



Neutral Citation Number: [2020] EWHC 2748 (Admin)

Case No: CO/550/2020 & CO/566/2020

**IN THE HIGH COURT OF JUSTICE**  
**QUEEN'S BENCH DIVISION**  
**ADMINISTRATIVE COURT**

Royal Courts of Justice  
Strand, London, WC2A 2LL

Date: 16/10/2020

Before:

**SIR ROSS CRANSTON**  
**Sitting as a High Court judge**

Between:

<b>ZANA RAHIM AND BAKR HAMAD</b>	<b><u>Applicants</u></b>
<b>- and -</b>	
<b>ASSIZE COURT OF BOLZANO (ITALY)</b>	<b><u>Respondent</u></b>

-----  
-----  
**Clare Montgomery QC and James Stansfeld** (instructed by **ITN Solicitors**) for the **Applicant Rahim.**

**Clare Montgomery QC and Ben Cooper QC** (instructed by **Oracle Solicitors**) for the **Applicant Hamad.**

**Mark Summers QC & Daniel Sternberg** (instructed by the **CPS**) for the **Respondent**

Hearing date: 8 October 2020  
-----

**Approved Judgment**

*Covid-19 Protocol: This judgment was handed down remotely by circulation to the parties' representatives by email, release to BAILII and publication on the Courts and Tribunals Judiciary website. The date and time for hand-down is deemed to be 2:00pm on 16 October 2020.*

**Sir Ross Cranston:**

1. There are two applications to consider. The first is a renewed application for permission to appeal the decision of District Judge Zani dated 6 February 2020 to order the applicants' extradition to Italy under European Arrest Warrants ("EAWs"). This application follows the refusal on the papers by Fordham J on 26 June 2020. The renewed application is on an aspect of one the four grounds Fordham J considered, namely, that the warrants are not valid warrants under section 2 of the Extradition Act 2003 ("the 2003 Act") because they contain material inaccuracies.
2. As well, there is a second application to add an additional ground of appeal relating to the fairness of a recent appeal hearing in Italy, which confirmed the applicants' convictions and the sentences imposed by the first instance Italian Assize Court. A fundamental unfairness is said to have arisen through the conduct of the proceedings and the inadequacies of the applicants' legal representation at the appellate hearing. The UK is said to be implicated in the fundamental unfairness because it provided the video link from Wandsworth Prison, where the applicants are detained, to the Italian court.

**Background**

*Outline*

3. The background in brief is that the applicants were tried in Italy along with four other defendants before the Assize Court of Bolzano, where they were convicted on 15 July 2019 of an offence contrary to Article 270 of the Italian Criminal Code of international terrorist association arising out of their membership of a group called Rawti Shax. The applicants had been summonsed in September 2018 to attend the Bolzano trial. Their summonses were personally served on them, but they did not attend. At the relevant time they were at liberty in the UK. The Assize Court gave reasons for the convictions and later produced a judgment dated 14 October 2019, which has been translated into English.
4. The president of the Assize Court of Bolzano, Judge Busato, issued EAWs for the two applicants on the day the court convicted them, 15 July 2019. The warrants were certified by the National Crime Agency the following day, the 16 July 2019. Under them the applicants' extradition is sought based on the Italian convictions. The extradition of both applicants is sought to serve sentences of 7 years and 6 months.
5. The applicants were arrested on 17 July 2019 and appeared at Westminster Magistrates' Court the following day. They were remanded into custody. Their cases were joined. The Italian Judicial Authority provided Further Information dated 12 November 2019.
6. There was a contested extradition hearing before District Judge Zani on 18 and 20 November 2019. The District Judge heard evidence from each applicant and from Professor Andrea Saccucci, an Italian lawyer called on their behalf.
7. District Judge Zani handed down his written judgment dated 6 February 2020. He dismissed the applicants' various challenges to the warrants and ordered their

extradition to Italy. The applicants appealed to this court. As explained earlier, Fordham J refused them permission to appeal on the four grounds they advanced.

8. On 10 July 2020 there was a hearing before the Assize Court of Appeal of Trento, Section of Bolzano. It upheld the judgment of the Assize Court of Bolzano. The applicants now have a right of appeal to the Italian Supreme Court.

