

SPECIAL IMMIGRATION APPEALS COMMISSION

Appeal No: **SC/130/2016**
Hearing Date: **29th October to 1st November 2019**
Date of Judgment: **19th December 2019**

Before

**THE HONOURABLE MRS JUSTICE ELISABETH LAING
UPPER TRIBUNAL JUDGE PERKINS
MRS JILL BATTLE**

Between

U2

Appellant

and

**THE SECRETARY OF STATE
FOR THE HOME DEPARTMENT**

Respondent

OPEN JUDGMENT

Ms S Harrison QC and Mr E Grieves (instructed by **Bindmans LLP**)
appeared on behalf of the Appellant

Ms L Giovannetti QC and Mr S Gray (instructed by the **Government Legal Department**)
appeared on behalf of the Secretary of State

Mr A Underwood QC and Mr D Lewis (instructed by **Special Advocates' Support Office**)
appeared as Special Advocates

Introduction

1. This is our OPEN judgment in U2's appeal against a decision of the Secretary of State notified on 12 September 2016 to deprive U2 of his nationality ('the Decision'). The Decision was made under section 40 of the British Nationality Act 1981 ('the BNA') on the grounds that U2's presence in the United Kingdom was not conducive to the public good, for reasons of national security.
2. U2 was represented by Ms Harrison QC and Mr Grieves. Mr Underwood QC and Mr Lewis were the Special Advocates. The Secretary of State was represented by Ms Giovannetti QC and Mr Gray. We are grateful to counsel for their written and oral submissions. The Special Advocates made no submissions - oral, or written - in OPEN.
3. U2's representatives applied for U2 to give his evidence (which he gave from Turkey over a video link) in private. We granted that application.

The legal issues

4. Ms Harrison identified six OPEN legal issues in her skeleton argument. There is a further issue which we will deal with in our confidential judgment.
 - i. Does EU Law apply?
 - ii. If EU Law does apply, how should the Commission assess the justification for the decision, and what is the impact on disclosure obligations?
 - iii. What is the scope of the appeal?
 - iv. Who bears the burden of proof?
 - v. What is the standard of proof?
 - vi. Is article 8 engaged?
5. We have decided that it is convenient in this case for us to consider the legal issues first, as they are the framework for our approach to the appeal. We will then consider the factual materials, and make the factual findings and assessments which are necessary to enable us to decide this appeal.

Does EU Law apply?

6. Ms Giovannetti submits that we are bound by the decisions of the Court of Appeal in *R (GI) v Secretary of State for the Home Department* [2012] EWCA Civ 867; [2013] QB 1008, and in *SI v Secretary of State for the Home Department* [2016] EWCA Civ 560 at paragraphs 18-22, and by the approach of the Supreme Court in the intervening decision in *Pham v Secretary of State for the Home Department* [2015] UKSC 19; [2015] 1 WLR 1591 (at paragraph 58) to hold that EU Law does not apply in this statutory context. She points out that U2 apparently concedes as much (in the first sentence of paragraph 34 of his skeleton argument). We consider that we are bound by authority to hold that EU law does not apply in this context. We are not persuaded that the recent decision of the Court of Justice of the European Union ('the CJEU') in *Tjebbes v Minister van Buitlandse Zaken* (Case C-221/17) [2019] 3 WLR 191 changes that.

How should the Commission assess the justification for the decision, and what is the impact on disclosure obligations?

7. Ms Harrison's real point was to encourage us to follow the advice of Lord Carnwath JSC in paragraph 62 of *Pham* that it would be 'appropriate and helpful' for the Commission to reach a view on the merits of an issue of proportionality raised under EU law even if on a hypothetical basis, so as to ensure that the higher courts would know what difference, if any, the application of EU Law would make on the facts of this appeal. This approach was also adopted, in relation to a disclosure issue, by the Court of Appeal in *SI v Secretary of State for the Home Department* [2016] EWCA Civ 1122, [2016] 3 CMLR 37 at paragraph 32. We consider that we should approach the case on the basis that EU Law applies in two of the three respects in which, Ms Harrison submits, EU Law is more favourable to U2 than is the law of England and Wales.
8. Ms Harrison submitted that the test we should apply when we consider the merits of the Decision is that set out in paragraph 137 of *Tesco v Competition Commission* [2009] CAT 6 at paragraph 137, by way of comment on paragraph 13 of the decision of the European Court of Justice in *R v Ministry of Agriculture, Fisheries and Food ex p Fedesa* [1991] 1 CMLR 507. Giving the judgment of the Competition Appeal Tribunal, Barling J said that 'the measure (1) must be effective to achieve the legitimate aim in question (appropriate), (2) must be no more onerous than is required to achieve the legitimate aim (necessary), (3) must be the least onerous, if there is a choice of equally effective measures, and (4) in any

event must not produce adverse effects which are disproportionate to the aim pursued'. We bear in mind Ms Giovannetti's submission that this test does not apply, because EU Law does not apply, a submission with which we agree. We have, nonetheless, applied this test to the merits of the Decision de bene esse.

