Appeal Nos: SC/32/36/39/2005
Hearing Dates: 2nd-5th October 2007
Date of Judgment: 2nd November 2007

SPECIAL IMMIGRATION APPEALS COMMISSION

Before:

THE HONOURABLE MR JUSTICE MITTING
SENIOR IMMIGRATION JUDGE LATTER
Mr J DALY
Mr J MITCHELL

Y, BB and U

APPELLANTS

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

RESPONDENT

Mr K STARMER QC, Mr H SOUTHEY, Mr D FRIEDMAN and Mr R HUSAIN
(instructed by Birnberg Peirce & Partners & Fisher Meredith Solicitors

Mr R TAM QC and Mr R PALMER
(instructed by the Treasury Solicitor for the Secretary of State)

Mr N GARNHAM QC, Mr A NICOL QC and Mr M CHAMBERLAIN
(instructed by the Special Advocates' Support Office)

OPEN JUDGMENT

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1. This is the open judgment of SIAC on the remitted appeals of Y,BB and U. All three cases have been heard together, by the same panel. The panel contains at least one member of each panel which heard an appeal.

2. We have not been invited to, and have not, revisited the national security issue in any case, save to the extent that it bears upon the question of safety on return.

3. We have examined the issue of safety on return in each case, by reference to the general condition of Algeria and factors individual to each appellant. We have applied, without reservation, the approach required by Ravichandran v Secretary of State 1996 ImmAn97: we have considered developments in Algeria since April 2007; and we have admitted further expert evidence (a report, supplemented by oral evidence, from Dr Hugh Roberts, and a report by Alison Pargeter dated 21st September 2007) even though much of the subject matter has already been considered by SIAC. We have reconsidered the conclusions expressed in SIAC's judgments in the three cases in the light of all that material.

Generic issues

4. We begin with Dr Roberts's criticisms of SIAC's conclusions about the political situation in Algeria. These were set out, in some detail, in paragraphs 341-349 of the judgment in Y and summarised, and accepted in subsequent judgments, including and by way of example, paragraph 13 of U.

5. Dr Roberts is a freelance writer and consultant on North African politics. He has been interested in Algerian politics and history since 1972. He has held a number of academic positions in the United Kingdom and has been a frequent visitor to Algeria He has many Algerian friends and acquaintances, in all walks of life, except, we infer, the military and security services. (He mentioned, expressly, discussions with ministers. He was not reticent in demonstrating his knowledge of Algerian society and, if he had had contact with senior military or security service officers, we are confident that he would have said so). We accept that he is expert in Algerian politics and society and that the views that he has expressed about them are independently and genuinely held and not tailored to meet the needs of the appellant upon whose behalf he was called Y. He does, however, accept that he is in a minority of Western observers of Algeria in his analysis of political developments in Algeria since the early 1990s.

6. Dr Roberts' thesis is that Algeria has always been, and remains, an oligarchy dominated by the executive; that within the executive, power is distributed between the armed services, the security service (the DRS) and the presidency and that the relative power of each depends upon circumstances and upon the personality and political skill of the president; that political debate and conflict occur and are resolved within the executive; that the legislature and the judiciary are weak and subservient to the executive; and that electoral processes are manipulated to produce the outcome desired by dominant elements within the executive.

7. We accept that there is a kernel of truth within Dr Roberts's analysis. In particular, we accept that the executive is the most powerful element within the Algerian polity; that the armed services and the DRS are independent political actors like, for example, the military in Turkey. Algeria is not a parliamentary democracy, as the outgoing ambassador Andrew Tesoriere bluntly stated in paragraph 8 of his valedictory message of 16th July 2007. We accept Dr Roberts's view that, in 2004, President Bouteflika "won" a political trial of strength with the then chief of staff Lieutenant General Mohammed Lamari, which resulted in the latter's retirement in 2004. Where we part company with him is in his down-grading of the significance of the presidential elections in 2004 and the approval, by referendum, of the charter for peace and reconciliation in October 2005. We accept the view of the majority of observers that both were substantially free and fair and that both demonstrate the support of the majority of the people of Algeria (in the case of the referendum, the overwhelming majority) for President Bouteflika's policy of peace and reconciliation. Further, we accept the evidence of Mr Layden that there is no appetite in the military or in the DRS for a return to the policies of the early and mid-1990s.