*The Italian judgment: the Assize Court of Bolzano*

9. The applicants' convictions by the Assize Court of Bolzano on 15 July 2019 were followed by a written judgment dated 14 October 2019. It records that Dr Busato presided over the hearing and sat with Dr Tappeiner as the Judge Rapporteur and 6 jurors. The applicants were absent, although they were at liberty. The judgment then sets out the charges. These are mirrored in those contained in Box E of the EAWs (see below). In the judgment the charges were followed by submissions of the prosecution and of the defendants' lawyers, who had been appointed ex officio. Ms Enrica Franzini of the Trento bar defended the applicants.
10. The judgment recounts that during the trial investigation stage over the preceding months, evidence had been given by various persons including the Norwegian police. Transcripts of telephone tapping and copious documentation had been examined.
11. Under the heading "Grounds", the judgment sets out its reasoning for the convictions.
12. In relation to Mr Rahim it states that he is a member of the leadership of Rawti Shax, and Mullah Krekar's son-in-law. It continues that Mr Rahim participated in the chat room of the movement, often interacting with the other defendants and participants in the Italian cell, especially Abdul Rahman Nauroz. Numerous conversations attested to his role in the command and information transmission chain between Mullah Krekar and the movement, whom he visited in prison in Norway to receive instructions. He keeps these, the judgment says, in a special archive. Mullah Krekar tells him that those going to Syria must be judicious and spend their time there to train and gain experience; members of Rawti Shax should go to Syria. The judgment adds that there is evidence of Mr Rahim's essential role as a conduit from Mullah Krekar to the organisation.
13. As regards Mr Hamad, the judgment states that he was a member of the Rawti Shax cell in the UK. He was in constant contact with Nauroz, a member of the Italian cell. He radicalised Jamal Ibrahim, who went to Iraqi Kurdistan to join ISIS there.

*The EAWs*

14. Box E of the applicants' EAWs set out the nature of Rawti Shax as a terrorist organisation, its origins in the terrorist organisation Ansar al-Islam, the role of Mullah Krekar, its head, and his conviction in Norway, and how the applicants were members with others operating in cell groups "in Europe and the Middle East (in particular Germany, Switzerland, England, Finland, Italy, Greece, Sweden, Norway, Iraq, Iran and Syria), with the ultimate goal of overthrowing the current government of Iraqi Kurdistan, to replace it with a theocratic State based on the application of Islamic Sharia, and the indirect aim to commit acts of violence also on European soil or against Western targets, in order to intimidate the population or press public

authorities and international organizations, as well as to participate in the jihad, managing paramilitary training camps for such purposes.”

15. There are then details of Rawti Shax’s modus operandi, in particular that it operated on two, compartmentalised levels; the first was a public level, as a political and religious movement, proselytising and fundraising; and the second, a secret level, circumventing the authorities and hiding its true aims while seeking to fulfil them, spreading radical ideas for the primary purpose of achieving the replacement of the Kurdish regional government with an Islamic Caliphate. The warrants offer further details of the organisation’s secret operations, its division into cells, the compartmentalisation of information and the precautions taken such as encrypted electronic messaging and concealed meanings.
16. The warrants then deal specifically with the applicants’ own activities.
17. Box E of Mr Rahim’s warrant states that he was a leading member of the organisation, the son-in-law of Mullah Krekar, and his close collaborator in the direction of the organisation. While Mullah Krekar was imprisoned, he was his spokesperson, “acting at the public and secret level”, was active in the management of its financial resources and university. He undertook important administrative tasks relating the organisation’s chatroom on the internet “on the basis of the secret portion of the association and thus contributing to ensure its survival and attain its objectives”.
18. In particular Mr Rahim is said (i) to have been head of press and distribution of the organisation; (ii) during Mullah Krekar’s detention to have guaranteed full information on the events “interesting the organisation” and to have maintained confidential relationships with financiers; (iii) to have contributed to defining strategies to adopt in the leadership of the organisation, with reference to the planning of retaliatory terrorist actions to perform in Norway and the choices to make in safeguarding the organisation and its leader; (iv) to have reported the leader’s instructions and ensuring they were implemented; and (v) to have transmitted the leader’s authorisation for members to participate in jihad in Syria “indicating the training missions in relation to the terrorist project to carry out in Kurdistan”.
19. In Box E of Mr Hamad’s warrant it is said that he is a former member of Ansar al-Islam, that he settled in England and that he was engaged in proselytising and radicalisation for the jihad in Kurdistan. As well it is said that “acting at the public and secret level of the association, he attended the chatroom...exploiting this task, in full complementarity with Mullah Krekar, on the basis of the secret portion of the association and thus contributing to ensure its survival and attain its objectives...”
20. In particular it is said that he (i) acted mainly in promoting the terrorist agenda on the internet; (ii) produced, received and shared material of jihadist propaganda and maintained relationships with those involved in terrorist acts, exalting their actions; (iii) supported, together with other associates, violent actions such as kidnappings and attacks in Europe, or in any case, to the detriment of European and Western interests in the Middle East, and to obtain the release of Mullah Krekar; and (iv) promoted his readiness to be martyred or to participate in jihad.

