera "and out of shot performing stabbing motions"- the evidence is nevertheless sufficiently clear. B9, despite his denial, arrived at the scene in a Range Rover with others and proceeded to make common cause with the "fat man" in attacking TD and TK. The particular passage that Mr Sharma criticises indicates, we find, that B9 was seen (a) bundling TK towards the camera and out of shot whilst (b) performing stabbing motions. In any event, B9 was seen on camera attacking TK and when TK re-emerged into the view of the CCTV, TK had been stabbed. Although, in the absence of evidence from TD and TK, it may not have been possible to prove beyond a reasonable doubt that B9 actually stabbed TK during the period when both were out of sight of the CCTV, the evidence (including B9's unsatisfactory oral evidence about the incident) demonstrates that it is more likely than not that B9 stabbed TK, causing the serious injuries, as to which there is no challenge by B9.

102. We accept that there is no reason to assume that the stabbing of TK was motivated by anything directly concerning B9's drugs activities. That does not, however, alter the fact that the respondent is correct to rely upon the stabbing as indicative of B9's ability and willingness to resort to serious violence if his perceived interests so demand.
103. Our findings are reinforced by the undenied fact that B9 left for Albania immediately after the incident. His claim in oral evidence that he had obtained a ticket to Albania two weeks earlier finds no expression in his written statement. It is a belated and unsubstantiated assertion.
104. By contrast, there is no doubt that TK and TD withdrew their witness statements and refused to co-operate in the prosecution of B9. That is a striking occurrence. The respondent says it is more likely than not that the reason for it was the Bulgarians feared B9 and/or that they were financially induced not to pursue the matter. Mr Sharma categorises the evidence from B9's cousin, that B9 was not someone to be "messed with and the Bulgarians had been paid very well for agreeing not to pursue the investigation", as double hearsay. However, in the context of the present proceedings, the actions of the Bulgarians cry out for some form of explanation. Either or both of the reasons relied upon by the respondent is, we consider, more likely than not to represent the truth.
105. In the context of the evidence overall, significant questions arise about the lifestyle of B9 in the United Kingdom and the relative absence of any "financial footprint" of the kind that would normally be expected of a person in his supposed position. B9's income from East London Lofts and a "salary" from his wife's company for services that appear obscure are dwarfed by the cash receipts mentioned earlier. The payments out of the appellant's HSBC account (which he confirmed in his evidence was his only UK account) evince a predilection for travel and "clubbing", which would not appear to be sustainable by reference to his asserted sources of employment.
106. B9 said in cross-examination that, when at clubs, he would collect money from others who were with him and use his credit card to pay. Given our problems with B9's credibility, as already indicated and as will be further discussed, the Commission is not prepared to accept that that explanation is true. Furthermore and in any event, the appellant's evidence on this issue itself lacks credibility. He said in cross-examination that most of the rent on the flat at Swinton Street was paid by his wife. She said, however, during her immigration interview that it was mostly paid by B9's family. This led B9 in oral evidence to say that his family

would send him cash amounting to the equivalent of £1,000 every three weeks or so. This cash was put in the post to B9 at the residence he shared with his wife. B9 did not, however, have any satisfactory explanation as to why, if that was so, his wife had said at interview that she did not know how B9 got the money. There is certainly nothing in the wife's interview to suggest that she observed envelopes containing cash coming in the post to B9. He said in oral evidence that the envelopes were about 2cm thick, which is not insignificant. It is not credible that, if relatives in Albania were adopting the inherently risky practice of sending significant amounts of money in cash by post, B9's wife would not have noticed. In answer to question 322 of the interview, when asked about B9's financial arrangements in this regard, his wife had said, "You will have to ask him".

107. The fact that there is no evidence of utilities being paid from a bank account associated with B9 is also highly significant. B9 said that he would pay these by cash, apparently at a post office. There was no explanation as to why B9 would adopt such an inherently inconvenient practice for the payment of utilities.
108. In the circumstances, the fact that B9 may have family and business interests in Albania does not explain the paucity of his financial footprint in the UK. Nor does the suggestion that he makes money from poker and gambling. There is no evidence to show that he is a professional gambler who regularly derives an income by such means.
109. Discussion of B9's finances leads to the topic of his relationship with Gee Mason and the business of car hiring. Here again, B9's evidence was seriously inconsistent. B9's witness statement asserts that Mason "offered me a casual job driving for him, delivering and picking up cars and on occasion acting as a chauffeur". In re-examination, B9 said that he had got 10 per cent of the money that Mason earned when leasing a car to a person who had been introduced to Mason by B9. Sometimes he would get 15 per cent, depending on the car. The clients were found by B9 in coffee shops and other places. They were not just Albanians but included English people.
110. As it emerged, B9's oral evidence was that he was an employee of Mason's, thereby reverting to the position adopted in his witness statement. B9 accepted that this was undeclared employment, so far as the authorities were concerned.
111. B9 was asked why, if that were the position, he took out lease agreements for the hire of vehicles from Mason. He said that this was necessary in order to have requisite authority and