8. Thus far, our disagreement with Dr Roberts's views is merely one of degree. We differ much more sharply in relation to his views on recent events.

9. Since the bombings of 11th April 2007, there have been 7 bombing incidents: the first three in Kabilye on 4th July 2007 in Tigzirt, killing one and injuring one, on 11th July 2007 in Lakdaria, killing 8 soldiers and injuring 20, in July 2007 at Barika, killing two children and injuring several others; on 6th

September 2007 at Batna, killing 19 or 20 and injuring many more (this attack is of particular significance, for reasons discussed below); on 8th September 2007 at Dellys naval barracks killing 28; at Zemmouri, injuring at least 2; and on 21st September 2007 at Bouira, wounding 9, including 3 foreigners. A feature of three of the attacks (11th April 2007, 11th July 2007 and 6th September 2007) is that they were perpetrated by suicide bombers. The attack on 6th September 2007 is of particular significance because it occurred one hour before the president was due to visit Batna. Dr Roberts believes that it was probably a failed assassination attempt. We accept that it may well have been. On any view, it must have been intended to coincide with his visit. Dr Roberts firmly believes that the attack was carried out by "allies" of a faction within the executive, which he characterises as "eradicators" (i.e. those who wish to eradicate by force the remaining terrorists in Algeria). He also "surmises" that the triple bombings on 11th April 2007 had the same origin. The source of his belief is his view about events in 1992 and 1993, in particular the assassination of President Boudiaf (who was machine gunned by a member of his bodyguard) and a former commander of the intelligence service in August 1993. He asserts that, in the view of all well informed observers of the Algerian scene, both assassinations were the product of faction fighting within the Algerian executive. We have no means of determining whether or not his view about these events is right; but we do about more recent events. Dr Roberts's belief is speculative. Apart from speculation in the Algerian press, there is no current source for it – and no sound basis upon which it can be accepted. While it would be surprising if there were not differences of opinion within and between the military, the

security service and the civil executive about how to respond to the bombings, we see no basis for concluding that "eradicationists" would wish to, or have attempted to, procure the assassination of the president or the attack upon the prime minister's office. These attacks have the hallmark of Al Qaeda: suicide bombings, carried out for maximum public effect. Their purpose can readily be explained without reference to conspiracy theories about the Algerian executive: to demonstrate that the GSPC, in its new guise, is a force to be reckoned with.

10. We much prefer and accept the view of Mr Layden that he has seen no evidence of lack of support by any element of the Algerian executive, including the armed forces, for the reconciliation process. The most significant outcome of the recent bombings has been the reaffirmation, immediately after the bombing on 6th September 2007, by President Bouteflika, in Batna, of "the path of national reconciliation and civil concord", from which he would not deviate. We accept the Ambassador's assessment in his e-gram of 20th September 2007 that "there is absolutely no appetite here for a return to the dark days of the nineties"(18/AGL13(2)58).

11. Six months have now elapsed since the attack on the prime minister's office – ample time within which plausible reports of repressive or unlawful conduct would have been made if such conduct had occurred. With the single exception of a report of the arrest(before 11th April 2007) of 400 suspected Islamists, returning from Iraq and an Amnesty alert about the detention and beating of 2 brothers, Fethi and Samair Hamaddouche in March 2007, no such evidence has been put before us. The detention of those returning from Iraq

(about which we have no further information) is consistent with the taking of justifiable steps to protect the Algerian public from Al Qaeda type attacks; and the alleged treatment of the Hamaddouche brothers is consistent with the view, accepted by all divisions of SIAC and by Mr Layden, that DRS malpractice has not wholly been eliminated.

12. Dr Roberts's evidence is, in two critical respects, of little weight. He acknowledges that he is not an expert in Algerian law or in human rights. He has, nevertheless, expressed the opinion that the Algerian judiciary is not independent – in particular, that it is susceptible to external influence by powerful people in cases in which their interests are involved; and he finds it "impossible to believe that", if the DRS had Y in their hands "they would not do what they needed to do to get information out of him" – put bluntly, to torture or ill treat him or to procure his torture or ill treatment by others, if necessary. We accept that, in cases involving the interests of powerful people, it may still be the case that, by back stairs means, they can influence the outcome in an individual case. This is consistent with President Boutefikla's speech of March 2006 (referred to in U in paragraph 54) and with the investigation of a number of judges for corruption before the judicial council in 2006. But, Dr Roberts has not read the statutes on the magistracy or on the judicial council of 6th September 2004 and is unable to comment upon the effect which those clear laws may have on the trial of any of these appellants. None of them would involve the interests of powerful people. There is no reason to suspect that any judge trying them would compromise his legally established independence for an extraneous reason. Dr Roberts's view about what the DRS would do to Y is founded only upon the acknowledged history