*District Judge Zani's judgment*

21. Almost all the challenges to the District Judge's judgment are not pursued, so there is no need to consider his findings in any detail.
22. In the part of his judgment considering the section 2(4)(c) challenge, the District Judge concluded that, having thoroughly considered the information set out in the EAWs as well as in the Italian Assize Court's reasons, there was no difficulty for either applicant in being able to understand what each was wanted for in Italy, so as to be able to consider what challenges to extradition may be available. When considering double criminality he rejected arguments about material inaccuracies in the warrants.
23. At paragraph 138 the District Judge quoted the Further Information explaining that the applicants could appeal to the Court of Appeal or the Court of Cassation (Supreme Court). An appeal allowed for the merits to be re-examined. Even though the proceedings did not imply taking fresh evidence or rehearing evidence already heard, defendants could request this under Article 603 of the Code of Criminal Procedure. Fresh evidence could be admitted. The Further Information added that there was no reason, why in this case, Article 603 should not apply.

*The Italian appeal 10 July 2020: minutes and transcript*

24. The appeal by the five of the six defendants convicted by the Bolzano Assize Court was heard by the Assize Appeal Court of Trento on 10 July 2020. The minutes note that the hearing began at 10.08 am. Mullah Krekar appeared by audio video link from Nuoro prison and was represented by Vittorio Plati, a private lawyer. Mullah Krekar had an interpreter with him in the Nuoro prison providing simultaneous translation.
25. The minutes state that Mr Plati also represented Mr Ramin and Wahab Hamasalih. Mr Hamad was represented by Ms Franzini, acting ex officio, but until she arrived at 12.57 Mr Plati acted on his behalf. The minutes also record that Messrs Rahim, Hamad and Hamasalih were present by audio video link from Wandsworth prison, London. In the courtroom in Italy was a Kurdish language interpreter, Mrs Ali Mhabat, who "made a summary translation" of the proceedings. The fifth defendant was absent.
26. The minutes summarise the grounds of unconstitutionality raised by Mr Plati, the ground of appeal that the defendants should be absolved "due to the non-existence of the deed", and the request for a reduction in Mr Hamasalih's sentence. Ms Franzini then summed up the grounds of appeal. The court suspended proceedings at 14.20.
27. When proceedings resumed at 14.44, the defendants were invited to make their voluntary statements to the court. There is a transcript of this part of the hearing. At the outset the presiding judge said the defendants had 10 minutes each, but shortly after said that they should say what they wanted, but the court could cut them off if necessary.
28. Mr Hamasalih began. At this point Mrs Mhabat Ali said that the defendant told her that she was not able to explain his defence. She had not clarified matters and not translated well, and they had not understood the proceedings well. In addition, the

lawyer had not explained matters and they wanted time to confer. The presiding judge said that there was no more time.

29. Mullah Krekar was then invited to make a voluntary statement. He said that he needed at least 3 hours. The presiding judge said that what he could say must relate to the current appeal. Mullah Krekar replied that he would not speak unless he could do so on his terms. He began to address the court on his background and the activities of the authorities in various countries taken against him, including in Norway. At a number of points the presiding judge said that he must confine his remarks to the current proceedings. Eventually he turned his back on the court.
30. It then came to voluntary statements by these two applicants. The presiding judge observed that they had been laughing throughout the entire proceedings. Mr Rahim said that he could not speak since they were not defendants; they could not defend themselves. He would not say anything because he could not defend himself. Mullah Krekar had been charged in Italy without explanation, because of the Coronavirus. The defendants had not done anything; why had they been charged as a group?
31. When Mr Hamad was asked about making a voluntary statement, he said how could he defend himself in such a short timeframe? He wanted at least an hour or two hours. The presiding judge invited him to begin. Again he asserted that he needed time; his story was too long. He wished to clarify political matters. He said that he wanted an explanation as to why he had been prosecuted. He had never been to Iraq, but to Iran. He had never had contact with Mullah Krekar, Mr Majmuddin or Rawti Shax. He had never been with Ansar al-Islam. At one point the presiding judge stated that Mr Hammad's lawyer had already explained matters. A few minutes later Mr Hamad stated that he had never spoken to his lawyer.
32. The court withdrew at 15.52 and later returned to reject Mr Plati's constitutional challenges to Article 270 of the Criminal Code and the appeals. The challenge to the lower court's sentencing was also rejected.