9. U2 knows, from the terms of an OPEN communication from the Special Advocates, that their view is he would be entitled to more disclosure than he has been given in this case if the test in *ZZ (France) v Secretary of State for the Home Department* (C-300/11) [2013] QB 1136 at paragraphs 27, 28 and 65 were applied to his appeal. We will also consider whether the disclosure to U2 in this case meets the test in *ZZ*, as that test was interpreted by Richards LJ, giving the judgment of the Court of Appeal in *ZZ (France) v Secretary of State for the Home Department* [2014] EWCA Civ 7, [2014] CMLR 49 at paragraph 39. The question is whether 'the essence of the grounds' for the Decision (but not the evidence underlying that essence) has been disclosed to U2.
10. This Commission's approach to such cases has been not to speculate about what would have happened if further disclosure had been given, but, rather, if and to the extent that it has held that the essence of the grounds has not been disclosed to an appellant, to discount that aspect of the grounds, and then to consider the case on its merits without the ground which was not disclosed but should have been (see *K2 v Secretary of State for the Home Department* (SC/214/2014) and *M2 v Secretary of State for the Home Department* (SC/124/2014), both dated 22 December 2015). U2's OPEN representatives submitted that we should ask what difference disclosure would make to the appeal, if it should have been given. We consider that that approach is wrong. The correct approach, rather, is that if and to the extent that material should have been disclosed under the *ZZ* test, that material should be discounted and the Commission should consider the merits of the appeal without taking that material into account.
11. We consider the arguments about *ZZ* disclosure and the impact of those arguments in our CLOSED judgment. For the reasons given in that judgment the outcome of this appeal would not have been any different if the disclosure obligations imposed by *ZZ* had applied.
12. The third respect in which, Ms Harrison argued, EU Law is more favourable to U2 than the law of England and Wales, is, she contends, that the threshold for deprivation in EU Law is a higher threshold than the threshold in section 40 of the BNA. She was not able to refer us to any decision of the European Court of Justice ('the ECJ'), or of the CJEU, which

described such a threshold. Her submission, rather, was that the CJEU would be likely, either, to adopt the test in the European Convention on Nationality, or the test set out in article 28(3)(a) of the Citizens Directive. Ms Giovannetti submitted that the clearest evidence of the approach of the CJEU to this issue was in paragraphs 51-59 of its decision in *Rottmann v Freistat Bayern* (Case C-135/08) [2010] QB 761, the decision in which the CJEU first asserted jurisdiction over decisions about nationality by member states (despite the terms of the instruments which it recited in paragraphs 3 and 4 of its judgment). We accept Ms Giovannetti's submission. The only available guidance from the CJEU on this topic appears to be in *Rottmann*. We decline to speculate about what other threshold the CJEU might introduce in the future.

What is the scope of the appeal?

13. Both sides agree that this is an appeal on the merits.

Burden and standard of proof

14. We consider that, on this appeal, as on any other appeal, the burden is on U2 to satisfy us that the Decision is wrong.
15. There was some debate about the extent to which the reasoning in *Secretary of State for the Home Department v Rehman* [2001] UKHL 47 [2003] 1 AC 153 should be read across to this context. *Rehman* was a case in which the Secretary of State made a deportation order against the respondent on the grounds it was conducive to the public good in the interests of national security. All members of the Appellate Committee broadly agreed about the approach which the Commission should adopt to this type of case. The appeal was a merits appeal, and the Commission could review the decision of the Secretary of State on questions of fact and law. Nonetheless, significant deference should be given to the assessments of the Secretary of State. The task for the Secretary of State, and for the Commission, was not to ask whether a series of factual allegations had been proved on the balance of probabilities but to evaluate future risk by looking at the whole picture disclosed by the evidence. We accept that statutory context was different in *Rehman*. *Rehman* concerned the deportation of a foreign national, whereas this case concerns a decision to deprive a British citizen of his nationality. Nonetheless, Parliament has used the same test in both contexts.