of past misconduct by the DRS. Dr Roberts has, therefore, no more information than do we in open evidence upon which to base that opinion. It is no more than that: an opinion, of someone who is not an expert on this topic. The question whether or not there is a real risk of ill treatment by the DRS falls to be answered by reference to the circumstances of each individual appellant. We will answer that question individually in the open and closed judgment; and will do so upon material which is more extensive and particular than that which was available to Dr Roberts.

13. Alison Pargeter is acknowledged as an expert observer of Algerian affairs. She is a research fellow at Kings College London, specialising in security issues in North Africa. Her summary of the background to current events is, in the main, uncontroversial (except for paragraph 4(v) and 6(iv)) and has already been considered by SIAC, notably in Y. Her brief analysis of the cases of the 6 named individuals in paragraph 7 (ii) – 7 (v) adds nothing material to the findings already made by SIAC in paragraph 343 of Y, in which their cases were considered in the context of the charter and ordonnance. Save for the intelligence that Q and H may be tried in October 2007 (this month), her brief summary of their cases adds nothing to the more extensive discussion and findings of SIAC in U.

14. Ms Pargeter claims no expertise in prison conditions in Algeria or in its judicial system; yet she had been asked to, and has, expressed her opinions about them. Because she has not been called to give evidence, our concern about the extent of her knowledge of these matters cannot be tested. We are, however, troubled by the apparent superficiality of her reporting of 2 matters

cited by her as relevant to these issues: a report in the Algerian press that in some detention centres there was not sufficient food for prisoners, because of budgetary considerations (note 42 – paragraph 8 (vi)); and the report that in 2006 30 Algerian judges, including some at a senior level, were forcibly retired by the Minister of Justice (note 46 – paragraph 8 (vii)). The first statement is a distortion of the report: food was provided for prisoners albeit not out of national gendarmerie funds. The source of the second statement was a transcript of a somewhat confused satellite television broadcast on 8th November 2006. The research of Mr Nicol QC has produced a further report to like effect in the Al-khabar newspaper of 30th October 2006. If correct, the Minister of Justice would have acted in flagrant violation of chapter III of the magistracy statute (summarised in paragraph 53 of the open decision in U) which provides that only the council of judges can impose compulsory retirement and that its decision must be sanctioned by the president. If this were to be advanced as an example of a significant abuse of executive power in a sensitive area, by an expert in the field, we would have expected her to have researched the matter to a conclusion. She has not done so. The transcript of the broadcast contains suggestions that the acts of the Minister of Justice were provisional and were subject to decisions of the judicial council: see the observations of Ahmad Harzallah at 6/163I. This material cannot found a conclusion that the clear laws providing for judicial independence, analysed in paragraphs 53 & 54 of the open decision in U, are in practice flouted by the Algerian executive.

15. We note but do not accept, the summary record of the North Africa Forum of 1st May 2007 which states that there is "a head of political steam building for

Bouteflika's removal" and that "parallels exist between the present state of Algeria and both the Iran of the late 1970's and Columbia in the late 1990's". We prefer the considered view of the British Embassy, expressed to Mr Layden on his visit to Algeria on 11-13th September 2007 that Algeria was not returning to the bad old days; and to the praise of President Bouteflkia for his courage on 6th Septermber 2007 at Batna.

16. Mr Southey submits that further evidence about prison conditions in Algeria should cause SIAC to reconsider its conclusions on this issue. The building blocks of his argument are as follows:

    1. Ms Pargeter's statement in paragraph 8 (vi) of her report that "a recent committee tasked with looking into this issue reported that prison dormitories are very small being only 25 meters square yet housing over 40 prisoners……."
    2. Maitre Tahri, in a statement dated 30th September 2007, records a complaint by H that he was "held in pre-trial detention in a cell 4 meters x 3 meters with four other detainees….." and that "he slept on the ground without a mattress…"
    3. Despite making every reasonable effort to obtain a visa to visit Algeria, Gareth Peirce has been unable to do so.
    4. An Algerian journalist writing for Le Figaro was prosecuted for publishing accounts of alleged ill treatment in prisons by prisoners.

