SPECIAL IMMIGRATION APPEALS COMMISSION

Appeal No: SC/63/2007
Hearing Dates: 8th, 10th & 11th December 2014
Date of Judgment: 1st April 2015

BEFORE:

THE HONOURABLE MR JUSTICE IRWIN
UPPER TRIBUNAL JUDGE PERKINS
MR STEPHEN PARKER

BETWEEN:

ZZ

Appellant

And

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

OPEN JUDGMENT IN REMITTED APPEAL

MR H SOUTHEY QC and **MR N ARMSTRONG** (instructed by Public Law Project) appeared on behalf of the Appellant

MR T EICKE QC and **MR D CRAIG QC** (instructed by the Treasury Solicitor) appeared on behalf of the Respondent

MR A UNDERWOOD QC and **MR M GOUDIE** (Instructed by Special Advocates' Support Office) appeared as Special Advocates

- - - - - - - -

Mr Justice Irwin :

Introduction

1. This case has been the subject of extended litigation. This judgment should be read together with the OPEN judgment on the question of disclosure dated 8 August 2014 and the part judgment moved into OPEN, of July 2014.

2. In short summary, ZZ has dual nationality, Algerian and French. On 25 August 2005 the Secretary of State cancelled his indefinite leave to remain in the United Kingdom and excluded him from the United Kingdom. The Home Office had been notified on 19 August 2005 - that is to say six days before those decisions - that ZZ had left the UK. His application for naturalisation was refused on 30 August 2005. A little over a year later, on 18 September 2006, the Appellant arrived at Heathrow from Algeria, presenting his French passport. He was refused admission to the country and removed to Algeria. His challenge is to the refusal to admit him to the UK on that date.

3. The matter turns on Regulation 19(1) of the Immigration (European Economic Area) Regulations 2006. The refusal to permit his entry was justified within those Regulations on grounds of public security. The matter came to SIAC following certification by the Secretary of State on 15 March 2007.

4. In a judgment of 30 July 2008, SIAC concluded that:

> "The personal conduct of ZZ represents a genuine present and sufficiently serious threat which affects a fundamental interest of society namely its public security and that it outweighs his and [his family's] right to enjoy family life in the UK." (paragraph 20)

Which was sufficient "to justify the Secretary of State's decision to exclude him from the United Kingdom" (paragraph 21).

5. The Appellant appealed to the Court of Appeal. In a judgment handed down on 19 April 2011, see *ZZ v Secretary of State for the Home Department* [2011] EWCA Civ 440, the Court of Appeal considered a number of points taken on appeal. The first point concerned procedural fairness and disclosure. On that issue the Court of Appeal referred a question to the Court of Justice of the European Union ["CJEU"].

6. The later procedural history in this case is well known. Following the referral to the CJEU, that Court gave judgment on 4 June 2013, setting out the requirement for disclosure of the Appellant of the "essence of the grounds" of the case against him. The Court of Appeal considered the judgment of the CJEU on 24 January 2014, see: *ZZ v SSHD* [2014] EWCA Civ 7 and remitted the matter on that day to SIAC to reconsider the Appellant's exclusion applying the principles laid down in the CJEU. The Court of Appeal added the following:

> "**Lord Justice Richards:**

> 40. On rehearing the case in accordance with the principles laid down in the CJEU, SIAC will also be able to consider two secondary arguments advanced by Mr Southey before us. One is that SIAC is required to conduct a balancing exercise between the interests of national security and the interests of the individual when considering the question of disclosure and that this requires a more flexible approach towards the application of SIAC's procedural rules than has historically been the case. The other is that when considering the weight to be attached to withheld material SIAC is required to take account of the difficulties caused to the appellant by the non-disclosure of that material. These points did not form part of the grounds of appeal against SIAC's decision and were not the subject of the question referred by this court to the CJEU, and in my view it is not necessary or appropriate for us to engage with them.
>
> **Lord Justice Christopher Clarke:**
>
> 41. I agree. As my Lord observes the CJEU does not say in terms what is to happen if the essence of the grounds cannot be disclosed without also disclosing the confidential evidence. Moreover, whilst in para 66 of the judgment it contemplates that in certain cases disclosure of the evidence is liable to compromise State security in a specific manner, it does not in the preceding paragraph consider the position if disclosure of the essence might have that effect, which appears to me a possible circumstance. Nevertheless for the reasons that he has given it seems to me that the court has laid down as an irreducible minimum ("in any event") that the essence of the grounds must be disclosed, and has done so notwithstanding the contrary opinion of the Advocate General."

7. In July 2014 the current constitution of SIAC considered the impact of the CJEU judgment and ruled on the approach to disclosure to the Appellant of the essence of the grounds of the case. This judgment should be read in continuation of that decision.

8. Proceedings under Rule 38 of the SIAC Procedure Rules culminated on 23 September 2014. Further hearings in CLOSED took place and the OPEN consolidated statement on behalf of the Secretary of State reached its re-amended form on 17 October.

9. The substantive hearing in the remitted appeal was listed before us on 11 November 2014. However, a problem arose because the Appellant had recently learned that two policies of the Security Service, dealing with legal professional privilege, had been disclosed before the investigatory powers tribunal in the case of *Belhadj and Another* IPT/13/132-9/H. The Appellant then sought to make an abuse of process application. The substantive hearing was adjourned. On Friday, 14 November the present constitution of SIAC issued a ruling rejecting the application. The substantive case was finally

heard between 8 and 11 December 2014. For a reason set out in the CLOSED judgment, some further material was supplied to the Commission in February 2015.

Our Approach (1): What is required to justify exclusion

10. In the course of the SIAC judgment of 2008, the Commission had accepted that the case required the Secretary of State to demonstrate "imperative grounds of public security" so as to justify exclusion. SIAC declined to resolve arguments on that issue based on the interpretation of Articles 27 and 28 of Directive 2004/38/EC and Regulation 21 of the Immigration (European Economic Area) Regulations 2006. SIAC concluded:

> "It is unnecessary for us to resolve these arguments. For the reasons explained below, the family circumstances of ZZ, his wife and children are such that the principle of proportionality requires that they could only be outweighed by imperative grounds (or *motifs graves*) of public security, even if the only test being applied was that contained in Article 27.2 and Regulation 21(5) and (6)." (SIAC 2008, paragraph 7)

11. When the Court of Appeal dealt with the matter in 2011, the Secretary of State did not contest the conclusion of SIAC that the decision must be based on "imperative grounds for public security". This conclusion was mentioned, it appears to us with approval, by Maurice Kay LJ (paragraph 11) and Carnwath LJ (paragraphs 42 and 43).