16. This, in essence, was the approach of this Commission which it summarised in paragraph 56 of its judgment in *YI v Secretary of State for the Home Department* (SC/112/2011), 13 November 2013. Irwin J (as he then was) said:

'We have cited reasonably extensive passage from Rehman...The critical points...are...firstly, there must be a proper factual basis for the decision; secondly, the Secretary of State is entitled to take the material together, to form an overview, and there is no obligation to treat each discrete piece of information as a separate allegation, which, if refuted or weakened one by one, necessitates without more a decision against deprivation; thirdly, the essence of the test is that the individual represents a "danger" to national security, not that he or she can already be proved to have damaged it: the Secretary of State is entitled to take a preventative or precautionary approach; fourthly, national security is engaged with matters beyond the borders of the United Kingdom, perhaps particularly in relation to terrorism, even where that activity is directed against other states; fifthly, due deference must be shown to the policy of the Executive with regard to national security, and the views of the Secretary of State must be given considerable weight.'

17. To the extent that the approach of this Commission in *Al Jedda v Secretary of State for the Home Department* (SC/66/2008) differs, we prefer the consistent approach of the Commission in the more recent cases; those are *K2* and *M2* (see paragraph 10, above), as well as *YI*. We have, nonetheless, made some findings of fact on the balance of probabilities. When we come to consider the merits of the appeal, we will also apply the EU test of proportionality.

Is article 8 engaged?

18. We appreciate that the EU test of proportionality is not the same as the test that applies to the qualified rights protected by the European Convention on Human Rights; but it is nonetheless not clear to us what article 8 adds in this case. Rather than take up space in this judgment with an arid debate, we will also apply the Strasbourg test of proportionality to the Decision. We make clear that we are not deciding that article 8 is engaged, or is not engaged, by a decision to deprive a person of his British citizenship while he is outside the United Kingdom. We note Ms Harrison's submission that at the time of the Decision, U2's wife and children were in the United Kingdom, although the whole family is now in Turkey.

The factual materials

U2's evidence

19. U2 has helpfully lodged two very long witness statements. He was cross-examined on those by Ms Giovannetti QC in a confidential hearing, for the reasons which we explain in our confidential judgment. We consider, nevertheless, that it is desirable for us to summarise in this OPEN judgment as much of his evidence as it is possible to, without compromising the rationale for the private hearing. We cannot do justice to the length and detail of those two witness statements in this judgment, and will only summarise what seem to us to be the most significant points. They are also extensively summarised in U2's skeleton argument.
20. U2 was supported by witness statements from six witnesses, five of whom were members of his family in the United Kingdom (his parents, his two brothers and his sister). All, except one (one of his brothers), were available for cross-examination. The Secretary of State did not cross-examine any of the witnesses, apart from a journalist, Mr Hooper. He was cross-examined very briefly.
21. The first witness statement ('U2 1') responds to the first amended national security statement ('1S'). The second ('U2 2') responds to the second national security statement ('2S').

The first OPEN national security statement

22. The Secretary of State's case as described in 1S is that U2 is assessed to be an Islamist extremist who has been involved in terrorism-related activity ('TRA'). He travelled to Turkey in early 2015, ostensibly for charitable purposes, but it is assessed that his purpose was to engage in TRA. He is assessed to have associated with a number of people who are assessed to be aligned with Islamist extremist groups. U2 is assessed to have strong links with Islamist extremists who are aligned to Al Qaeda.
23. On 12 November 2015 he was arrested for terrorist offences (that is, membership of ISIL) in Istanbul with several people who are assessed to be Islamist extremists. They included Per Muhammad Burmal Karwani ('Karwani'), Jermaine Burke, Walid Al Agha ('Al Agha'), and Aine Leslie Davis ('Davis'). Davis has been publically identified as a member of ISIL involved in kidnappings. U2 was charged with membership of ISIL. He was detained and then released. The Secretary of State relied on the circumstances in which U2 was arrested, and the fact of prosecution rather than on the evidential basis for the arrest.

