Appeal No - SC/59/2006
Date of Judgment – 2nd November 2007

SPECIAL IMMIGRATION APPEALS COMMISSION

Before:

THE HONOURABLE MR JUSTICE MITTING
SENIOR IMMIGRATION JUDGE WARR
MR S PARKER

BETWEEN

VV

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondents

MR P O'CONNOR and MS F WEBBER (instructed by messrs Tyndallwoods) appeared on behalf of the Appellant'.

MR P SAINI and MR A O'CONNOR (instructed by Treasury Solicitor) appeared on behalf of the Respondents.

MR M SUPPERSTONE QC and MR I JOBLING (instructed by Special Advocates' Support office) appeared as Special Advocates'.

NATIONAL SECURITY :

1. VV is a Jordanian national of Palestinian extraction born on 15th August 1975. He entered the United Kingdom on 11th May 2001 and claimed asylum in the name Al-Hanuni. His application was refused by the Secretary of State on 10th July 2003. He appealed to an adjudicator, who dismissed his appeal on 21st October 2003. In oral evidence before the adjudicator, VV claimed to fear persecution, as a citizen of the occupied territories in the West Bank, at the hands of the Israeli authorities. The adjudicator dismissed his claim as false. He was right to do so, because, on 14th June 2005, his solicitors (the same firm as represent him in this appeal) submitted a fresh claim on his behalf for asylum, in the name by which he is known in these proceedings. The claim was predicated on the footing that his previous claim was false, because he feared being returned to Jordan. We will deal with his current account of his activities in Jordan in that part of the judgment which deals with safety on return.

2. On 17th July 2006 VV was served with a notice of intention to deport under Section 3 (5) of the Immigration Act 1971 and served notice of appeal on 24th July 2006. On 5th October 2007, by a letter which we have not seen, the Secretary of State certified that, by virtue of Article 1 (F)(c) of the Refugee Convention, the provisions of the Convention did not apply to VV, because there were serious grounds for considering that he had been guilty of acts contrary to the purposes and principles of the United Nations. The grounds relied upon were those on which the decision to deport was based. The

Secretary of State certified the claim under Section 55 of the Immigration Asylum and Nationality Act 2006.

3. We are required by Section 55 (3) of the 2006 Act to begin substantive deliberations on the asylum appeal by considering the statements in the Secretary of State's certificate. If SIAC "agrees with those statements", we must dismiss the asylum claim, before considering any other aspect of the case: Section 5(4). These provisions leave no room for nuanced findings of the kind which we propose to make. The Secretary of State's certificate, in the terms stated in paragraph 10 of Mr Saini's skeleton incorporates, by reference, specific assertions made in the decision letter of 17th July 2006, with which we do not entirely agree. We do not, therefore, dismiss the asylum claim at this stage. Our conclusions in relation to it will be stated at the end of this section of the open judgment.

4. The burden of the Secretary of State's open case against VV rests upon two articles said to have been found by the police, in his room at 124 Audley Road, Birmingham, following his arrest on 12th July 2004: a will in Arabic, contained in an envelope pinned on a notice board; and two CDs, said to have been found in a rack on the floor. VV admits that the will was his, but denies all knowledge of the CDs. Mr O'Connor QC queried whether SIAC had sufficient evidence to permit it to decide that the CDs were found in VV's room. It is true, as he points out, that we do not have a statement from the police officer who claimed to have found them; but they are summarised in an exhibit, reference number MM/5, which is a summary of the contents of another exhibit reference number GWH/2. VV was asked about them at

interview on 13th July 2004 and the interviewing officer DC Mark Haughian stated (1/77), in response to a question from VV's solicitor, that the police had found them in the CD rack on the floor in VV's room. Photographs taken by the scenes of crime officer do not show the rack in the room – or anywhere in the building – but we have no reason to doubt the good faith of the statement made by DC Haughian or the grounds on which it was based: that one of the search officers (probably with the initials GMH) found them in the room. We are satisfied, on balance of probabilities, that they were so found.

5. The will is in lurid terms. We have three English translations of it. In that obtained for the appellant, the following appears:

> "..those tyrant rulers who rule the Muslim countries and their helpers, e.g. the police, the intelligence etc. I pray to Allah that he would enable me to slaughter these infidels who spread corruption, immorality and ignorance of religion of Allah…
>
> I would ask Allah to make my fate to be in a land of Jihad and if Allah's will not to die in a land of Jihad, I wish to be washed and dressed on the hands of a Muslim Mullah… I do not wish to be buried in this land, but in the land of my fathers, Jordan…
>
> I would…… say to my brothers (named) to live according to Allah's will and join up those to sacrifice their blood for the cause of Allah and fulfil what the prophet Mohamed had said "if I want to conquer in the name of Allah, then I would fight, then conquer, fight then conquer more"."