12. Before us, the Secretary of State sought to reopen this argument, and the Appellant to sustain the conclusion of SIAC, both by reference to the interpretation of the Regulation and Articles we have mentioned. Put very shortly, Mr Southey argued that the departure of the Appellant for Algeria on 19 August 2005 in order to settle his son in Algeria for a period of schooling, followed as it was on 25 August 2005 by a cancellation of his indefinite leave to remain, could not be said to bring to an end the Appellant's residence in the United Kingdom. Even if the Appellant had intended to stay for a period with his son it was clear that he intended to return to the remainder of his family. It was unarguable that such a step ended the Appellant's residence in the country. That was sufficient to guarantee the Appellant the highest degree of protection under Regulation 21(4)(a). If the Appellant's residence in the United Kingdom continued through to the challenged decision in September 2006, then he was resident for a continuous period of at least 10 years before that decision.

13. Mr Eicke QC for the Secretary of State argued, in effect, that the term "residence" within Regulation 21 meant "presence" within the UK. There had been considerable periods over the decade to 18 September 2006 when the Appellant had been absent from the country. There was evidence that he had formed plans to live abroad rather than maintaining a settled intention to live in England. Mr Eicke also argued that Article 28 of the Citizens' Directive was concerned only with an "expulsion decision" as opposed to an exclusion decision. He also relied on the decision of the CJEU in *SSHD v MG* [2014] 1

WLR 2441 (Case C-400/12), in which the CJEU held that the ten year period of residence referred to in Article 28(3)(a) of the Citizens' Directive must in principle be continuous.

14. We express doubt as to whether the distinction between expulsion and exclusion relied on by the Secretary of State can be decisive. The principle underlying the Citizens' Directive is one of proportionality (see Article 27.2). The question of proportionality surely cannot turn on whether the individual is expelled from the country, or excluded the day after he left voluntarily and, as he thought, for a short time. Moreover, the wording of Regulation 21 gives no support to this argument from Mr Eicke.

15. As in the previous appeal before SIAC, we have concluded that the Appellant's family ties with the United Kingdom are such that the family circumstances could only be outweighed by imperative grounds of public security. In doing so, we bear fully in mind the decision of the European Court in *Üner v The Netherlands* (2007) 45 EHHR 14, emphasising the importance of the legitimate aims of the State in maintaining public order when conducting a balancing exercise against Article 8 Rights.

16. We remind ourselves that Article 27(2) of the Directive, provides in relation to all three graduated levels of protection:

> "Measures taken on grounds of … public security shall comply with the principle of proportionality and shall be based exclusively on the personal conduct of the individual concerned …
>
> The personal conduct of the individual concerned must represent a genuine, present and sufficiently serious threat affecting one of fundamental interests of society."

That must be read together with the requirement that the threat to public security must establish imperative grounds for exclusion.

17. Before SIAC in 2008 Mr Southey QC for the Appellant argued that the Commission should apply the criminal standard of proof when considering evidence. That was rejected by the Court of Appeal: see the judgment of Maurice Kay LJ, paragraphs 30-35. Rather, the Court made reference to the formulations in *Secretary of State for the Home Department v Rehman* [2001] UK HL 47 2003 1 AC 153 where, in paragraph 22, Lord Slynn rejected the proposition that there was a need for a "high civil degree of probability", a proposition with which Lord Steyn agreed. Lord Slynn emphasised that the requirement was that there must be "material on which proportionately and reasonably [the Secretary of State] can conclude that there is a real possibility of activities harmful to national security".

18. At paragraph 56 of *Rehman* Lord Hoffmann concluded that the concept of standard of proof was not helpful in a case such as this:

> "… the question in the present case is not whether a given event happened but the extent of future risk. This depends upon an evaluation of the evidence of the appellant's conduct against a broad range of facts with which they may interact. The question of whether the risk to national security is sufficient to justify the appellant's deportation cannot be answered by taking each allegation seriatim and deciding whether it has been established to some standard of proof. It is a question of evaluation and judgment, in which it is necessary to take into account not only the degree of probability of prejudice to national security but also the importance of the security interest at stake and the serious consequences of deportation for the deportee."

19. Maurice Kay LJ commended that approach. We have adopted it here.

Our Approach (2): Matters occurring since the date of the decision

20. The Appellant's position is that the Commission must focus on the current situation, simply making an assessment as to whether the Appellant today represents "a genuine, present and sufficiently serious threat" in national security terms. Mr Southey advanced two reasons. Section 85(4) of the Nationality Immigration and Asylum Act 2002 ("the 2002 Act") applies to appeals to the Commission. Section 85(4) provides that:

> "On an appeal … against a decision the Tribunal may consider evidence about any matter which it thinks relevant to the substance of the decision, including evidence which concerns a matter arising after the date of the decision."

The Appellant submits that the provisions of Section 85(4) are "hardly surprising" as applying here given the length of time this appeal has taken and the continued effect on the exercise of the Appellant's EU rights. Secondly, the Appellant submits that in the light of the time this appeal has taken, it would be a denial of the Appellant's right to an effective remedy if there were not to be a review of his current situation, and thus a breach of Article 47 of the Charter of Fundamental Rights.

21. The Respondent submits to the contrary: the issue on the appeal is whether, at the time that the SSHD made the decision not to admit the Appellant to the UK, his personal conduct was such as to justify that decision. The Respondent acknowledges the provisions of Section 85(4). Indeed, it was the Respondent who drew this provision to the attention of SIAC in a post-hearing submission in 2008. In that submission the Secretary of State referred to the AIT judgments in *LS (post-decision evidence; direction; appealability) Gambia* [2005] UKAIT 00085 and *EA (Section 85(4) explained) Nigeria* [2007] UKAIT 00013. In the *LS* decision, the AIT distinguished between refusals of entry clearance and certificates of entitlement, and all other cases. In those two categories the AIT concluded that the "clock stopped", so that evidence of circumstances after the date of decision could not be taken into account. Section 85(4) meant that evidence arising after the decision was admissible if

relevant to the circumstances at the date of the decision. The distinction between the refusal of entry clearance for an individual out of country and those with in-country appeals was important. In relation to in-country appeals the adjudicator required to look at all relevant circumstances so as to settle the Appellant's rights in a single process.

22. In *EA* the AIT emphasised the phrase "relevant to the substance of the decision" appearing in Section 85(4). The AIT therefore concluded that after-coming evidence is receivable only if and when it bears on the decision taken at the time.