17. As to (1) Ms Pargeter's statement is unsourced and does not identify the committee to which she refers. We have already expressed our reservations about statements by Ms Pargeter which appear to be outside her expertise,

when checked against her sources. We are unable to accept this unsourced statement as reliable. As to (2), we accept the accuracy and good faith Maitre Tahri's reporting of what H said to him; but the report is inconsistent with what Q told Mrs Daoudi, if it refers to detention during the same period: that E and H shared a cell with two others (see paragraph 38 of the open judgment in U). If it did not refer to that period, then it must refer to the short period between Q's placement in a dormitory at Serkadji prison and H's transfer to El Harrach prison. Even if the report as to measurements of the cell and of the numbers held within it is reliable, it does not begin to establish a pattern of "gross and systematic violation of rights under Article 3" (paragraph 7 of Batayav) (see paragraph 38 of the open judgment in U). If it refers to conditions in El Harrach prison, it is inconsistent with the evidence referred to below. As to (3), the failure to grant Ms Peirce a visa is regrettable. Its cause is almost certainly the instinctive prickliness and habitual slowness of Algerian bureaucracy, as noted in paragraphs 335 and 336 of Y. It does not signify that the Algerian state has something to hide in relation to the treatment of H in prison. As for (4), the most noteworthy fact about the prosecution of the journalist is that he was acquitted.

18. Of greater significance than any of this material is the visit made in September 2007 by two ICPS (the international centre for prison studies) consultants to two Algerian prisons, including El Harrach. One of the consultants was Mr Barclay, a man well known to, and admired by, Mr Layden. He is a very experienced former prison governor. He and his colleague did not carry out a full prison inspection or inspect the part of the prison in which H was held, but did see enough to be able to form a well informed impression about some

aspects of prison conditions. He told Mr Layden about them: the prison was scrupulously clean; medical facilities were good; and there was no impression of the prisoners being cowed. His impression was not wholly positive: in his view, prison discipline was excessive. As we noted in paragraph 39 of the open decision in U, the Algerian government, like international observers, acknowledges that prison conditions are not ideal; but, as Professor Coyle notes in his letter of 1st October 2007 (6/200-203) there is a genuine willingness on the part of the authorities to improve the prison system. This material is consistent with, and supportive of, our conclusion in paragraph 40 of the open decision in U that it cannot sensibly be claimed that there is a consistent pattern of gross and systematic violation of the rights of prisoners such as would cause a convention state to be in breach of Article 3.

19. Some further information about Q and H have now been given to SIAC. Maitre Tahri states that H stated "to his lawyers" that during his garde a vue detention "he heard cries and screams of pain from people being tortured". Although Maitre Tahri does not state that he was "one of the lawyers" to whom that statement was made, it seems likely that he was and, so, that he was the source of the report of this claim by Ms Peirce in her witness statement of 19th February 2007.

20. Maitre Tahri's statement dated 30th September 2007 goes a long way towards explaining why H signed the investigative report upon which the proceedings against him are based: that he was convinced by the security services that it was a routine matter, and so did not read them; and that he signed them solely in the hope of returning home at once. Maitre Tahri records that he has

submitted to the indictments chamber that H signed the investigative reports in those circumstances and that they contain no evidence against him. He also records that the public prosecutor supported his submission that Article 87(6)(a) of the Algerian criminal code did not apply to H and that the law must be applied in his favour. This evidence is consistent with a functioning criminal legal system. It does not cause us to depart from the conclusion reached by SIAC in U that, while the possibility that Q and H were exposed to the sounds of actual or pretended ill treatment of others cannot wholly be excluded, we are not satisfied, to any standard higher than "mere possibility" that there was a serious or successful attempt to break their moral resistance by arousing in them feelings of fear or anguish. At its highest, all that the evidence establishes is that the investigators persuaded H that it would be in his interest to sign the investigative reports and that he regrets having done so. There is no evidence of any subsequent claim of ill treatment of either Q or H, save for H's complaints about the conditions in which he is held in El Harrach prison, which we have already dealt with.