*The Italian appeal: Professor Saccucci's report/applicants' statements*

33. In a report dated 2 October 2020, Professor Saccucci works from the minutes of the appeal hearing and the transcript, the statements of the applicants and the court's findings. He explains that the findings of the Assize Court of Appeal are not yet final. They can be appealed to the Supreme Court on points of law, but he doubts that problems in translation would be entertained by the court. Professor Saccucci adds that the applicants' lawyers did not apply to the Assize Court of Appeal to reopen the evidentiary phase of the proceedings pursuant to Article 603 of the Italian Code of Criminal Procedure.
34. On a reading of the transcript of the audio-recording of the hearing, Professor Saccucci adds, he has serious doubts as to the sufficiency of the interpretation provided by the court-interpreter who assisted the applicants. In his report, he gives several sentences of the Italian translation of the applicants' oral statements in the transcripts which appear, he says, to be incomprehensible if not totally obscure to a native Italian speaker.

35. For the purposes of the new ground of appeal the applicants have given additional witness statements. In them they state that they told the interpreter several times that they could not understand her translations. Mr Hamad says she seemed to speak a different dialect of Kurdish; Mr Rahim says she spoke perfect Kurdish but she was unable to translate. At times it was such nonsense it was funny.
36. Mr Hamad says that he was given the opportunity to address the judges, but they left before he had finished. They conveyed their communication difficulties to an Italian-speaking prison guard. Mr. Rahim says that the Italian speaking guard at Wandsworth prison used the telephone to tell someone about this.
37. Mr Hamad also complains that his Italian lawyer was distant. He never spoke to her or had communications with her. Mr Ramin states that he had a brief consultation with his Italian lawyer before the hearing.

*Letter from presiding judge of the Assize Court dated 8 October 2020*

38. During the course of the hearing the Respondent produced a letter of the same date, in which the presiding judge at the Assize Court, Dr Busato, states that he considered that the facts described in the charges (restated in the EAWs) to be proven and the reasons indicated in the judgment were illustrative only.
39. For the applicants Ms Montgomery QC requested time to seek a further opinion from Professor Saccucci. In a short report dated 9 October 2020 Professor Saccucci states that the 14 October 2019 judgment would have been written by Dr Tappeiner as the Judge Rapporteur; that a presiding judge cannot express a view about the opinion of others in the court; that judges are under a duty of secrecy about their deliberations; that it is not possible in a judgment to give illustrative findings; and that if a court finds a matter proved, that must be set out with the reasons.

**The renewal ground: mistakes in the EAWs**

40. Before the District Judge the applicants' section 2 challenge proceeded on a number of fronts, in broad terms that the conduct as described in the EAWs failed to provide adequate particulars of the alleged offending and that the EAWs were not valid Part 1 warrants under the 2003 Act. On renewal they have narrowed this ground to contend that there is arguable error because the warrants contain material inaccuracies.
41. The crucial material inaccuracy in the warrants is said to be that they allege that Messrs Rahim and Hamad acted in the "secret" part of Rawti Shax, but that there was never an explicit finding to that effect in the judgment of the Assize Court dated 14 October 2019. While in the Assize judgment there were explicit findings about other defendants such as Mullah Kerkar and Jalal Fatah Kamil being involved in the secret part of the organisation – for example, the former gave instructions to the latter to create a secret committee in Europe - there were no such findings against these applicants. In the applicants' submission this was material because it was fundamental to the question of whether a proper link existed between the applicants and the Italian cell, which had been set up in secret.