insurance to drive the vehicle, particularly abroad. B9 accepted that his present stance, in which he said he was Mason's employee, meant that he had lied in his Home Office interview. B9 then said, however, that he was not a liar and would say if he had done anything wrong.

112. Whilst, on its own, lying in an immigration interview would not necessarily play a material role in a decision to exclude, it is part of an overall pattern detected by the Commission in the evidence of B9, whereby he is revealed as a person whose statements are not worthy of belief.
113. The second OPEN statement reveals that Mason's business, through Selective and Optimum VR, had a high volume of cash credits, such as to indicate that criminals were using Mason for the purposes of cash laundering and as a way of parading high-end vehicles as status symbols, whilst ensuring a level of anonymity. B9's relationship with Mason falls to be assessed against this important background. B9 has not given a satisfactory rationale for the leases which he took out in respect of vehicles from Selective and Optimum VR.
114. The evidence regarding the Bentley Bentayga is particularly damning. In cross-examination, B9 had no satisfactory explanation as to why there were two rental agreements in respect of this vehicle, one showing him having paid a deposit of £58,890, with provision for £4,600 monthly rentals; and another agreement not showing any such figures, or any figures at all. In the circumstances, we find it more likely than not that the second agreement was generated with the aim of avoiding interest from the authorities, when B9 drove the Bentley from the UK to Albania. It is more likely than not that the true position is that B9 did, in fact, pay the deposit and some of the rental payments. That he was able to do so is indicative of the true state of his finances, as contended by the respondent. The use of the Bentley, so as to be seen in it in Albania, is also strongly in line with the evidence of the practices of those involved in Albanian organised drugs crime, as indicated in the statement of LM.
115. We do not believe the assertion of B9 that the use of the Bentley in Albania was in order for B9 and Mason to make some money as a result of B9 subletting the vehicle to third parties. There is nothing to substantiate this assertion. By contrast, B9's interview with Graham Vine of the UK Border Force contains untruths about this matter. B9 told the officer that Mason was flying out to Albania and that Mason was "a distant family member". Mason

and B9 were said to be going to a wedding on 14 July. There is nothing to substantiate that either. It was also untrue for B9 to say that Mason was “half Albanian and half Turkish and that Mason was (again) “distantly related” to B9. In the same interview, B9 lied when he said his wife was Albanian. Faced with the problem presented by B9’s answers at this interview in respect of his general credibility, Mr Sharma submitted that B9’s untruths could be put down to his use of humour. In this regard, Mr Sharma drew attention to B9 as having said in answer to the question “Are you Albanian?”, “100 per cent the true article”. Mr Sharma suggested that, since B9 was stopped for questioning every time he crossed out of or into the UK, such an approach on his part was to be regarded as a “coping mechanism”.

116. We do not accept those submissions. There is nothing inherently funny or light-hearted in lying about the nationality of B9’s wife, nor of the background of, and B9’s association with, Mason. Overall, the untruths told in this statement are in line with the general credibility problems that we have with B9.
117. When asked in cross-examination about Wendex going into administration, with the result that the Bentley was seized by the Albanian police from the control of B9, he adopted a tactic similar to that employed in evidence when speaking about the stabbing. B9 said that he did not want to talk about Mason at all, describing him as “an idiot”.
118. In conclusion, we do not consider that the Commission has been told the truth by B9 about his dealings with Mason/Selective Car Hire Ltd/Optimum VR Group/Wendex. It is more likely than not that B9’s dealings in this regard were about money laundering the proceeds of B9’s drug business and his desire, as leader of an OCG, to be recognised as a successful criminal, who could afford to use high-end vehicles, such as the Bentley.
119. We next turn to consider other individuals, said to be associated with B9 in the latter’s criminal enterprises. The first is Marciano Leuwol and his journey with B9 to north-west England. The second OPEN statement described Leuwol and three others departing from the Holiday Inn, Brent Cross in a Range Rover, the insurance policy for which was held by Mason and which had been parked in the designated parking bay of B9’s home address. The vehicle travelled to Liverpool, briefly stopping in a supermarket car park, where no one was observed to enter or exit it. The vehicle then travelled to Manchester City Centre, where Leuwol was observed to exit the vehicle and enter a Mercedes. B9 accepts that it was Alfred Malaj who introduced B9 to Leuwol. B9 accepts that he drove Leuwol on 24 January. In his statement, B9 says that this was as a result of B9’s work as a chauffeur.