6. VV has sought to blunt the apparent force of these statements in three ways: to explain the personal background to them; to draw parallels between language used by him and texts in the Koran and in the Hadiths; and, by the expert evidence of Haroon Rashid, a private client solicitor, to set the terms of his will in the context of other wills drawn for Muslims. Each of these provides a partial explanation for the terms of the will: we accept that, during his detention in Jordan (of which more in the safety on return part of the

judgment), he was ill treated by those who detained him – hence his understandable hostility towards them; we accept that the Koran and some of the Hadiths contain language which is, to the modern ear, lurid and brutal; and we accept that it is customary for Muslims to include declarations of faith and funeral wishes as important parts of the will. Nevertheless, a simple comparison of the terms of VV's will with the examples produced by Mr Rashid demonstrates a striking difference between them, which can only be explained by a profound difference of outlook. This is the will of an Islamist extremist who wishes harm, however metaphorical, to his enemies. For reasons which are fully explained in the closed judgment, we reject VV's attempt to claim that for him "Jihad" means inner struggle not holy war. Accordingly, when, in his will, he asks Allah "to make my fate to be in a land of Jihad" he is referring not just to somewhere other than the United Kingdom, but to a land in which holy war is occurring. In the same vein, while his injunction to his brothers to "sacrifice their blood for the cause of Allah" has a textual origin in the Hadiths, it is nonetheless, an injunction to them to do the same. The will is not just the testament of a devout Muslim. It is a declaration by an Islamist extremist that he wishes, if possible, to meet his fate in fighting the enemies of Islam.

7. We reject VV's claim that he knew nothing of the CDs found in his room. Our reasons for doing so are set out in the closed judgment. We have reached that conclusion on balance of probabilities. The contents of the CDs (summarised at 1/105 – 106) speak for themselves.

8. VV admits that he employed deception in an attempt to remain in the United Kingdom and was found in possession of a false South African passport. By themselves, these facts would not demonstrate that he posed a risk to national security.

9. We express no view on the claimed links with Al-Zarqawi.

10. Our findings on the will and on the CDs suffice to justify the conclusion which we reach that VV was, in 2004, and remains, a danger to national security and that, subject to the issue of safety on return, it would be conducive to the public good to deport him. We are satisfied that he remains a danger to national security, because he has given no indication that he recants the views which the will and CDs demonstrate that he held in 2004; and because he has maintained, to this day, a false account about both.

11. We are satisfied that VV is not entitled to the benefit of the prohibition, in Article 33 (1) of the Refugee Convention of Refoulement, because there are reasonable grounds for regarding him as a danger to the security of the United Kingdom. The only relevant inhibition on deportation to Jordan is the obligation of the United Kingdom not to breach its obligations under the European Convention on Human Rights.

Safety on Return

12. Articles 3, 5 (3) and 6 are potentially relevant to this issue. The basic tests are not in doubt. As to Article 3, "whenever substantial grounds have been shown for believing that an individual would face a real risk of being subjected to treatment contrary to Article 3 if removed to another state, the responsibility

of the contracting state to safeguard him or her against such treatment is engaged in the event of expulsion": Chahal v United Kingdom 1996 23 EHRR413 par. 80. As to Article 6 (with which Article 5(3) is inextricably linked): an issue "might exceptionally be raised under Article 6" in circumstances where a person to be deported "risks suffering a flagrant denial of a fair trial" in the receiving state: Soering v United Kingdom 11EHRR439 at 479 par. 113, adapted to deal with deportation cases. The argument before us has focused on Article 3, because it is conceded on all sides that there is nothing to add to the detailed analysis and conclusions of SIAC in Othman in paragraphs 370-474. For reasons briefly explained below, if SIAC's decision on this issue in Othman is upheld or reversed on appeal, it will be determinative of this issue in VV's case. Likewise, if Othman's case is referred back to SIAC by the Court of Appeal for reconsideration of this issue, so VV's case will have to be reconsidered, too.

13. It is unnecessary for us to repeat the analysis of general conditions in Jordan undertaken in paragraphs 121-167 of Othman or of the negotiation of the Memorandum of Understanding and the Adaleh Centre in paragraphs 168-205. Subject to our analysis of events which have occurred since, we adopt its reasoning and conclusions.