23. In 2008 and today, the Respondent accepts that post-decision evidence as to the impact of separation on the Appellant's family is receivable, but submits that post-decision evidence relevant to national security must be confined to a consideration of the decision in 2006.

24. The argument was revived in the CLOSED hearing. Mr Underwood QC argued that it was wrong to found the requirement to assess matters on the evidence today on a supposed dichotomy between in-country and out-of-country appeals. It is immaterial in law whether the Article 8 considerations arise from splitting up a family who are currently together or preventing a family parted by the decision from re-uniting. Mr Underwood relied on passages from the speech of Lord Bingham in *Huang v Home Secretary* [2007] 2 AC 167. The report in *Huang* concerned two appeals, by a Chinese national and an Iranian, who had been refused indefinite leave to remain and asylum respectively. They were both in fact in-country appeals. The case reviewed the task of "appellate immigration authorities" (a definition which would include SIAC) "when deciding appeals, on Convention grounds against a refusal of leave to enter [emphasis added] or remain, under section 65 of the Immigration and Asylum Act 1999 and Part III of Schedule 4 to that Act" (paragraph 2). Lord Bingham went on to say that the obligation to ensure compliance with the Convention was enforced, in part, by the enacting of section 65 and part of Schedule 4 to the 1999 Act, quoted in full in paragraph 9 of his judgment. Section 65(4) grants jurisdiction to consider Convention issues, a jurisdiction here granted to SIAC. Paragraphs 21 and 22 of Schedule 4 provide that the appellate immigration authority must allow the appeal if the decision "was not in accordance with the law" (paragraph 21(1)), a formulation which must now incorporate breach of a Convention right. For the purposes of paragraph 21(1), sub-paragraph (3) empowers the appellate immigration authority to "review any determination of a question of fact on which the decision or action was based".

25. Mr Underwood then relies on paragraph 11 of the judgment of Lord Bingham, which reads:

> "11. These provisions, read purposively and in context, make it plain that the task of the appellate immigration authority, on an appeal on a Convention ground against a decision of the primary official decision-maker refusing leave to enter or remain in this country, is to decide whether the challenged decision is unlawful as incompatible with a Convention right or

> compatible and so lawful. It is not a secondary, reviewing, function dependent on establishing that the primary decision-maker misdirected himself or acted irrationally or was guilty of procedural impropriety. The appellate immigration authority must decide for itself whether the impugned decision is lawful and, if not, but only if not, reverse it. This is the decision reached by the Court of Appeal (Judge, Laws and Latham LJJ) in these conjoined appeals, and it is correct: [2005] EWCA Civ 105, [2006] QB 1."

26. He also relies on the analysis of the task, in this instance of SIAC, set out in paragraphs 14 and 15 of the judgment, and in particular the obligations to "…establish the relevant facts. These may well have changed since the original decision was made." (Paragraph 15).

27. Mr Underwood goes on to reject the submissions of the Secretary of State that these dicta are inapplicable, because the current appeal is brought under the Nationality, Immigration and Asylum Act 2002, not the 1999 Act, which was the legislation in question in *Huang*. The question whether the appeal is in-country or out-of-country is immaterial: as Lord Bingham makes clear in paragraph 20: "the ultimate question … is whether the refusal of leave to enter or remain" represents a breach of Article 8.

28. Mr Eicke responds by emphasising that both cases in *Huang* were in-country appeals. Refusal of grant of leave to enter would, under the earlier legislation, have often have led to an in-country appeal. Further, the decision in *Huang* was a question of construction of section 65 of the 1999 Act and its interplay with the Human Rights Act 1998. The dicta in *Huang* are not of general application.

29. In a Note submitted after the hearing, Mr Southey amplified his submissions. The application of section 85(4) has nothing to do with whether the appeal is in-country or out-of-country. The legislation does not make that distinction, which it could have done. A number of out-of-country appeals are caught by section 85(4): an example would be cases arising from removal decisions under section 10 of the 1999 Act, appealable under section 82(2)(g) of the 2002 Act. Such claims often raise no human rights grounds and fall outside sub-sections 92(3) and 92(4). Yet they are neither entry clearance cases nor concerned with certificates of entitlement; thus they fall outside section 85(4)(1) and section 85(A) applies. Section 85(A) is a key provision: the critical distinction is whether section 85(A) disapplies section 85(4), not whether the appeal is in-country or out-of-country.

30. Given that section 85(4) applies, Mr Southey submits the key question is its meaning. Here the leading authority is *Patel and others v SSHD* [2014] AC 651. The Supreme Court favoured a broad approach to the subsection, adopting the view of Sullivan LJ in the Court of Appeal, who concluded that the "tribunal's consideration was not limited to the grounds considered by the Secretary of State" (see *Patel* in the Supreme Court, paragraph 39), perhaps subject to the gloss expressed in the Court of Appeal by Moore-Bick LJ, that the after-coming evidence must go to "the substance ("heart") of the decision",

although it is not clear "at what level of detail that decision is to be considered" (see *Patel*, in the Supreme Court, paragraph 71).

31. Our approach has been as follows. Both the level of risk to national security represented by the Appellant and the degree or extent of incursion on his Article 8 rights evidently lie at the heart of this decision, and after-coming evidence on these issues affect the "substance" of that decision. Moreover, in assessing whether exclusion is proportionate, we must balance the risk to national security against the impact on the Article 8 rights. It is hard to see how that could be done rationally by looking at the historic evidence as to national security and the up-to-date evidence on Article 8. That is particularly so here, given the effect of the decision of the CJEU.

32. That approach is consistent with the reasoning of Lord Bingham in *Huang*. We have reached no conclusion as to whether or not we are bound by the approach laid down in *Huang*.

33. The application of the approach is made easier by the facts in this case. As we set out below, we find no evidence later than 2006 which adds to the national security case against the Appellant. Whilst the absence of evidence is not always evidence of the absence of activity, we do bear in mind the Appellant's age, the history and the lack of any indication of continuing engagement on his part.

34. As all agree, we have also borne in mind the evidence as to his family life since 2006.

Background Facts

35. A number of facts found by the Commission in 2008 are not controversial. The Appellant was born in Morocco on 6 October 1958. His parents were both Algerian nationals. He holds dual Algerian and French nationality. He lived in Algeria from 1972, arriving first in the United Kingdom in 1978 or April 1979. From 1979 until 1983 or 1984 he underwent periods of study at a number of English institutions. He had appropriate leave to enter on each occasion, often granted at Heathrow on return from abroad.