42. On the applicants' case there are other inaccuracies in the EAWs as well. For example, it is said in Mr Hamad's EAW that he encouraged kidnapping, but there is no explicit finding in relation to this, unlike with Jalal Fatah Kamil.
43. The applicants suggest that the reason for the inaccuracies is that the presiding judge of the Assize Court, Dr Busato, copied out the charge, as it was alleged by the prosecution, into box E of the EAWs, which did not reflect the Assize Court's judgment produced much later. Accordingly, they contend, because of the inaccuracies there is an arguable case that the EAWs are not valid Part 1 warrants. In their submission the respondent never sought to explain the inaccuracies or to correct them. Consequently, it is arguable that the District Judge ought to have discharged the applicants in accordance with the principles in *Zakrzewski v District Court in Torun, Poland* [2013] UKSC 2; [2013] 1 WLR 324.
44. In my view this renewed ground is not arguable.
45. First, it seems to me plain that the judgment makes findings that both Messrs Ramin and Hamad are involved in the secret as well as the public side of Rawti Shax. The judgment makes findings that Rahim was on the command side of the organisation and was often interacting with participants in the Italian cell, mainly Nauroz. Elsewhere in the judgment there are findings of the use of cells and their operation on the secret side of the organisation.
46. Further, the judgment held that Mr Rahim was a conduit between the movement and his father-in-law, Mullah Krekar, whom he visited in prison in Norway to receive instructions. The judgment contains material on how Mullah Krekar told Mr Rahim that those going to Syria must be judicious and spend their time there to train and gain experience. That is hardly the public side of the organisation, simply proselytising and fundraising.
47. The same applies to Mr Hamad where, as previously indicated, there are findings that he was a member of the Rawti Shax cell in the UK; was in constant contact with Nauroz, a member of the Italian cell; and radicalised Jamal Ibrahim, who went on to join ISIS in Kurdistan.
48. On a fair reading of the judgment there are clear findings that both applicants were involved in the secret side of the organisation and were in contact with the Italian cell. Other inaccuracies, in as much as they have any substance, do not meet the high threshold of impacting the decision whether to extradite: *Zakrzewski v District Court in Torun, Poland* [2013] UKSC 2; [2013] 1 WLR 324, [13].
49. In reaching this conclusion, there is no need for me to canvas presiding judge Dr Busato's statement of 8 October 2020. Notwithstanding the points Professor Saccucci makes in his report of 9 October 2020, and the applicants' submission that Dr Busato simply reproduced in his statement what the CPS had raised with him as an issue, if it had been necessary I would have accepted what Dr Busato said given the respect which this court accords to the judicial authorities of other EAW states.



## **The new ground of appeal of 2 October 2020**

50. The applicants seek permission to appeal based on an additional ground that there was a markedly unfair trial before the Assize Court of Appeal of Trento on 10 July 2020, when it upheld the convictions and sentences of the Assize Court of Bolzano. This was aided by the UK, the applicants add, since the UK provided the video link to the Italian court from Wandsworth prison, where the applicants were located.
51. In the new ground the applicants contend that the fundamental unfairness arose because they were not able to participate in the hearing in any meaningful sense. What had occurred was a breach of the common law standards for a fair hearing. The applicants were forced to tolerate these conditions through the limitations and restrictions imposed by the video link procedure and by their continued detention in the UK. There is no further remedy for the applicants in Italy to overcome the unfairness since a Supreme Court appeal deals only with issues of law.
52. To this end in their 2 October 2020 application notice lodged shortly before the hearing, the applicants seek leave to adduce fresh evidence from Professor Saccucci and a short additional proof of evidence from each applicant concerning the hearing before the Assize Court of Appeal. This matter has been outlined above and is considered now on a provisional basis.
53. There are three prongs to the applicants' submissions. First, it is said, due to inadequate translation the applicants' words were not understood or conveyed to the court or their lawyers. Whereas Mullah Krekar received simultaneous translation from a translator with him in his prison, the applicants' translator was in the court in Trento and gave only summaries of what was being said. That there was inadequate translation was corroborated by what Mr Hamasalih is recorded as saying near the outset of his voluntary statement regarding Mrs Ali's translations.
54. Secondly, the applicants contend, their legal representation was inadequate. Mr Hamad's Italian lawyer, Ms Franzini, was assigned to him by the court. She appeared to have made no effort to communicate his defence to him or the court. She arrived late, evidenced in the minutes of the hearing. In his voluntary declaration to the court, Mr Hamad made the point that he had never spoken to her. As for Mr Rahim, he had a private lawyer, Mr Plati, but in his additional witness statement states that his contact with Mr Plati was limited to a brief conference before the hearing began.
55. The third prong to the applicants' submission is that they had a right to address the court, but that this was thwarted by the inadequacies of translation and by the court itself cutting them short.