120. In his oral evidence, by contrast, B9 gave a completely different explanation for his journey with Leuwol. B9 said that he had tickets to dispose of to persons in Liverpool. The tickets related to a boxing match. Since B9 was going, in any event, to Liverpool, he was willing to give Leuwol a lift there. Malaj had asked B9 to do this. B9 was categorical that driving Leuwol had “nothing to do with work”. When it was put to B9 that his witness statement described B9 chauffeuring Leuwol, B9 replied “I don't know”, reiterating that B9 had gone there in connection with the boxing match. When asked why he had changed his story, B9 repeated that the matter had nothing to do with his chauffeuring job.
121. When asked whether they had gone to Manchester, B9 said that he did not know. He said that he thought they had driven to Birmingham that day. When it was put to him that the evidence was that Leuwol got into a Mercedes car in Manchester, B9 said that he did not know Leuwol and that Leuwol was not his friend. When Mr Palmer put to B9 that he had been caught lying again, B9 denied this. He said that he did not remember if it was Liverpool or Manchester. Mr Palmer put to him that the journey was intended to enable B9 to speak to Leuwol for some four hours. B9 denied this.
122. In cross-examination of Mr Matthews, Mr Sharma pointed out that the evidence of LM concerning the reach of Albanian OCGs involved in drugs in England stated that Merseyside was an exception to their area of operations. Mr Matthews said that it was not being asserted that B9 had travelled to Liverpool in order to sell drugs. He agreed the purpose of the trip was unknown. He could not displace B9's explanation, based on the OPEN material.
123. So far as the OPEN evidence is concerned, we agree with Mr Sharma that the respondent has not shown that it is more likely than not that the journey B9 made with Leuwol was in furtherance of any criminal enterprise. We address this matter further in CLOSED. What is significant, however, for the purposes of our OPEN findings is that B9's unexplained change of story about the reason for his journey to Liverpool is a further reason why the Commission does not find B9 to be a witness of truth. The matter was compounded by B9's evasiveness regarding the places where he went on 24 January 2018.
124. We return to other individuals, who are assessed by the NCA as being involved with B9 in the large-scale importation of drugs in the UK. Dorian Llapi was, on 9 November 2018, convicted on two counts of conspiracy to supply a controlled drug of Class A, for which he was sentenced, respectively, to 9 years and 12 years' imprisonment. B9 told the Commission

that he did not know Llapi. They might eat in the same place, but B9 knew nothing about him. He would just “high-five” Llapi if he saw him.

125. On 24 April 2019, Alexander Qafa, assessed to be an associate of B9, was arrested. Qafa was found with 4 kilos of cocaine, more than three mobile phones, ten passports relating to five different nationalities, and the appurtenances of drug dealing. Qafa pleaded guilty to possession of Class A drugs with intent to supply.
126. B9 admits to knowing Qafa from Albanian bars and cafes but says he is not a friend. He was unable to confirm whether he had met Qafa, as observed by the NCA. In oral evidence, B9 said that he did not know Qafa was involved in the drugs trade. When asked if it was coincidence that this was so, B9 said “I don't ask them what they do”.
127. Mr Matthews accepted in cross-examination that there was nothing in OPEN to implicate B9 in the activities of Qafa that led to the latter's guilty plea.
128. Azghan Dauti was arrested in Germany in February 2018 and later convicted and sentenced to two and a half years' imprisonment in connection with the supply of cocaine. The respondent asserts that B9 met Azghan Dauti in Germany in January 2018, for a purpose which is assessed to relate to the supply of Class A drugs into the UK.
129. B9 says that he is related to Azghan Dauti as a distant cousin but has not met him for a number of years. He denies meeting him in Germany in 2018 and does not know whether the allegations made about Azghan Dauti are accurate. In oral evidence, B9 accepted that Azghan Dauti was imprisoned in Germany, but reiterated that he had not spoken to him for ten years.
130. Alket Dauti is said to have met B9 on 19 April 2018 at the Shisha Bar in North London. Alket Dauti was sentenced to ten years' imprisonment by the Belgium authorities for involvement in organised immigration crime and, on 25 January 2019, was extradited to Belgium in connection with that offence.
131. B9 said in oral evidence that Alket Dauti came from the same village as B9 but that he knew nothing about Alket Dauti's immigration crimes. B9 thought that Alket Dauti's business merely involved having a car-wash business. As well as being from the same village, Alket Dauti was said by B9 to be another distant cousin of his. He could not say whether he met Alket Dauti on 19 April 2018.