14. On 5th January 2007, the UN Special Rapporteur on torture, Manfred Nowak, published his report on his visit to Jordan from 25th -29th June 2006. The only redeeming feature is the full co-operation extended to him by the Government of Jordan. Save for that, the picture which he paints is utterly deplorable. Consistent and credible allegations of torture and ill treatment were brought to

his attention, in particular, as practised by the General Intelligence Directorate (GID) to extract confessions and obtain intelligence and by the Criminal Investigation Department to extract confessions. Conditions of detention in Al-Jafr prison included routine beatings and corporal punishment. His conclusion was that the practice of torture persists in Jordan because of lack of awareness of the problem and institutionalised impunity. Knowledge of the practice was uniformly denied at senior levels.

15. The grim picture painted by Mr Novak was graphically confirmed by the report of Christoph Wilcke, in a witness statement dated 10th October 2007, of two visits by him and two colleagues from Human Rights Watch to Swaqa prison on 21st and 26th August 2007. The witness statement is a compelling account. We do not doubt its truth or accuracy. On their first visit, on 21st August 2007, Mr Wilcke and his colleagues interviewed over 100 detainees. Many complained of persistent ill treatment by prison guards, including hanging prisoners by iron handcuffs in a large cage-like cell and beatings with cables. After their visit, they received reports from relatives of prisoners to whom they had spoken that they had been beaten. Accordingly, Mr Wilcke and his colleagues made a further visit to the prison on 26th August 2007. They attempted to see some of those that they had interviewed before. They found them hard to recognise, because their heads had been shaved. They were told that they had been beaten on their way to and from the barber. They were told by other prisoners that there had been mass beatings by the guards. They saw consistent signs of injury: bruises on backs, calves and upper arms and two or three head wounds. They also saw ranks of guards wearing face masks, some wielding truncheons, lined up in a courtyard. On the day of their visit, 350

prisoners had slashed themselves to draw attention to their plight. They learned that the prison director whom they had seen on 21st August had been replaced by a new director on 22nd August. Mr Wilcke concluded that all or almost all of the inmates had been beaten. It seems likely that the beatings resulted from the new director's wish to impose his stamp on the prison. He was removed immediately once the facts were made known.

16. Mr Layden described the events portrayed by Mr Wilcke "as frankly horrific". We agree. They amount to "inhuman or degrading treatment" within Article 3. If there are substantial grounds for believing that there is a real risk that such treatment would be visited upon VV, were he to be returned to Jordan, the United Kingdom would be prohibited from deporting him to Jordan. We do not understand SIAC to have had in mind such conditions when it expressed the view in paragraph 485 of Othman that "these general conditions would not reach the high level required for a breach of Article 3". It is particularly disturbing that the events of 22nd August occurred immediately after the Human Rights Watch visit.

17. There are some indications that improvement is possible. King Abdullah has ordered the closure of Al-Jafr prison. The Ministry of the Interior has given permission for a visit to be made by Mr Wilcke and his colleagues to Juwaida prison, the most notorious of the general prisons, in late October 2007. Most significantly, Mr Wilcke and his colleagues were permitted to visit the GID's detention facilities and to interview the 19 or 20 detainees held there. None complained of torture, though a few complained of ill treatment. This is consistent with the reports which Human Rights Watch have received: more

reports of torture or ill treatment were received two years ago or more than are now. The last case of which Human Rights Watch is aware occurred in April 2006. Other organisations, including the ICRC and the NCHR (a respected and experienced Jordanian human rights organisation) have also visited the facilities. All of this may indicate that Jordan is at the beginning of a process which may result in the eventual elimination of torture and ill treatment in its places of detention and prisons; but it can be no more than that – the beginning of a long process. As Mr Layden frankly accepts, without special arrangements being made for the protection of VV, there could be no question of returning him to Jordan: he would face the real risk of inhuman and degrading treatment and even torture at the hands of agents of the Jordanian state.

18. The Secretary of State's case stands or falls by the memorandum of 20th August 2005. It is annexed in full to SIAC's judgment in Othman. For present purposes, two of its conditions are relevant:

> "1. If arrested, detained or imprisoned following his return, a returned person will be afforded adequate accommodation, nourishment, and medical treatment and will be treated in a humane and proper manner, in accordance with internationally accepted standards……
>
> "4. If a returned person is arrested, detained or imprisoned within 3 years of the date of his return, he will be entitled to contact, and then have prompt and regular visits from the representative from an independent body nominated jointly by the UK and Jordanian authorities. Such visits will be permitted at least once a fortnight, and whether or not the returned person has been convicted, and will include the opportunity for private interviews with the returned person, and will include the opportunity for private interviews with the returned person. The nominated body will give a report of its visits to the authorities of the sending state"."