### *Discussion*

56. The long-established threshold for a breach of Article 6 ECHR, applicable in Part 1 extradition cases under sections 21 and 21A of the 2003 Act, is a "flagrant denial of justice": see *Lis v Poland* [2018] EWHC 2848 (Admin), [58], [64]. There was argument before me whether the threshold would be lowered as a result of current litigation in the Court of Justice of the European Union. Even were a lower threshold to be applied – whether what occurred in the Assize Court of Appeal violated the

fundamental principles of fairness and due process recognised in the common law – I do not consider that this was arguably breached in the circumstances of this case.

57. First, what occurred in the Assize Court of Appeal at Trento was an appellate hearing. The applicants had not attended their trial at first instance, although at the time they were free to do so. At their appeal the merits could have been re-examined, but as Professor Saccucci accepts the applicants' lawyers did not apply to the Assize Court of Appeal to reopen the evidentiary phase of the proceedings pursuant to Article 603 of the Italian Code of Criminal Procedure. Accordingly, the challenges open to the applicants at this phase of the proceedings were limited.
58. That leads, secondly, to the applicants' legal representatives. Given the client-lawyer relationship, information about their efforts is limited. However, we know that Mr Ramin was represented by a private lawyer, Vittorio Plati, who also represented Mullah Krekar and Wahab Hamasalih. Mr Plati advanced challenges to the convictions on jurisdictional and constitutional grounds, seems to have argued that the defendants had not committed the elements of the offence ("non-existence of the deed"), and sought a reduction of sentence for Mr Hamasalih. Mr Ramin states that he did not have much time with Mr Plati, but in as much as it is possible to tell from the translated outline of what he submitted to the court, it seems that Mr Plati was covering what would have been expected as potential areas of challenge in the appeal.
59. There was much criticism of Ms Franzini, who was acting ex officio for Mr Hamad. Admittedly, she did not arrive until 12.57, but the minutes record that until then Mr Plati had acted for Mr Hamad. Ms Franzini then addressed the court on his behalf referring to the grounds of appeal. It should be recalled that she had represented both Messrs Rahim and Hamad at the first instance trial and so can be assumed to have been knowledgeable about the case. There is no evidence from Ms Franzini, or from Mr Plati, on what they say in response to the applicants' criticisms. To my mind this second prong to the applicants' submissions has little purchase.
60. Thirdly, there is the translation. The type of legal arguments in the appeal to which I have referred would be difficult for a layperson to follow, even in a defendant's own language. A defendant in such cases is really an observer, not a participant in the legal submissions. The transcript records Mr Hamasalih complaining about the translation. The applicants now major on it in their statements. Again we have nothing from anyone in the court about whether Mrs Ali's translations of what the applicants were saying were difficult to understand. As Professor Saccucci fairly acknowledges, he was not able to assess first-hand the accuracy of the interpretation she provided; he based his opinion on the transcript. The misunderstandings he identifies are in my view nothing of significance.
61. There is contradictory evidence from the applicants on Mrs Ali's Kurdish; on instructions Ms Montgomery told me that the explanation for this was that Mr Rahim and Mr Hamad spoke different dialects. It is said that the Italian speaking officer at Wandsworth Prison telephoned to complain on the applicants' behalf about Mrs Ali's translation; as I understand it, there have been difficulties because of the pandemic in obtaining a statement from him confirming this.
62. In particular, there were the applicants' voluntary statements. Accurate translations of these was important. Yet in my judgment the applicants did not take seriously their

opportunity to make these statements. First, there is the disturbing observation of the presiding judge that the applicants had been laughing throughout the entire proceedings. Then, although told to focus their remarks on the appellate proceedings, the applicants ignored the direction. Indeed, Mr Rahim said that he could not say anything because he did not regard himself as a defendant and could not defend himself. He simply denied that the group had done anything unlawful.

63. Mr Hamad went even further in ignoring the court's processes. Taking his lead from Mullah Krekar, he demanded to be given an hour or two hours. Despite constant reminders from the presiding judge to focus on the appellate proceedings, he said that he wished to clarify certain political matters and began to recount his life's history. He added that he wanted an explanation as to why he had been prosecuted. Like Mr Ramin, he denied wrongdoing; despite the evidence in the first instance judgment he asserted that he had never had contact with Mullah Krekar, Mr Majmuddin or Rawti Shax.
64. Given all this I cannot detect any significant breaches of the ECHR Article 6 or common law standards of fairness and due process.

### **Conclusion**

65. In my view neither the renewed ground nor the new ground is arguable and I refuse permission to appeal.