36. From 1984 until 1986 he lived in Dubai. The Appellant's sister Houria is a wife of Sheikh Mohammed Bin Rashid Al Makhtoum, the ruler of Dubai. She is extremely wealthy and has provided the Appellant and his family with substantial financial support. It is accepted she is the source of the large balances in his bank accounts during the mid 1990s.

37. From 1987 until 1989 the Appellant lived in France and ran a business with another sister which ended on his move to the UK. The Appellant's wife is a British citizen. They met during the late 1980s and married on 23 February 1990. On 3 August 1990 the Appellant was granted one year's leave to remain in the UK as the spouse of a British citizen. Thereafter he remained in the United Kingdom. His immigration status was and is unclear but it is not suggested his residence is unlawful. He remained in the United Kingdom apart from some trips abroad until his departure for Algeria in August 2005.

38. On 6 March 1995 ZZ applied for naturalisation. His application was refused on 20 January 1999 on the basis that he did not meet the good character test on grounds of national security. However, on 4 August 1999 he was granted a UK EEA residence permit valid for five years.

39. On 25 March 2004 the Appellant was granted indefinite leave to remain. It appears from a letter of 8 July 2008 the indefinite leave to remain was granted routinely by an official who was unaware of security concerns in the case. The Appellant made two further applications for naturalisation. The first was refused on the ground that he had not been granted indefinite leave to remain before making his application for naturalisation. The second application remained undetermined before he left for Algeria in August 2005.

40. The Appellant left for Algeria on 19 August 2005 and on 25 August, the Home Secretary personally decided to cancel his residence and exclude him. This decision was followed on 30 August 2005 by refusal of the application for naturalisation.

41. On 18 September 2006 the Appellant arrived at Heathrow from Algiers presenting a false French passport. On 19 September the Appellant was refused admission under Regulation 19(1) of the Immigration (European Economic Area) Regulations 2006 on grounds of public security. He was removed to Algiers on the same day. He appealed that decision on 9 October 2006 and on 15 March 2007, the Home Secretary certified the decision to refuse admission under Regulation 28 of the 2006 regulations. For that reason, SIAC became seized of his appeal.

The National Security Case

42. The summary of the national security case after the sequence of hearings indicated above was slightly re-stated in the re-re-amended OPEN consolidated statement on behalf of the SSHD: The Appellant –

> "(a) was involved in the terrorist network, the Algerian Armed Islamic Group (GIA), and terrorist activities connected to the GIA, and was associated with a broad range of extremist associates in the UK and overseas. The GIA is a proscribed Algerian terrorist group. The GIA emerged in the 1990s with the key aims of overthrowing the government and introducing an Islamic state. The group carried out a number of attacks in Algeria then hijacked an Air France airbus in 1994 and carried out a bombing campaign in France in 1995. The last reported attack was in 2003, when the group mounted several attacks against military targets near Algiers.
>
> (b) between 1993 and 1996, attended a number of GIA meetings and as such, was a sympathiser with extremist views and activities;

(c) during that period, was in contact with GIA extremists in continental Europe;

(d) during that same period, associated with Abu QATADA. On occasion, this association is assessed to have included close, or direct, contact with QATADA;

(e) during the same period, held Islamist extremist views; and

(f) on more than one occasion between 1995 and 2005, was in a position to obtain weapons. It is assessed that given [ZZ]'s extremist background, it is likely that these weapons would have been obtained for use in an Islamist extremist context."

Involvement with the GIA

43. It is not in issue that the GIA was a proscribed terrorist group and was involved with a number of attacks in Algeria. The group was also responsible in 1994 for the hijacking of an Air France Airbus and was responsible for a bombing campaign in France in 1995. There is no challenge to the Respondent's evidence that the last reported attack was in 2003 in Algeria.

44. The Appellant is said to have been in contact with a number of individuals within this group, to have attended a number of GIA meetings and thus to be aligned with the views and activities of the group in the middle 1990s. His name was discovered in the address book belonging to Borkhane Deneche. Deneche was associated with Abu Doha and his group. This group are assessed to have been responsible for a number of attempted terrorist attacks, including the attempt to bomb Los Angeles airport in December 1999, to bomb the Strasbourg Christmas market in December 2000 and the "ricin" plot in London in January 2003. Deneche arrived in the UK from Algeria on 9 January 1994 and his association with the Abu Doha group is said to arise from about then.

45. Another specific individual with whom the Appellant was associated is Mohammed Boutemine, a member both of the GIA and of its splinter group the Salafist Group for Call Combat (GSPC).

46. The Appellant's position, given in evidence to us, is that he was sympathetic to the GIA when they first emerged, given the events in Algeria. However, as is submitted in his closing skeleton argument, it is said that "he lost his sympathy quite early, in 1993/4… from then, the Appellant has been clear … that he abhorred the GIA's objectives".

47. The Appellant's case is that he frequently helped Algerian exiles since he was mobile, owned a car, and was fluent in English. In the course of that assistance he may have met a number of people who subsequently engaged in terrorist activity but his association was innocent. He accepts that during the early period when he sympathised with the GIA, he was involved in the

publication of the bulletin Al-Ansar. He relies on the expert evidence of Alison Pargeter of the Centre of International Studies, Cambridge University. Her report is dated 1 July 2008. Mr Southey in his closing submissions relies on this evidence to show that many of those "helping to publish Al-Ansar were inexperienced and not members of the GIA".

48. Ms Pargeter describes the background to the Al-Ansar journal. The group in London were headed by an Algerian called Rachid Ramda, who was a veteran of Afghanistan and who, with another such veteran, had come up with the idea of establishing the GIA (paragraph 2.iv). The London group were a varied group of Algerians who supported the cause of Algerian jihad (paragraph 2.iv). The aim of the bulletin was to support and publicise the jihad in Algeria (paragraph 2.v) and highlight the atrocities committed by the Algerian regime. The bulletin was distributed around the mosques and Islamic centres of London and beyond, and acquired an international appeal. Her report goes on as follows:

> "2.vii However, Al-Ansar did not limit itself to publishing articles by Algerians and was willing to accept contributions from jihadists of other nationalities. In fact the publication came to be closely associated with two key figures in the jihadist current, the Syrian jihadist theoretician Abu Musab Al-Souri and the Palestinian-Jordanian preacher Abu Qatada Al-Filistini. Abu Musab Al-Souri first became involved with the London Algerian group in late 1993/early 1994."

49. The report goes on to outline how Abu Musab regarded the group running Al-Ansar as inexperienced, with a recent religious commitment. Ms Pargeter observes that not all of them were members of the GIA but she quotes Al-Souri as saying that those who were not members were "enthusiastic sympathisers" with the GIA. Ms Pargeter quotes another academic, Giles Kepel, as observing that Al-Ansar kept open lines of communication between the GIA "…. and the international salafist network, translating the GIA's activities into the latter's political-religious language and category".