132. The respondent states that Madrid Lleshi was arrested on 18 September 2018 for possession of a small quantity of cocaine. Lleshi was not charged. B9 says that he is a friend of Lleshi and frequents the same cafes and bars as him, regularly playing card games with him. B9 said, in oral evidence, that he did not know Lleshi was involved in the drugs business or that he had been arrested.
133. B9 said that he knew Lumeshi. B9 said that Lumeshi had been a businessman all his life. B9 had had no involvement with Lumeshi regarding drugs. In his written statement, B9 says that Lumeshi is B9's mother's cousin and a successful businessman who lives in Albania. During Lumeshi's visit to London, B9 showed him around the tourist sites.
134. Ajmir Gashi is also assessed to be a criminal associate of B9. Mr Matthews was unable to say anything further about Gashi in OPEN. B9 says that the name Gashi does not mean anything to him, but, on the assumption that Gashi is Albanian, B9 may have come into contact with him in Albanian cafes and bars. Mr Sharma said in closing submissions that the respondent had not shown a photograph of Gashi to B9.
135. We address the issue of B9's associations with the above individuals in CLOSED. So far as the OPEN case is concerned, we are satisfied, on balance, that B9 has an association with each of the individuals that is, in truth, greater than that alleged by him. The fact that Llapi, Qafa and Lleshi have been convicted of drugs offences, whilst not of significance in itself, supports the respondent's OPEN case concerning B9's involvement in the illegal drugs trade.
136. Given our concerns regarding B9's credibility, we consider it more likely than not that B9 was aware of Alket Dauti's involvement in illegal immigration. So far as the OPEN case is concerned, however, we agree with Mr Sharma that the respondent has not shown, on balance, that B9 has had direct involvement in such illegal activities.
137. The respondent's evidence includes descriptions of B9 engaging in what are assessed to be anti-surveillance driving techniques. B9 said in evidence that he did not engage in such techniques, stating "I am not a superman". In his evidence, Mr Matthews was adamant that B9 was "attempting to counter our tactics". We are satisfied on balance that the evidence of the respondent is to be preferred on this issue. The NCA officers who observed, and reported on, the anti-surveillance driving can, as a general matter, be expected to be aware of the difference between speeding up and slowing down, and reversing into a driveway,

which occur as part of normal driving activities; and techniques with no such ostensible purpose. We consider that B9's flippant response to questioning on this issue was because he knows that he did, indeed, engage in such activities and has no legitimate explanation for them.

138. The final topic concerns the pictures found on B9's mobile telephone of firearms. These have been described earlier.
139. B9 said that the photograph said to be of the Israeli firearm and ammunition (with silencer) was taken from the internet. The photograph with the AK7 was taken in Albania. The weapon belonged to a relative who works as a policeman. It was taken "for fun". B9 said that the photograph of the person with the gun tucked inside his belt and jeans was of B9. It was taken in Albania and this gun also belongs to a relative. B9 had the photograph taken "as a joke and nothing more". He admitted that it was a real weapon.
140. Mr Matthews accepted in cross-examination that there was nothing to suggest that B9's presence with the firearms constituted a criminal offence in the territory in which the photographs were taken. Mr Matthews, nevertheless, said that the photographs demonstrated an interest in firearms on the part of B9.
141. We do not believe B9's statement that he had not seen the photographs before the day of the hearing. Although colour photographs were filed then, black-and-white versions had been made available since June 2020. Even though the quality of these images does not compare with the colour versions, B9 could have asked for better reproductions, had he seen fit. In any event, given the admissions that he made about the photographs which were on his mobile telephone, he could have given his explanation far earlier. What matters for present purposes is not whether possession of the firearms was legal in the place they were taken, but B9's motivation for having the photographs on his mobile telephone. We do not believe B9's assertion that the motivation was humorous or light-hearted. This is particularly the case with the pistol held by B9's belt of his jeans.
142. For the purposes of the respondent's OPEN case against B9, we find that the presence of the photographs on B9's mobile telephone is more likely because of his professional interest in firearms. That professional interest is very compatible with the assessment that B9 is a leading operator in an OCG involved in Class A drugs trading. Furthermore, it is compatible with, and supportive of, the respondent's assessment of B9 as a person prepared to use