24. The Secretary of State made two key assessments.
 - i. U2 associated with Islamist extremists after his travel to Turkey in 2015.
 - ii. He travelled into Syria.
25. The Secretary of State assessed that U2 did work for the charity Aid Convoy in the United Kingdom and that he carried on with that after he moved to Turkey in 2015. Media reporting refers to his involvement with Aid Convoy and indicates that it is likely to have links with Islamist fighting groups. This is due, in part, to the fact that many people with links to terrorism are involved in fundraising for the charity. Further media reporting suggests that the charity has links with Al Qaeda and ISIL. The reporting indicates that those concerns were prompted by the arrest of U2, who was involved with the charity, at an alleged ISIL safe house. Aid Convoy tends to distribute aid in North-west Syria, which is traditional Al Qaeda territory. The Secretary of State referred to U2's evidence at the court hearing in Turkey. The Secretary of State accepted that U2 was involved with Aid Convoy and that he would, through that work, have been able to travel into Syria, but did not accept that U2 was being entirely truthful about that work, and that his travel into Syria was not just for charitable work.
26. The Secretary of State assessed that U2 had strong links to Islamist extremists and had been friends with Jermaine Burke for a long time. The Secretary of State assessed that Jermaine Burke had in the past travelled to Syria and aligned to JFS (previously known as 'ANF'). The Secretary of State assessed that U2 and Al Agha became friends after U2 moved to Turkey. Al Agha's father, Abu Waleed Al Filistini, is a senior Al Qaeda figure. It is highly likely that Al Agha's family ties to Al Qaeda mean that he is aligned to Al Qaeda or to Al Qaeda-aligned extremist Islamists groups. U2 has links to Al Agha and Jermaine Burke. They were all part of the same group arrested in November 2015. The Secretary of State therefore assessed that it was likely that U2 had been exposed to views that were strongly for Al Qaeda.
27. The Secretary of State assessed that U2 had travelled into Syria many times, and that it was likely that he had spent a significant time there. The Secretary of State assessed that U2 was likely to have been in contact with people who were in Islamist extremist fighting groups there, which were aligned to Al Qaeda. The Secretary of State also assessed that several of U2's associates are Islamist extremists and that they helped him in his TRA.

28. The Secretary of State assessed that U2 associated with Islamist extremists in Turkey, including Al Agha, Jermaine Burke, Karwani and Davis. In the Secretary of State's assessment, some were aligned with ISIL and some with Al Qaeda-aligned groups such as the ANF. The Secretary of State assessed that U2 deliberately aligned himself with such people, and that this was likely to reflect his own support for Islamist extremism.
29. The document from the Turkish court suggested that U2 and Jermaine Burke are friends from the United Kingdom and that U2 got in touch with Jermaine Burke when he decided to move to Turkey. Through Jermaine Burke, U2 met Karwani in Turkey. U2 then introduced Jermaine Burke and Karwani to Al Agha during a business trip to Istanbul. Karwani then introduced Al Agha to Davis. The Secretary of State assessed that it was highly likely that U2 and Davis met before they were arrested, given the number of their mutual associates. The Secretary of State also assessed that the defendants did not give a full account of their actions during their trials and that it was highly unlikely that they had disclosed the full nature of their relationships. The Secretary of State's assessment, based on U2's account, was he was in contact with Al Agha before they were arrested.

U2's first witness statement

30. U2 now lives in Istanbul. He denies being a threat to the United Kingdom or that he would be a threat to the United Kingdom if he returned. He considers the United Kingdom to be his home. He would like to come back here to his family and to work here. He is not an Islamist extremist and has not been involved in terrorism-related activity. He recognised, since the Secretary of State's OPEN case (see below) relied on his arrest in a villa in Silivri with others (including Aine Leslie Davis, and other people who, in the assessment of the Secretary of State, are Islamist extremists), that he needed to explain why he was in the villa, and how he knew the various people who were arrested there with him.
31. He would never support terrorism against the United Kingdom. He would tell the police immediately if he knew any such thing. He has his own values. He might have made mistakes about details, given the long period about which he was trying to give information. He is a Londoner, born and bred. His family live in the United Kingdom. He is a British citizen by birth, and has Turkish citizenship through his father. He changed his name in the United Kingdom to a Muslim name when he was an adult. His British passport issued in 2009 is in that name. His mother is a British citizen by birth. She is permanently resident in the United Kingdom. His parents separated in 2005. His father is a dual British/Turkish

national. He comes from a village in South West Turkey. U2's paternal grandparents, cousins and other relatives live there and U2 visited them often. He did not grow up in a religious household. His father went to the Mosque from time to time. His father owns a large building in East London which includes a shop, a restaurant, a martial arts gym and a space used for community activities, such as a religious school for children. The shop is popular in the area. U2 helped there from childhood. He was very sociable there.