50. Ms Pargeter describes how Abu Qatada arrived in the UK from Peshawar in September 1993 and became involved with Al-Ansar. He came to act as a "kind of spiritual guide to the GIA" (paragraph 3.i). Although it is not clear, she says, from exactly what date Abu Qatada became involved with the bulletin, by the summer of 1995 Abu Qatada had "really put his own stamp on the publications" (paragraph 3.i). It was in 1995, she says, that:

> "Abu Qatada issued his famous fatwa in which he asserted that it was acceptable for the GIA to kill the wives and children of members of the Algerian regime. This fatwa was published in issue number 121 of Al-Ansar and was something that proved to be too much for some of the other jihadists in London at the time."

Ms Pargeter makes it clear that she could not comment on the Appellant's case in particular. She did emphasise that there:

> "…were many Algerians who got involved around the edges of the London media group that was producing Al-Ansar and who were willing to assist the cause of the Algerian jihad by distributing leaflets or helping out with production. The fact that they assisted with Al-Ansar does not necessarily mean that these individuals were members of the GIA… There were also more moderate elements involved in the publication before it became dominated by Abu Qatada."

51. An important question in assessing this evidence is whether the Appellant was one of the fringe group associated with Al-Ansar who was never an enthusiastic jihadist, or a member (or close associate) of the GIA, or whether he was, at least for a period, centrally involved in the GIA.

52. In his first witness statement of June 2008, the Appellant agrees that he was involved with Al-Ansar, but says that he was never an extremist or involved in anything that could be labelled as a terrorist act (paragraph 110). He stated that "no-one that I knew ever admitted to me they were a member of the GIA" (paragraph 114). Many new people became involved in the GIA and made it more extreme. The Appellant went on:

> "… my involvement was intermittent, so I did not get to know the new people there, although I know that Abu Qatada and Rachid Ramda became involved." (paragraph 123)

53. The Appellant in his first statement agreed that he knew an Algerian named Boualem, although he did not know his first name (paragraphs 122 and 127). Through Boualem he met Rachid Ramda, also known as Elias/Ilyas. According to the Appellant "Elias was one of the reasons that I pulled out of Al-Ansar because of his support for GIA. He had become a mouthpiece of the GIA" (paragraph 134). In this statement, the Appellant claimed never to remember anyone called Borkhane Deneche. However, he went on to say that in the past Algerians have asked if documents could be sent to the Appellant on their behalf "as they did not have a safe address …. I probably agreed to do this for Borkhane Deneche, which would explain why my details appear in his address book" (paragraph 135).

54. In this first statement the Appellant acknowledged that he had attended sermons by Abu Qatada. He says he did so seven or eight times over the twelve months' period from 1995 to 1996, that is to say after the time when (according to the Appellant's expert, Ms Pargeter) Abu Qatada had in effect taken over Al-Ansar, presenting a line which the Appellant says was repugnant to him. The Appellant states that when he attended the sermons of Abu Qatada he "did not talk about jihad or terrorism. I heard him talk about Islamic heroes and about what was happening in Algeria and the government, but I did not hear him talk about GIA" (paragraph 139). The Appellant went on to state that Abu Qatada's telephone number may have been in his phone book, but he did not telephone him. It is possible that Abu Qatada may have

had the Appellant's number because people in the Algerian community knew the Appellant was helpful and may have given him the number. The Appellant did not give Abu Qatada his number himself. The statement goes on "I have spoken to him directly, but no more than just greeting him. We did not talk about any particular subject. He would answer people's questions before Friday prayers. I did not ask any questions" (paragraph 141).

55. Also in this statement the Appellant acknowledged his contact with Boutemine. The Appellant says he knew Boutemine from 1990 when Boutemine was "selling things in Oxford Street". They met perhaps once a month and Boutemine came to his house. The Appellant claims that he heard from others "in the late 90s" that Boutemine had developed pro-GIA views and "followed Abu Qatada". Boutemine distributed Al-Ansar in about 1994-1995. However it follows that the Appellant's case is that he did not know until the end of that decade that Boutemine held extremist views (paragraph 143). Subsequently, in 2004 Boutemine was suffering from depression and the Appellant visited him regularly.

56. The Appellant made a third witness statement in July 2008, dealing principally with his trip to Algeria in August 2005 and his abortive return to the UK in September 2006. In this statement he describes how he failed to find his Algerian passport before leaving England and travelled to Algeria on his French passport. On his account, his wife found the Algerian passport and sent it to him. He wrongly thought that the Algerian passport had expired and then he "cut" the passport so that it could not be used "but I later discovered that actually it had been extended and it was valid" (third statement, paragraph 2). The statement also details and account of his return to the UK and his exclusion. On this version of events he was informed by an Algerian immigration officer on departure that he would not be permitted to return to the UK. We note that in the record of the interview made by the Metropolitan Police the Appellant told police that:

> "A letter from the Home Secretary informed him he had been excluded from the UK. As he could not return to the UK he has been living with various friends in the … area of Algiers while his son went to school."

He also told police that he was attempting to get the exclusion order lifted at a court hearing in December.

57. The Appellant's first three witness statements were made between 2006 and 2008 at a time when he was living in Algeria. In the course of the earlier judgment, SIAC concluded:

> "…not to hold against him any lack of frankness about his activities in 1995 and 1996 because of his current situation: he is in Algeria, without the benefit of assurances given to the British government about his treatment by the Algerian authorities, and may fear that frankness might cause him to be prosecuted… We also do not exclude the possibility that he

> might genuinely fear ill treatment at the hands of the Algerian authorities, despite the ending of the civil conflict."

58. Since the Appellant moved to France in 2008, those conditions no longer apply. The Appellant is no longer at risk of prosecution or ill-treatment in Algeria. We therefore take the view that there is no good reason to prevent the Appellant from being fully frank as to any part of his account of events. In fact the Appellant has made no alteration to the earlier accounts, adopting his first, second and third statements. In the fourth statement he maintains that he is not an extremist and is "completely against" all extremist individuals or terrorist groups. The Appellant repeated that he distanced himself from those who were fighting against the Algerian regime in 1993 or 1994, and repeated that he has never knowingly met or been in contact with the GIA. This statement largely repeats his previous account of events. The Appellant claims he had little contact with Rachid Ramda/Elias, and states he was never invited to any formal or pre-arranged meeting at Boualem's flat. The Appellant had been reminded that he visited Boutemine in HMP Rochester in 1995 to 1996. His statement suggests his visits to Boutemine were merely part of a pattern of visits to Algerian detainees. He had forgotten his visits to Boutemine in prison.