21. Two further Algerian citizens have been returned under the DWA programme. On 6th June 2007 X was deported to Algeria. He was detained on arrival and released on 16th June 2007, 10 days later. Amnesty International spoke to him after his release. He said that he had been treated well and that his daily interrogations had been carried out in a dignified manner. Its opinion was that he was not now at risk of torture or other ill treatment. On 3rd July 2007, A was deported. He was detained (after being allowed to speak to his brother for 15 minutes) and released on 8th July 2007, after 5 days. There is no report or suggestion that he was ill treated in detention. Their cases are, obviously,

consistent with full compliance by the Algerian authorities with their assurances.

22. Our conclusions on the evidence about conditions in Algeria generally and upon events since April 2007 are substantially unaltered from those expressed in U. There is no reason to believe that terrorist activity will subside significantly in the near future. President Bouteflika's policy of peace and reconciliation, and the national consensus which it embodies, have been put under strain. Nevertheless, they have held. The Algerian state has not responded in an authoritarian or lawless manner. Reported incidents of ill treatment by the DRS of persons in their custody have not increased: on the contrary, (leaving aside the cases of Q & H) there are only two: the Hamaddouche brothers. There is, in short, no reasonable basis for believing that the Algerian state has been thrown off its chosen course by terrorism, or that it will be. Of course, the possibility that adverse changes may occur in the future cannot be excluded. President Bouteflika's health, about which there are conflicting reports, continues to give rise to concern. If he were to cease to be able to discharge his functions effectively or at all, the civil power in the executive might be weakened. When he does depart, his successor may not be as skilful and determined a politician as he is. Circumstances can be envisaged in which the armed forces might again resume a more prominent position in the executive. Any attempt to predict if and when such adverse developments might occur is futile. SIAC cannot be concerned with long term political speculation. All that it can do is to evaluate current conditions and to see if they are likely to be stable in the medium term. We are satisfied that they are. There are no substantial grounds for believing that conditions

generally in Algeria give rise to a real risk that any of the appellants will be subjected to treatment which would, if it were to occur in a convention state, put that state in breach of its obligations under Article 3; or give rise to a real risk of flagrant violation of Articles 5 or 6.

23. We now turn to factors individual to each appellant.

U

24. Nothing in the closed material which we have considered which relates specifically to U has caused us to revise the views which we have already expressed about what it likely to happen to him on return to Algeria. There is no open material relevant specifically to him. Our open conclusions and reasoning, accordingly, remain the same.

Y

25. Y has not claimed the benefit of the ordonnance. Accordingly, the legal protection available to him is confined to the right to be retried for the offences of which he was convicted in absentia under the general provisions of Algerian criminal law and procedure. He, like other deportees, must rely on the assurance given in his case.

26. By a note verbale dated 5th December 2005, the Algerian Ministry of Foreign Affairs provided the following information and assurances:

On 17December 1996, Mr Derfouf Mohamed, examining magistrate of the first chamber of the Tribunal de Tlemcen (Tlemcen Court) issued a warrant for the arrest of the Said (Y), known as "El-Haritha", for the creation of an armed terrorist group with the purpose of prejudicing the security and integrity of the territory.

Similarly, on 5 October 1997, Mr Hammouche Mohamed, examining magistrate of the second chamber of the same court, issued a further warrant for his arrest for the offence of creating an armed terrorist group with the purpose of prejudicing State security.

Following completion of the judicial investigation opened against (Y) in the aforementioned two cases, the corresponding proceedings were referred to the Tribunal Criminal (Criminal Court) at the Cour de Tlemcen (Tlemcen High Court), which convicted (Y) in absentia.

In accordance with the legislation in force, (Y) will, immediately upon entering Algeria, be arrested by the judicial police and detained in a prison establishment falling within the jurisdiction of the Ministry of Justice.

Thereafter, (Y) is entitled to oppose the conviction and to be retried in public before the competent court. In the event, the opposition nullifies even the civil-law aspects of the conviction.

As a detainee, (Y) will inter alia enjoy the following rights, assurances and guarantees provided for by the constitution and the current domestic legislation relating to human rights:

(a) (Y) has the right to appear before a court for the purpose of obtaining a decision as to the legality of his arrest or detention and to be informed of the charges laid against him and of his right to be assisted by the counsel of his choice and to make immediate contact with such counsel.

(b) (Y) is automatically entitled to legal aid.

(c) No measure of detention may be taken against (Y) otherwise than by the competent judicial authority.