serious violence, if he perceives that to be in his interests. We refer to the findings that we have made regarding the stabbing incident.

143. Both in his cross-examination of Mr Matthews and in his submissions, Mr Sharma sought to undermine the respondent's case in the following way. If, as alleged, B9 is a leading figure in an Albanian OCG in the UK, who is so adept at defeating the NCA's attempts to obtain evidence that would enable him to be prosecuted to the criminal standard, it was not credible that B9 would have allowed himself to be directly traced to the cash found in the secret compartment of Maci's vehicle in Coquelles. There is, however, no material inconsistency in the respondent's position. B9's DNA directly links him with Maci's clandestine trans-shipment of the cash, as does the evidence of telephone calls on the day. There is no inconsistency between this and the fact that there is nothing to show B9 personally transports cash for illicit purposes or personally handles the Class A drugs. On the contrary, it is consistent with B9 being a high-level operator, who lets others run the risks "on the ground".
144. For the reasons given above, we find, on the balance of probabilities, that B9 is an influential member of a UK-based Albanian criminal group, which imports Class A drugs and arranges their distribution in the UK. Unless excluded, B9 would pose a serious risk of again conducting those activities in the UK, as a central facilitating figure. We further find on balance that B9 has engaged in extreme violence, when this was perceived in his interests, and that, if in the UK, there is a significant risk that he would attempt to inflict serious violence against those who are perceived by him as acting contrary to his interests. Those interests would, in particular, include B9's involvement in the importation and distribution of drugs.
145. The OPEN case against B9 does not show that his unlawful activities are more likely than not to have involved assisting non-EAA nationals to enter the UK legally.
146. On the basis of our findings of fact, the Commission concludes that B9's presence in the UK will represent a genuine, present and sufficiently serious threat to the UK's public security and safety so as to make it proportionate, in terms of the 2016 Regulations, for B9 to be excluded from the UK. In *Robinson (Jamaica) v. Secretary of State for the Home Department* [2020] UKSC 5, the Supreme Court cited, without apparent disapproval, a statement of the First-tier Tribunal that "the scourge of drugs on society has been held many times to be utterly reprehensible" (para.17); and the statement of the Upper Tribunal that

“the canker caused by the spread of drugs – particularly those recognised as Class A - ... creates a substantial public interest in removing those who are involved, if their removal is permissible” (para.18). These statements correctly reflect society’s universal abhorrence of the trade in narcotics.

147. In this regard we also note the recital to the Single Convention on Narcotic Drugs 1961 (as amended) which recognises “that addiction to narcotic drugs constitutes a serious evil for the individual and is fraught with social and economic danger to mankind.” In similar vein, the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1998 refers to the UN being “concerned by the magnitude of and rising trend in the illicit production of, demand for and traffic in narcotic drugs and psychotropic substances, which poses a serious threat to the health and welfare of human beings and adversely affect the economic, cultural and political foundations of society”. The UN Convention also refers to the links between illicit drugs traffic and other related organised criminal activities, which are said to undermine legitimate economies and threaten the stability, security and sovereignty of States. The suppression of the international criminal activity concerning the illicit traffic of drugs is said to demand “urgent attention and the highest priority”.
148. For his part, Mr Sharma did not seek to persuade the Commission that, if the respondent’s OPEN case were to be made out, the facts would, nevertheless, not constitute the requisite genuine, present and sufficiently threat referred to in the 2016 Regulations. He was, in the Commission’s view, entirely right to do so.
149. The Commission’s CLOSED judgment contains findings which justify the respondent’s exclusion decision by reference to the grounds mentioned in regulation 27(3).
150. The appeal of B9 is dismissed.