59. So far as contact with Abu Qatada was concerned, in this account the Appellant emphasises he has difficulty in remembering dates and states that his contact with Abu Qatada was limited. He repeated that he "never had any significant interaction with him". He had met Abu Qatada at Boualem's house. Boualem helped Abu Qatada, including acting as his driver. However, in this statement the Appellant recalled that his eldest daughter, Heiba, was for a period looked for by a childminder who looked after the young son of Abu Qatada. Heiba was born in August 1990. Their exchanges at the childminder's were limited to greetings and pleasantries (paragraphs 32 and 33). The Appellant did not previously mention seeing Abu Qatada at Boualem's house or the childminder's "because I did not recall all the times that we met when preparing my statement and they were not pre-arranged".

60. The Respondent advances a number of grounds on which they say it is clear the Appellant has not been frank, even looking exclusively at the OPEN material before the Commission. In the grounds of appeal lodged on behalf of the Appellant in April 2007, the Respondents note that he asserted he had:

> "… worked in assisting those who had been convicted to change their way of thinking. He attempted to educate those to obey the law so that they did not re-offend."

On this account, the Appellant's repeated visits to those in detention or in prison must be taken to be in full knowledge that they were convicted or detained extremists, whom he was attempting to convert from their allegiance.

61. The Respondent points to the record of the naturalisation interview between the Appellant and the Metropolitan Police conducted on 4 November 1996, well before the Appellant left the country. In the course of this interview the record recites that the Appellant:

> "Claimed the only contact he had with Algerians in the UK was with those he met while attending Friday prayers at Regent's Park Mosque. Such encounters were cursory and superficial. He describes these acquaintances as preponderantly refugees, drawn from elements of the security forces, dissidents and economic migrants and asserted he attempted to maintain his distance."

62. We note that in the same record of interview, the police officers recorded moderate views from the Appellant rejecting fundamentalism. In the course of the interview the Appellant "utterly denounced the GIA" and their violent methods. He told the police that he "initially sympathised with the GIA" but was subsequently repelled by their violence. Officers recorded that "[ZZ] emphatically abjured any knowledge of or contact with GIA members in the UK or on the continent". The officers recorded their conclusion that it was difficult to assess the Appellant's credibility in disclaiming affiliation with the GIA. They were concerned at his "ability to dissimulate" since, despite specific questioning, he failed to divulge the fact that he received funding from Sheikh Mohammed Al-Maktoum stating that "he had once seen the Sheikh at a distance but did not have anything to do with him", as opposed to being his brother-in-law.

63. The Respondent also point to the content of the interview with the Appellant in September 2006 when he tried to enter the UK on a false passport. The relevant passage reads:

> "[ZZ] denied being involved in any political or terrorist organisation and was at a loss to understand why he had been excluded. He put it down to an unknown individual making trouble for him. The only area that he thought might have brought attention to himself was he used to visit Algerian asylum seekers in prison. He stated that he used to attend the Baker Street mosque and met many Algerians there. [Algerian asylum seekers who were detained] were placed in various detention centres… He used to visit them in a voluntary capacity to translate for them when they saw their solicitors… This he continued to do for Algerian asylum seekers from 1990 to 1996… He has attended various mosques in the UK including going **twice a month** [emphasis added] to Friday prayers to listen to Abu Qatada at a mosque … in central London in 1995 and 1996."

The Respondent emphasise that this is a further account differing from those before.

64. The Respondent have also pointed out a series of inconsistencies which they say arise in the Appellant's account of his relations with Boualem. In the course of oral evidence, the Appellant acknowledged that he had met Abu Qatada several times at Boualem's flat. Further in his oral evidence the Appellant acknowledged that he had not just gone to Abu Qatada's sermons in

Baker Street, but also to sermons in Gospel Oak, as well as meeting Abu Qatada at the Regent's Park mosque.

65. In the course of cross-examination, during a passage when the Appellant was being dismissive of the questions asked of him, he said "who cares if I drive Abu Qatada". It had never been suggested to the Appellant that he had acted as a driver for Abu Qatada.

66. Our conclusions as to the Appellant's relations with the GIA and those active within it, and with Abu Qatada, are affected by the evidence concerning his trips to Brussels, to which we now turn.

67. In May 1995 the Belgian police searched some garages in Brussels rented by a known Islamist extremist, named El Majda. Police discovered a quantity of arms and ammunition, medical supplies and two items connected to the Appellant. Firstly, they found British registration plates for a white Toyota saloon, which had been registered to the Appellant, and was recorded as being "permanently exported". They also found a grey Peugeot 309 saloon with an English registration mark, which was registered to an individual living in Cheshire, but was known by the Belgian authorities to be the property of the Appellant.

68. In his first witness statement, the Appellant stated that he went to Brussels on five occasions between 1993 and 1995 but he could not remember the dates. In his naturalisation application (November 1996) he had mentioned only one of these trips, which he said "took place in December 1995, but I think that is a mistake. The duration of each trip is very short and I must have forgotten or made a mistake regarding the other trips". This statement goes on to describe the first and second trip to Brussels to buy Moroccan goods for an Algerian friend, Karim, to sell in the UK. Karim was unable to travel because of his lack of a valid passport and the Appellant did these trips as a favour for Karim, who paid his travel costs. He was in work at the time.

69. The third trip was a trip to Naples. The trip was to buy shoes. On his way to Naples the Appellant says he had to pay Swiss road tax and an on-the-spot fine in cash. This meant that he had not enough money to buy samples of shoes at wholesale prices when he reached Naples. On the return trip to the UK the Appellant stopped in Brussels and stayed with "an Algerian called Yassine". He had the name and address of Yassine from someone he does not now remember in order that he would be able to contact Yassine if he had problems on his journey. On his return to Brussels he was short of money, rang Yassine and asked if he could stay for the night. He did not know Yassine before this, he never knew that Yassine was called El Majda. On his way out of Brussels the Appellant was stopped while driving the grey Peugeot. Belgian police searched the car inside and out. After the search, on his way home the Appellant stopped at a petrol station and telephoned Yassine to tell him what had happened. As he told us in evidence, this was simply because he knew Yassine from the night before. Yassine explained to him that he had been stopped in an area known for drugs.