The nominated body in Jordan is the Adaleh Centre

19. There is a vigorous and international debate about the propriety of accepting assurances from a receiving state as a means of discharging the sending state's obligations under Article 3 ECHR (or Article 3 (1) of the Convention against Torture and other cruel, inhuman or degrading treatment or punishment). Mr O'Connor submits that it is in principle unlawful to rely on assurances given by a state in which there is a consistent pattern of gross flagrant or mass violations of human rights or where the systematic practice of torture is present. The short answer to that submission is that, as a matter of law now binding on SIAC, the Court of Appeal has decided that the acceptance of assurances depends on the facts of each case, rather than upon the application of any rule of law or thumb: paragraph 127 of MT, RB & U v Secretary of State for the Home Department 2007 EWCACiv808. Unlike the assurances given in the Algerian cases, the Memorandum of 20th August 2005 does not contain provisions relating to any named individual. It applies to "any person accepted by the receiving state for admission to its territory following a written request by the sending state under the terms of this arrangement" (see the first paragraph of the memorandum). Once so accepted in relation to any named individual, the Memorandum has the same effect as an assurance given in relation to that individual. Accordingly, its effectiveness in eliminating a real risk of torture or inhuman or degrading treatment should be judged by reference to the same criteria as SIAC has applied in the Algerian cases to assurances given in respect of named individuals:

i) "The terms of the assurances must be such that, if they are fulfilled, the person returning will not be subject to treatment contrary to Article 3:

ii) The assurances must be given in good faith.

iii) There must be a sound objective basis for believing that the assurances will be fulfilled; and

iv) Fulfilment of the assurances must be capable of being verified".

20. By a note verbale dated 31st July 2006, the British Embassy notified the Jordanian government of its intention to deport VV under the Memorandum and requested confirmation that he was a Jordanian national and would be accepted for return to Jordan under the terms of the Memorandum. (6A14-15). There was a long delay before the Jordanian Ministry of the Interior responded. Mr Layden has stated that that was mainly due to the wish of the Ministry of the Interior that he should be returned otherwise than under the terms of the Memorandum. In Mr Layden's view, the motive for this reluctance was not sinister. We accept this view, for the reasons set out in the closed judgment. An exchange of notes verbales eventually established, on 12th July 2007, that VV was of Jordanian nationality. During a visit to Jordan from 8th – 10th September 2007 the legal advisor to the Ministry of Foreign Affairs orally confirmed to Mr Layden that VV would be accepted for return to Jordan under the terms of the Memorandum. The fourth paragraph of the Memorandum requires that written confirmation should have been provided within 14 days. It has not been. Mr Layden is satisfied that there is no significance in this procedural breach. We are of the same opinion. We are,

accordingly, satisfied that the Jordanian government has accepted that the terms of the Memorandum will apply to VV if he is returned to Jordan.

21. We are satisfied that paragraph 1 of the Memorandum satisfies the first of the conditions identified by us: it is an express promise that, if VV is arrested, detained or imprisoned, he will be treated in a humane and proper manner, in accordance with internationally accepted standards. As to the second condition, Mr O'Connor accepts that the promise was given in good faith. The live issues concern conditions 3 & 4.

22. Against the background described in the preceding paragraphs of this judgment, our confidence in the willingness and determination of the Jordanian government to secure compliance with the terms of its assurances in relation to VV would have to be high before we could conclude that they could safely be accepted. There is, in reality, but one foundation for such confidence. It was stated by Mr Layden during the closed session, but, because it reveals nothing inimical to the national security of the United Kingdom or its relations with Jordan, it can be repeated (slightly adapted) in this open judgment. Mr Layden said, when pressed by the Commission, that he had complete confidence that the Jordanian Government would take the steps necessary to see that assurances given by it would be fulfilled. Mr Layden is a forthright witness with a deep knowledge and experience of the Middle East and North Africa. That answer was given not only in the light of his own experience, but also that of the institution, the Foreign and Commonwealth office, in which he worked for 38 years. The bedrock is the close and friendly relations which have existed at all levels in the governments

of both countries, from reigning monarchs downwards, for many decades; and in the general coincidence of interests of the two countries in those aspects of international affairs which affect them both. We accept, without reservation, the observations of Mr Layden in paragraphs 11 & 12 of his first witness statement dated 23rd March 2007 (6a), the views of the Ambassador, Mr Watt as reported in paragraphs 15 & 16 of Mr Layden's third witness statement dated 8th October 2007 (6c), and his oral confirmation that the relationship between the two countries remains as good as it was. The evidence given in closed session reinforces this conclusion.