32. U2 says that his childhood was disrupted by his father's absence. He and his brothers were sent to the village in Turkey to divert them from their 'wayward lifestyle'. In his teens, U2 was involved in criminal gangs linked to drugs. He took drugs, was 'involved in criminality' and often in trouble with the police. He also started buying, selling and fixing electronic goods, including laptops. In his late teens he and one of his brothers were attacked. U2 was slashed across the neck in a fight in a nightclub and was seriously injured. He decided to change his life, and to be the best Muslim he could be. His mother had had to call the police about him several times and he wanted to re-build his relationship with her. He started to go to the local Deobandi Mosque. He found this uninspiring, and decided to find out more about Islam for himself. He had become a better, less selfish person. He still worked in the shop. He did not sell alcohol any more, but did not judge others.
33. His paternal grandmother introduced him to his wife. She was from the village in Turkey. She and U2 married in 2007. They lived together for about a year and a half, but there were problems in their marriage. Their son was born in 2008. They separated, and his wife lived with their son. They were then reconciled, but his wife found the first years hard as she spoke little English and it was hard to integrate into a London family. Things got better and they were happy together.
34. U2 wanted to know more about the Quran. He decided to learn Arabic. He found out that there were lessons twice a week at the East London Mosque in Whitechapel. He had lessons for 3-4 months and then continued his learning at home. He went to the local Mosque once or twice a day. By 2011 Islam 'had become central to how [he] wanted to live [his] life'. He decided to go to Egypt to study Arabic and classical Arabic. He stayed for about 4/5 weeks and returned to the United Kingdom in early March 2012. His faith is very important to him but he understands and respects those who do not share it or who have no faith.
35. When Assad started attacking civilians in Syria, he felt he had to do something, as did many in his Mosque. He thinks he met Usman Ali in 2012 when he was introduced to him at the

local Mosque. He had come to speak about the work of Aid Convoy. Aid Convoy planned to drive vehicles and supplies and cash through Europe to Syria in December 2012. U2 volunteered to be a driver. This was just part of a huge national effort. His wife did not want him to get involved and it caused conflict between them: '...it was not something I could just turn away from'. He liked the fact that he could give donations directly to people. All of the money was to be spent directly on the refugees. U2 was active in collecting donations in cash and in kind. £1500 was raised by a local school. This money was not sent to ISIS or Al Qaeda fighters in Syria. He collected as much money as he could to take to Syria. He went to a meeting in Birmingham to plan the convoy.

36. He met Daoud Kamran at a house in Whitechapel. He had met Kamran earlier at the meeting in Birmingham. They had been paired at that meeting. They drove to Chingford to Toq's house ('Toq' is U2's nickname for Tauquir Ahmed Sharif). Toq's house was the meeting place for many of those who were going on the convoy. U2 understood that Toq had been to Syria before. He came to know that Usman Ali's sister was married to Toq's sister. U2 had no objection to women being on the convoy but some people did. Some people also objected to the involvement of non-Muslims.
37. The convoy was stopped by counter-terrorism police at Dover. They asked questions and strongly advised people not to go to Syria. They asked what if the aid was given to fighting groups and not refugees. U2 answered that he would personally hand the aid to the refugees themselves.
38. Jermaine Burke was on this convoy and U2 began to talk to him. They got on and shared an interest in boxing. There were difficulties crossing into Turkey. U2 started to talk to Toq, as he had been to Syria before. Some people were refused entry, including Usman Ali. They decided to leave the convoy. They entered Turkey and travelled to Reyhanli, close to the border with Syria. Reyhanli was the main town through which all supplies to Syria were being directed. It was the formal crossing point. They drove to a compound and delivered vehicles to the Free Syrian Doctors. They went back to Turkey to a refugee camp run by IHH. They gave the money to individual families. They worked in the camp. U2, Toq, and a few other men were taken by IHH over the border to see the destruction. U2 was shocked.
39. Having seen all the suffering, U2 wanted to go back and help more. He did not think that delivering vehicles was enough. Toq was going back to Syria, so U2 asked if he could go too. U2 thinks he was in Syria again between 8 and 11 January 2013. Toq knew the

smugglers' route across the border (he had been to Syria already). There were many smugglers in Reyhanli. The border was not very difficult to cross. The routes are held and owned by a huge tribe of Turkish gypsies. The Turkish army could also be bribed. He went back into Syria with the smugglers and Toq. They stayed with a local family. Toq knew them. He had established himself there. Toq was a young man with much energy and organisational skill. U2 does not know which charity they were working for. Toq was well known in Atameh and free to come and go. He also had his own small house where he and his family lived. U2 describes the refugee camps in Atameh in paragraphs 69-84 of U2 1. He met a Syrian from Damascus, Dr Hassan, who had set up the Mercy Camp. U2 was with Toq most of the time. They bought a powerful generator in Dana, a water pump and diesel. U2 gave the invoice to Aid Convoy. He and Toq stood out as they were not armed and not in combat gear. He went to other camps. The organisers were Syrians and 'were not controlled by armed groups as such'. They would ask what the camps needed and then procure what they wanted. They did not give money to camp directors but did give it to families. He was sure this money did not go to armed groups as they would have lost support quickly if they had taken it from the families.