70. According to his first witness statement, the Appellant subsequently sold the Peugeot to an Algerian in London. He does not know who. Contrary to his earlier account, his fourth statement suggests he did not sell the car at the Wandsworth Bridge car auction but privately to an Algerian who, "it turned out", lived with Rachid Ramda. He does not know who this was: the details were unimportant to him and it was a long time ago. He has no idea why the Peugeot ended up in Brussels in Yassine's garage.

71. On a subsequent trip to Brussels, the Appellant bought a white seven-seat Toyota people carrier at a market near the main train station. He brought it to the UK and registered it with the DVLA. However, he realised the car was in a bad condition and after about four to six weeks he decided to return to Belgium and sell it again. He took it to the same market but was unable to sell it. At the end of that day he phoned Yassine "because I knew no-one else in Brussels". He went to the apartment that night to stay. As he put it in his second witness statement:

> "I just wanted to get rid of it as it would have been more costly to keep it and I did not want to take it back to the UK. I gave the Toyota away to Yassine. If he had not accepted it I would just have left it in the streets of Brussels."

72. In the course of his evidence, the Appellant was cross-examined as to why he did not attempt to sell the people carrier in London. His answer was that the car was registered in Belgium and so it would be easier to sell it there. However that is in direct contradiction to the account that he had registered the car at the DVLA.

73. The Appellant submits that it is not surprising that the Toyota licence plates and the Peugeot car turn up in a garage in Brussels, given that the Algerian community in England is small. That proposition was put to the security witness, NG, who rejected it.

74. We conclude that many of the details advanced by the Appellant about his dealings in Belgium stretch credulity. We reject his explanations for these movements and for his association with "Yassine". Of course we can accept that the passage of time tends to diminish recollection, but that is not the point here. The Appellant has added, rather than subtracted, detail in his account over the periods since 2008. He has not improved his position.

75. In cross-examination before us he was taken to his original grounds of appeal. He claimed he had never said that he was attempting to stop fellow Algerians from being extremists. He repeated his claim that he did not know people who held extremist views. He was taken to his November 1996 naturalisation interview, in the course of which he claimed the only contact that he had with Algerians in the UK was those he met whilst attending Friday prayers at Regent's Park mosque. It was put to him that this was clearly untrue, since on his own account he had been visiting asylum seekers and a number of others in prison from 1990 and had been involved heavily with Al Ansar. He was able to produce no coherent answer to this contradiction. Nor was he able to deal with his misleading distancing of himself from contact with Qatada. He was

also asked in cross-examination as to when he had last had contact with Boualem. He suggested that this was 2002-2003, although he couldn't be precise. This was in conflict with his second witness statement of June 2008, where he indicated that he had contact with Boualem from about 1991 until 1996/97.

76. We have concluded on the basis of the OPEN material that the Security Service assessment contained in paragraph 11(a)-(e) of the re-re-amended OPEN consolidated statement on behalf of the Respondent, dated 17 October 2014, are made out. There is, in our view, strong evidence that the Appellant was indeed involved with the GIA, attending meetings over the years between 1993 and 1996 and as such was a sympathiser with extremist views and activities. His account of events seeking to explain his contacts in Brussels is unconvincing. The sensible inference is that he was in contact with GIA extremists in continental Europe. The presence of the car registration plates and then the car in Brussels points firmly to that conclusion. We are also clear that the OPEN material supports a reasonably close association and contact with Abu Qatada, at least up to around 1996. The proper conclusion from the OPEN evidence is that over that period the Appellant held Islamist extremist views.

77. The Appellant does advance the suggestion that he came to differ from those who became dominant within the group running Al Ansar. For example, in paragraphs 111/112 the Appellant agrees that he was "initially sympathetic to the GIA" but had stopped sympathising by 1993 or 1994 because of a change of tactics leading to the deaths of civilians. We reject this account as to timing, as will already be clear. We note the views of Ms Pargeter (report paragraph 1.viii) that, following the fatwa issued by Abu Qatada in 1995 that it was acceptable to kill women and children, the GIA "had begun engaging in large-scale civilian massacres such as that at Relizane in December 1997, in which hundreds of men, women and children were indiscriminately killed". She notes that, following that period, the group became divided and by the end of the decade "a totally discredited organisation". We also note Ms Pargeter's conclusion that by the late 1990s the GIA had been "well and truly infiltrated by the Security Services". She notes that the Algerian Security Services had been active in Europe, penetrating the various Algerian support networks (paragraph 4.ii). Thus it seems clear that the GIA had lost effectiveness by the end of the 1990s. We conclude that the OPEN evidence points to a continuing engagement on the part of the Appellant with the GIA through to mid 1996 or thereabouts, after the fatwa of 1995 published in Al Ansar number 121. However, save for the matter we address next, there is no further evidence of Islamist activity after late 1996.

78. These conclusions receive support from the CLOSED material, as we record in the CLOSED judgment.

The Security Assessment as to Being in a Position to Obtain Weapons

79. We remind ourselves that the Security Service assessment is that "on more than one occasion between 1995 and 2005, [ZZ] was in a position to obtain weapons" and that it is assessed, in the light of ZZ's extremist background,

that "it is likely that these weapons would have been obtained for use in an Islamist extremist context". We recognise that the language of this assessment, disclosing the essence of this ground against the Appellant, is spare and precise. The ground does not comprise the allegation that he did, in fact, obtain weapons. It is clear that the suggestion is that he was so positioned on more than one occasion over the relevant period and that the purpose of weapons so obtained is defined.

80. As will already be evident, this matter is largely based on CLOSED material. The nature of the CLOSED material cannot be further particularised. However, we are clear the Appellant will know what is referred to in sub-paragraph (f) of the gist set out in paragraph 34 above. To that extent, we conclude the Appellant should not suffer particular difficulty as a consequence of the spare disclosure.

81. One piece of OPEN material relied on is that in October 2005 a search of the Appellant's home was undertaken following his exclusion. One item found was an Arabic language instruction manual as to how to fire various military type weapons. The manual was found in the Appellant's garage, inside a cardboard box, marked "natural world". Part of the document only has been copied for us. The pagination on the copy tells us that this is a considerable document, reaching 263 pages. The document gives detailed instructions in Arabic but includes instructions concerning "the illuminating mortar shell and high explosive anti-tank ammunition". In his second witness statement the Appellant stated he could not recall how he obtained the manual. He suggested that he may have got it from a second-hand bookshop or "from another Algerian who gave it to me". When he was cross-examined he said "maybe I picked it up in someone's house or library" but was able to give no information about whose. We do not place any great reliance on this document taken on its own. In the context of what we find to be the Appellant's long-standing jihadist adherence, it does little more than reinforce that outlook.