(d) *(Y) benefits from the presumption of innocence until such time as his guilt has been lawfully established;*

(e) *(Y) has the right to inform one of his family or friends of his arrest or detention;*

(f) *(Y) has the right to be visited by a doctor;*

(g) *(Y) has the right to respect, in any circumstances, for his human dignity;*

(h) *In the event that the death penalty is upheld after opposition, the 1993 moratorium will be applied to (Y) in the same way as to his fellow citizens sentenced to the same penalty.*

Taking into account the acts of which(Y) is accused, as set out above, and in the event he is not involved in collective massacre, rape and explosive attacks in public places, (Y) would be eligible to benefit from the provisions of the Charter for Peace and National Reconciliation and from the subsequent legislation implementing the Charter.

Although the words used are not identical to those used in the assurances given in respect of BB, G, U, K and P, their effect is the same save in two significant respects: in Y's case alone, the note states that he will immediately upon entering Algeria be arrested by the judicial police and detained in a prison establishment falling within the jurisdiction of the Ministry of Justice; and that he is entitled to be retried before a competent court. There is no issue about the second of those assurances. The terms of the first were not addressed in argument. DRS officers can be sworn in as judicial police, so that the arrest of Y by DRS officers would not be a breach of the assurance; but DRS detention facilities, such as the Antar barracks are not within the jurisdiction of the Ministry of Justice. Accordingly, although the DRS could interrogate Y and detain him for up to 12 days in garde a vue detention, they could not do so

at the detention centre which has been the subject of criticism in other cases. To that extent, one of the concerns usually advanced about DRS detention will be allayed.

27. We accept that, until 2003, the Algerian authorities demonstrated a close interest in Y and an exceptional concern to secure his return to Algeria, as, and for the reasons, explained in paragraphs 160 – 172 of the original decision in Y. Mr Layden accepted, as do we, that the Algerian authorities, including the DRS, will still be very interested in the information which Y may have about his former activities and associates. We have no doubt that he will be interrogated by the DRS and little doubt that he will be detained for the maximum period of 12 days garde a vue detention.

28. Although the evidence presented to the court upon which he was convicted in his absence has not been shown to British interlocutors and may have been lost, it is known that a witness (Fethi) does exist who has provided a statement implicating Y in terrorist facilitation. The Algerian authorities, accordingly, have available to them material which would justify charging Y with an offence or offences other than those of which he has been convicted. Accordingly, even if the evidence which supported those convictions has been lost, there is every prospect that Y will be charged, detained and tried for a terrorist offence or offences. Given what the Algerian authorities will believe to have been Y's history, it is unlikely that they will allow him his liberty unless and until he recants. We have seen no indication that he has done so or will do so. We are, however, satisfied that he has no information likely to be of current operational value to those combating current terrorist activities in

Algeria; and is most unlikely to be believed by the DRS to have such information. Accordingly, as in the case of U, the Algerian state is likely to wish to protect itself and its public from future harm from Y by prosecuting him; but there would be no purpose in ill treating him in an attempt to obtain information of current operational value. For reasons which are more fully discussed in the closed judgment, there is nothing in Y's individual circumstances which will increase the risk of torture or ill treatment to the level at which it becomes a real risk.

29. As far as detention and trial are concerned, we cannot speculate upon what evidence Y might be tried, beyond the observations already made. All that we can do is to adopt and repeat the material and observations referred to in the original judgment in U and above about the Algerian justice system. We are satisfied that there is no real risk that Y's right to a fair trial will be flagrantly violated. Accordingly, in his case there is nothing in his personal circumstances which would cause his deportation to Algeria to put the United Kingdom in breach of his rights under Articles 3, 5(3) and 6 of the ECHR.

BB

30. We remain of the opinion that the possibility that BB will be prosecuted on his return is remote. Ms Pargeter's statement that there is a real risk that BB would be interrogated, detained and possibly mistreated at the hands of the Algerian authorities is not based on any factors particular to him, but on her general views on Algeria. It therefore adds nothing relevant to the material which we must consider in his case. If, contrary to our view, he were to be prosecuted, his right to a fair trial would not be flagrantly violated, for the

reasons analysed in the original judgment in U and above. There is nothing in his personal circumstances which would put the United Kingdom in breach of its obligations under Articles 3, 5(3) and 6 of the ECHR if it were to deport him to Algeria.

Conclusion

31. For the reasons given, each of these remitted appeals is dismissed.

Mr JUSTICE MITTING