40. He and Toq made contacts and established their standing by references from the people they had helped. 'You needed references from people who trusted you'. U2 was one of the first aid workers in Syria and got recognition as a result. That 'was important for how I was able to go back to Syria later and be trusted and pass checkpoints...'. There were many armed groups. People at checkpoints 'thought you might be a spy so you had to make sure they understood you were a charity worker'.
41. U2 mentions 'Abu Musab' (aka Rabah Tahari) as he thinks the Secretary of State may be concerned about him. Tahari approached U2 when he was out eating in Atameh. Tahari and his men had guns. He addressed U2 by name. U2 must have come to his attention as a new person in the area. U2 started to chat to see if they knew anyone in common in the United Kingdom. They did not. He saw Tahari in passing on another trip. That was the extent of his contact with Tahari.
42. He was not affiliated to any fighting group as it was important for him to be independent. He had to speak to them to cross checkpoints but otherwise steered clear of them. The groups did not seem dangerous to the United Kingdom. They were all fighting Assad. U2 thought that once Assad had been defeated they would all go home. U2 did not go to Syria to fight

but to ease the suffering of the refugees. He is not aligned to the ISIS or Al Qaeda. He is opposed to them. He completely understands why the Secretary of State does not want to allow back into the United Kingdom anyone who has fought for ISIS or Al Qaeda (U2 1, paragraph 82).

43. U2 accepts that some people on the convoys, people he had met 'had things on their mind beyond delivering aid to the Syrian people'. He mentions Abdul Waheed, the first United Kingdom suicide bomber for Al Nusrah in February 2014, and Kamran '(who was apparently killed in the first US drone strike on an ISIS position)'. They travelled on the convoy 'but I was just not aware of where their stories would end up'. U2 had his own agenda. U2 had no part in their decisions. He certainly did not think that they posed any kind of threat to the United Kingdom. He accepts that Pervez Raffiq and Masoud Miah, whom he met through the convoys, were prosecuted in 2016 for funding terrorism (Raffiq was acquitted). U2 did not know that anyone was using the convoys to supply money to fighters in Syria. U2 also met Bilal Abdul Kareem on his first trip. He became famous for his reporting of attacks on Aleppo.
44. U2 left Turkey in January 2013 and returned to the United Kingdom. He was involved in planning another convoy for March 2013. The convoy was stopped by counter-terrorism police at Dover and the money they had raised was seized. Some was returned to him and to Aid Convoy. The convoy continued into Germany, but was stopped after a phone call from the police. He says that the Security Service might have been aware that money was being spent on things other than aid, but he was not. He carried on as normal in the United Kingdom. He started to meet up with Jermaine Burke. They started to become friends. They started to box and train together. U2 saw Jermaine Burke 'maybe every 2 weeks'.
45. Usman Ali was linked by the media to the murder of Fusilier Lee Rigby. Ali told U2 that he had known the murderer; 'I know these nutters'. It sounded to U2 as if Ali 'totally disapproved of their actions, which I was very glad about'. Ali told U2 that he had been a member of Al Muhajiroun ('ALM') in the 1990's. ALM, we observe, is now a proscribed organisation. U2 did not ask Ali about allegations, which U2 found out about later, that Ali had been suspended from the Woolwich Mosque. U2 had come to know and to like Ali from his work with Aid Convoy. Ali never tried to lead U2 into extremist beliefs or support for terrorism. U2 'would not allow this: I can think for myself'.