82. The Appellant's response on this issue is to say that he does not know what is meant by the suggestion that he was "in a position to obtain weapons" over the relevant period. However he goes on to say "there is no-one of whom I am aware who could provide me with weapons and I would not have the money to do so …. I have never obtained weapons or arms in the UK or abroad". In oral evidence he restated that. He claimed the suggestion was "a joke". He never was an extremist in the first place, he "didn't know about people with the wrong agenda".

83. Based on the CLOSED material we conclude that there were indications, on more than one occasion in the period identified, that he was in a position to obtain weapons. The evidence is such that we conclude the Appellant cannot have forgotten it. His denials as set out above are disingenuous and untrue.

After-coming Evidence: the Attempts to Enter the UK in 2009

84. It is common ground that the Appellant tried to come to the UK twice, firstly on 1 January 2009 and again later that year. On 1 January the Appellant

attempted unsuccessfully to travel through the immigration control at the Gare du Nord in Paris. He was refused entry. He then admittedly set about obtaining a false passport. The Appellant's account in his fourth witness statement is that he knew someone in London who offered to help him by arranging for a false Belgian passport. The Appellant states this was not his idea and he will not say who the person was. The individual from London put the Appellant in touch with someone in Paris, whom the Appellant met and to whom he paid €500 for the passport. The Appellant states that his family did not know he was going to try to do this. His statement goes on:

> "The idea was (to the extent I had any fixed idea about this – mostly I was just being desperate) that the false passport would be discovered when I was in England and at least I would then be in the same country as my family."

The passport was discovered. The Appellant was prosecuted in France and given a suspended sentence of imprisonment and a fine.

85. In the course of cross-examination, the Appellant's account about this altered. Speaking of the false passport he said "everything was arranged whilst I was in Algeria and I got it when I went to France". In further cross-examination the Appellant dropped the suggestion that he hoped he would be caught when using the forged passport and accepted that he had hoped he would be successful in entering the UK. He added that his only objective was to see his family for a couple of weeks and that was why he had purchased a return ticket for the Eurostar. The Respondent submits that this explanation is incredible. Had the Appellant's only objective been to see his family, that could be achieved much more easily and without committing a criminal offence were they to visit him in France, as various family members had been doing since 2008. The proper inference is that the Appellant hoped to re-enter the UK and remain there.

86. The events of 2009 underscore the Appellant's lack of credibility. They also demonstrate his preparedness to obtain and use false travel documents. Taken on their own, it does not appear to us that this episode has much significance for the national security case against the Appellant.

87. Save for the events of 2009, none of the material affecting national security post-dates the decision to exclude the Appellant in 2006. There is no other suggestion of any actions by the Appellant since 2006 prejudicial to national security.

The Appellant's Family Life

88. As we have noted, the previous constitution of SIAC concluded that this was a close family with strong relationships. There is no issue about this, and the Respondent does not suggest otherwise. We have ample evidence confirming that picture up to date. The Appellant's wife travels to see him regularly in France and was present beside him as he gave his evidence by means of video link. The Appellant's eight children, the older of whom are now young adults, are close to him and wish to see him return to the UK. They make regular

contact with him in France and see him regularly, albeit for shorter periods and on much more infrequent visits than his wife. The Appellant's children, particularly the older children, all have established lives in the UK. The Respondent submits that, after his exclusion, the Appellant may well have contemplated a move to Algeria. He purchased a house and land there and there were extended family visits to Algeria by some of the older children. However, we do not conclude that this was other than a reaction to the situation in which the Appellant found himself. In 2006, it appears to us the proper conclusion was that the family intended to remain domiciled and together in the UK despite periods abroad for acclimatisation or education.

89. Nine years on, that picture is reinforced. It is, of course, much easier for family to visit the Appellant and spend time with him in France than it was when he was in Algeria. However, the older children are established in the UK. We do not see that it is sensible to contemplate the whole family moving to France. Certainly their evidence suggests strongly otherwise. This would not prevent the Appellant, his wife and the younger children moving to France and that would be feasible if a considerable disruption of their lives as presently organised.

90. We therefore remain of the view, consistent with the conclusions of SIAC in 2008, that the family ties here are genuine, but that there is no realistic prospect of the family being united in France. That would create a division between the children, many of whom would perforce remain in England. It would greatly disrupt the lives and education of the younger children, specifically his daughters aged 17 and 15, and his sons aged 14 and 13. In order for the Respondent's decision to be regarded as proportionate, the nature and quality of the Appellant's family life means that his exclusion on public security grounds must be regarded as imperative.

Conclusions

91. In reaching our conclusions on the OPEN case, we have relied principally on our interpretation of the evidence, and to a limited extent on the evidence of NG, the "corporate" security witness. We are grateful for his assistance in pulling together the threads. In CLOSED we have been able to expand a little in relation to his contribution.

92. In relation to the national security case, the great amount of the evidence in OPEN and CLOSED predates the 2006 decision. The exception is the evidence from the Appellant himself. Insofar as we are able to judge his credibility, that assists in relation to the decision in 2006. We also consider his age, and his more recent history.

93. We are confident that the Appellant was actively involved in the GIA, and was so involved well into 1996. He had broad contacts with GIA extremists in Europe. His accounts as to his trips to Europe are untrue. We conclude that his trips to the Continent were as a GIA activist. He was not frank about this.

94. Subject to the matter of being in a position to obtain weapons, we have no evidence of continuing Islamist activity after 1996. We conclude it is likely

ZZ discontinued active involvement in the GIA in or around mid/late 1996. He kept up with some Islamists, including notably Boutemine. However, there is no evidence that his contact with Boutemine involved activity prejudicial to national security in the late 1990s or after.

95. Until at least 1996, the Appellant maintained an association with Abu Qatada, including reasonably close contact, and at least some sympathy of ideas. He was not frank about this.

96. We conclude, in the CLOSED case, that the Appellant was on more than one occasion in a position to obtain weapons, which would have been obtained for use in an Islamist extremist context.

97. There is no evidence of further Islamist activity on the part of the Appellant. The absence of evidence is not conclusive evidence of the absence of such activity. However, we consider the Appellant's age and history over the last decades. We consider it unlikely he has been active in any Islamist organisation since 1996.

98. There is no need to repeat our findings as to the Appellant's family.

99. Despite our findings adverse to the Appellant, the passage of time, taken together with the evidence before us, both CLOSED and OPEN, means that we cannot conclude (in contrast to the previous constitution of SIAC sitting in 2008) that it is now imperative for national security that the Appellant should be excluded from the United Kingdom. Accordingly, his appeal succeeds.