23. We accept that the risk of ill treatment to VV while in detention must be examined by a reference to two separate phases: detention and questioning by the GID; and detention in an ordinary prison, pending trial or after conviction. The risks are not identical. They must also be analysed by reference to the personal history and circumstances of VV.

24. He was arrested on 13th August 1997 (page 1 of the translation of a Jordanian court determination produced on the first day of the hearing of the appeal by VV). In his witness statement dated 24th March 2005 (11/74-75) he states that he was detained by "the intelligence department" (which we take to be a reference to the GID) for two months and tortured and interrogated. We accept that he was. He was then sent to an ordinary prison. He said that he was detained until the summer of 2000 (11/75). He now says that that was a mistake. Given the history of deliberate deception by VV, we do not accept that it was a mistake; but nothing turns upon it. The Jordanian court determination demonstrates that he was released on bail on 7th February 1999.

The same document records that he was charged with a number of ordinary criminal offences: possession of a firearm, resisting arrest, possession of a sharp tool, theft, using a forged number plate, conspiracy and forming a gang and three offences of robbery. He was tried in his absence. A decision on all charges was issued on 6th May 2007. He was convicted of only one robbery of a money exchange shop on 28th May 1997. Five charges were not proceeded with, because they were included in the Royal Amnesty of 1999. He was held not responsible for the offence of conspiracy and forming a gang, because the act did not constitute a crime and declared innocent of two robberies because of insufficient evidence. For the offence of which he was convicted, he was sentenced to three years hard labour, decreased to imprisonment for one year, with the period of detention "counted" for him. Mr O'Connor submits, and we accept, that that means that he is deemed to have served the only sentence imposed upon him for an ordinary criminal offence. Even though, due to its late production, the Jordanian government has not had the opportunity of authenticating the document in which these conclusions are stated, we have no reason to doubt its authenticity. The author clearly demonstrates an understanding of Jordanian criminal law and procedures. The recitation of the evidence is detailed. The decisions of the court appear to be rational and founded in Jordanian law. VV would have no motive to procure a forged document in these terms. We therefore, accept on balance of probabilities, that the document accurately states the outcome of the trial in absentia of these charges. Mr O'Connor accepts, that if he were to be re-tried on his return on the only charge of which he was convicted, he would not be more severely

sentenced than he has been. Accordingly, on these charges, he faces no risk of trial or imprisonment on return.

25. By a note dated 30th August 2007, the Jordanian Ministry of the Interior stated that "the judiciary wants VV" to stand before the judge and the regular courts on the following charges:

i) Highway robbery

ii) Escape from the restricted movement imposed by the country

iii) Buying stolen money

iv) Robbery of a currency exchange shop and the Arab bank – Al-Isra University branch – by using a gun.

The fourth charge appears to be one of the two counts of robbery of which he was acquitted (see pages 3 and 14 of the document referred to above). The remaining charges appear to be relatively minor matters and may be covered by the Royal Amnesty of 1999. For all of those reasons, we accept Mr O'Connor's submission that it is very unlikely that VV will be the subject of ordinary criminal proceedings which may result in significant adverse consequences for him, so that it is not necessary for us to consider any issue arising under Articles 6 & 5(3) in relation to ordinary criminal charges.

26. For the first time, on 19th September 2007, the assistant director of the office of the Minister of the Interior telephoned the Deputy Head of Mission at the British Embassy in Amman to inform him that VV was wanted for investigation by the GID on matters relating to terrorism, in particular, about

his relationship with Al Zarqawi and military training received in Afghanistan. This information was confirmed by a note verbale dated 25th September 2007 (6c/9).