46. U2's memory of 'when and what I was doing in Turkey/Syria is not very good in 2013'. There were many different projects and he thinks he had confused what he did on which trip.
47. He went to Syria at some point between 8 July and 7 August 2013. It was easy for anyone at that time to go through the smuggling routes. He was there for maybe only two days. He 'would have gone to see Toq' in the Atameh area. He thinks he was stopped on his return but cannot remember any details.
48. In August 2013 he flew to Syria with a friend from Hackney, Hussain Poultry. He wanted to help charitable causes. A second man, Sofiane, came to join them. U2's plan was to shoot footage for a mini-documentary, and to distribute money to refugees. Toq had asked him to pick up a consignment of Celox, a blood clotting agent, in Bulgaria. They crossed into Syria and he stayed with the same family near Idlib. He worked with Toq in Syria and Turkey. 'He was the point man' and was working directly with refugees. He also had money from Aid Convoy to distribute. U2 began to do this on his own account. He had a photograph taken of him and Poultry under the Atameh road sign in August 2013. It was difficult to film, but he managed to take some footage in August 2013. He noted in a Facebook post that there were a lot of dodgy people around. He was crossing checkpoints and seeing armed men. He was not affiliated to them. He was in Turkey in August getting flour for the refugee camps. He went back into Syria in September 2013. He took two children to hospital in Turkey for treatment. They got better.
49. He first met Mohamed Al Ghabra at a leaving event for the big December 2013 convoy. It later became known as the 'Alan Henning convoy'. U2 was not planning to go on it. U2 might have seen Al Ghabra a couple of times previously at Aid Convoy meetings. Al Ghabra is important because Al Ghabra put U2 in touch with Walid Al Agha after U2 went to Turkey in early 2015. He continued to bump into Al Ghabra many times, for example at the Aid Convoy shop in Whitechapel or when vans were being unloaded at the warehouse. 'He was a very personable guy'. He never tried to lead U2 into extremism or terrorism. He came to a gathering at U2's father's shop. Those went on for a about a year from early 2014. U2 organised them with a Jamaican man called Bilal. They would invite a man to speak about how to live your life through Islam. Usman Ali would often attend. The gatherings were open to everyone. Neighbours would come. U2 spoke to Al Ghabra about his wish to learn more about Islam and to learn Arabic for religious reasons. Al Ghabra seemed to U2 to

be 'quite knowledgeable about Islam'. U2 did not know about the allegations about Al Ghabra. He did not tell U2 that he supported terrorism. Al Ghabra ended up telling U2 that his father, though not very religious, was a good Arabic teacher. U2 therefore took up that suggestion and ended up going to Al Ghabra's father's home once a week for 2-3 months in about Autumn 2014. U2 paid for lessons. He was not particularly close to Al Ghabra, but they met through U2's charity work and spoke about that many times.

50. In January 2014, U2 planned to fly from Gatwick to Bucharest to pick up an old ambulance which had been given to Aid Convoy and had been left at the Bulgarian border. Bulgaria is dangerous, so he did not want to go on his own. He asked Nurdeen Abdullah, because 'he was street smart'. U2 had met him through his laptop business and they had become friends. But U2 got a lot less friendly with him later on after he expressed views which were supportive of extremism and terrorism, and which were unacceptable to U2. Abdullah has been in trouble with the police since.

51. U2 was stopped at Gatwick and detained on 12 January 2014. U2 explained to the police his plans to go to Syria. He was carrying cash, a very good video camera and six phones, which were presents for his family in Turkey. Those were seized and not returned. There was a suspicion that they had been stolen. U2 was arrested on suspicion of handling stolen goods. His wife's flat was searched. She was heavily pregnant. U2 and his wife were separated at the time. U2's father's shop was also searched, as was the flat U2 was living in. Passports 'and other identification documents in other names and laptops were seized'. He was charged and his passport was taken away. People, including Jermaine Burke, stopped contacting him.

52. He was released on bail. He was arrested in hospital on the day of his planned knee operation, when he was just about to go into surgery. It was clear to us, when U2 was cross-examined, that he is angry about the circumstances of this arrest, which he described as oppressive. His evidence to us was that he had told the police that he was going to have surgery that day. The search of his father's shop was very heavy-handed. He believed the police were acting on wrong information about him and his activities. Laptops from his business were seized at his father's shop. He admitted in interview that he had documents in the name of George Young which he had used to set up a fake Ebay account for fraudulent purposes. He started to do this in April 2013 to get back at Paypal who did not reimburse him when he was the victim of a scam. He took it 'much too far when I realised how easy it was'. He admitted having several similar identity documents (driver's licences and

passports), which he had bought and which he used to set up other ebay accounts and to defraud Paypal in other names. It had nothing to do with people trafficking or facilitating terrorism. He bought them from sources who had nothing to do with terrorism. They were stolen genuine passports. He pleaded guilty to handling stolen goods on 28 March 2014. 13 of 97 laptops seized from his father's shop turned out to have been stolen. He bought in bulk and did not 'do the expensive checking process on all of them.' He used the money he made mainly to live off and to feed his family. He was given a 12-month sentence. The rest was suspended. He was released from prison in June 2014. He continued with his laptop business and with his father's shop after his release.