27. For reasons set out in the closed judgment, we are satisfied that there was nothing sinister in the belated notification of this information. It does, however, mean that it is highly likely that VV would, on return to Jordan, be detained and interrogated by the GID. The critical question in relation to this period of detention is, therefore, whether or not the Jordanian Government would be willing and able to secure compliance by the GID with paragraph 1 of the Memorandum. The essential question is whether it would issue appropriate orders and that those orders would be obeyed. We are satisfied that there is no real risk that they would not be. We adopt the analysis of the reasons for believing that paragraph 1 of the Memorandum would be fulfilled during this period in paragraphs 362-364 inclusive in Othman. They are reinforced by evidence given in closed session. They remain valid in the case of VV, even though he is a far less prominent figure than Othman. If he were to be the first or second Jordanian to be returned under the Memorandum, his case would attract a good deal of immediate publicity. To that extent, his position would, in the early days, not be much different from that of Othman. That is not, however, the reason why we are confident that the Jordanian government would procure fulfilment of its promise. It would do so, because it has given a solemn promise and it is in its long term interests to see that it is fulfilled. Its control over the GID and the internal command structure within the GID are sufficiently robust to ensure that orders given by the highest levels of government will be obeyed.

28. Verification during this period of detention would be provided by visits to the detention facility and private interviews with VV by the Adaleh Centre. Although the Centre is small (it now has a staff of 7) and inexperienced in practice, it is well funded and has received appropriate training. Further, one of its members accompanied Mr Wilcke on his visit to Swaqa prison. VV is one of only three Jordanian citizens who, as of now, might be the subject of the Memorandum. The Centre can be taken to be enthusiastic to fulfil their role. Indeed, they are said to be frustrated that it has not yet begun. Mr O'Connor submits that the terms of the Memorandum leave open the possibility that the GID could claim that VV did not wish to see a monitor. As a matter of language, that may be correct; but it is inconceivable that the Adaleh Centre would not immediately smell a rat and report their suspicions to the British Embassy. The GID would know that they would do so. Flouting government orders in the early days of VV's detention would be unlikely to further the career of the officer or officers who did so. The possibility that it might occur can be dismissed as remote.

29. We do not know, and have no means of knowing, whether or not VV will be prosecuted for an offence of terrorism. Article 147 of the Jordanian penal code for 1960 defines terrorism very broadly. At a minimum, it may well be that the GID would have little difficulty in establishing a sufficient case to justify VV's detention pending trial before the State Security Court. In that event, as in the event of a conviction, VV would be detained within the ordinary prison system. Public interest in his circumstances would be likely to be at a lower level than immediately after his return. Our analysis of the general conditions in Jordanian prisons leads inevitably to the conclusion that,

but for the Memorandum, he would, during that period be at real risk of degrading and inhuman treatment. Mr Layden accepts that no detailed mechanism is in place, beyond the Memorandum, to ensure that VV would be treated exceptionally at this stage. That is unsurprising: the British Government could not ask the Jordanian Government to provide details of the arrangements which might be made for VV in an event which may well not occur (it is far from impossible that the GID would simply release him after questioning). At that stage, the role of the British Government and of the Adaleh centre would be critical in ensuring that ill treatment did not occur. The British Embassy would have to ensure that it was notified contemporaneously, or in advance, of any transfer of VV from GID detention to an ordinary prison; and the Adaleh Centre would have to visit promptly. Experience of deportations to Algeria has demonstrated that the British Government takes its obligation to see that diplomatic assurances in relation to deportees are fulfilled seriously. We have no reason whatever to doubt that the embassy in Amman would do the same. The Adaleh Centre has the right under paragraph 4 of the Memorandum to visit unannounced and regularly. In the foreseeable future, it would have, at most, three detainees to monitor. There is, accordingly, no reason to believe that in the period immediately after transfer to a normal prison, VV would be at risk of ill treatment, by reasons of these safeguards. In the longer term, there is no reason to believe that a settled pattern would not be established under which routine visits would be accepted by prison directors and guards to a prisoner whom they had no incentive or reason to mistreat. A virtuous circle is overwhelmingly more likely than a malign breakdown of internal discipline within a prison.

30. We have not, so far, considered what diplomatic sanctions the British Government would impose on Jordan if the terms of the memorandum were to be breached. This is an issue which we will deal with in the closed judgment. All that can be said in the open judgment is that, while neither government anticipates the need for diplomatic sanctions, we are satisfied that they would be available and would be deployed in the event that the terms of the memorandum were breached.

31. If VV were to be tried, he would be tried for an offence of terrorism before the state security court. As we have indicated, we adopt the conclusions of SIAC in Othman about proceedings before that court and agree that they would not put the United Kingdom in breach of its obligations under Articles 6 & 5(3).

32. For the reasons given, we are satisfied that the United Kingdom will not act in breach of VV's rights under Articles 3, 5 (3) and 6 ECHR if it deports him to Jordan and this appeal is dismissed.