53. Aid Convoy arranged a convoy of 8 containers in October 2014. U2 helped by raising funds and with the contents of the containers. As before, he would organise things and used his father's shop for collection and storage.

54. Jermaine Burke got back in touch in about November, 'out of the blue'. He was living and working in Turkey, in Konya, as an English teacher at a prestigious private international school. U2 flew to Dalaman from Gatwick on 7 December 2014. He visited his family's village and went to Konya to see Jermaine Burke. He assumed from conversations with Jermaine Burke that Jermaine Burke had been staying and working in Istanbul before he went to Konya. U2 agrees with the Secretary of State that Jermaine Burke had been to Syria. He does not know what is meant by the suggestion that Jermaine Burke was 'aligned' with JFS/ANF. U2 thinks that Jermaine Burke supported the overthrow of Assad. ANF was fighting Assad and defending the Syrian people. But U2 does not think that Jermaine Burke supported terrorism or attacks against the West. U2 felt the same. U2 strongly disagrees with any group's views which involve attacking the West. This was when U2 first met Karwani. Jermaine Burke introduced U2 to Karwani. They were living in the same block of flats. They had tea together. U2 is not sure that Jermaine Burke and Karwani ever explained to him how specifically they had met. U2 went into Syria and into Atameh. He visited Toq and helped with charity work. He returned to the United Kingdom on 26 December, flying from Istanbul to Heathrow. He thinks he was stopped but cannot remember what he said. He is pretty sure he said that he had been to Syria.

55. In January 2015, U2's father's shop was again raided by the police. They were searching for U2. His father was arrested for handling stolen laptops. They found more laptops at the shop. U2 thinks that the raids were connected more with a mistaken belief that U2 was

involved in terrorism rather than with stolen laptops or fraud. They were very heavy-handed. It did not seem like a way to deal with stolen laptops or Ebay fraud. He did not want to spend more time in detention for 'what was in reality a mistaken terrorism investigation. It felt like this would go on and on'. It was not good for the reputation of the shop. U2's father thought it best if U2 just went to Turkey to take the pressure off his family. He left the United Kingdom within 24 hours. He and his wife decided that their son would go with him, as they have a very strong bond. He went to his family's village. U2 explained in cross-examination that he did not leave the United Kingdom with his son; his father brought him out to France to meet U2 there.

56. U2 had never formed an intention to leave the United Kingdom permanently. He was trying to get out of an intolerable position. Karwani might have got the impression that U2 thought that Turkey was his country and he wanted to raise his children there but U2 did not tell Karwani why he left the United Kingdom. He did not have a really close relationship with Karwani. Karwani was correct to say that he did not really know U2.
57. U2 decided to go to Konya with his son, where Jermaine Burke was living. 'It was a very lovely place with important historical Islamic connections'. He had really liked it. There were a lot of Syrian refugees there, so he could continue his charitable work. He and his son moved into a flat about two weeks after their arrival, in the same block as Jermaine Burke and Karwani. They saw each other regularly.
58. He found a job with a perfume maker. His landlord, Atesyakar, head of a local charity, AWI, introduced him to his employer, Bakdash, a Syrian living in Konya. He had been in Konya for three or four years. He recruited U2 because of his language skills (U2 1, paragraph 184). U2 can speak Turkish, English, and Arabic in varying degrees. His job included translating for foreign clients.
59. He met Karwani again through Jermaine Burke. He was also introduced to Chaker Hammoudi, who also lived in the same block. U2 tried and failed to do business with him, and after that they were not really friends. He spent more time with Karwani, socialising with Karwani through Jermaine Burke. He did not have his own relationship with Karwani. Karwani would come along when they were doing things together and it was hard to say 'No' to him. U2 described Karwani in cross-examination as 'a cling-on'. U2 preferred it when Karwani was not with him and Jermaine Burke. He was never close to Karwani, all the way up to when they were arrested by the Turkish police.

60. U2 continued helping in Syria and 'crossed the border many times' (U2 1, paragraph 187). He tried to help charitable projects through Aid Convoy and AWI. He describes these activities in paragraph 187 of U2 1. U2 kept in regular contact with Al Ghabra by phone after he arrived in Turkey. 'He had become a friend'. He roughly knew why U2 had left the United Kingdom and was 'a supportive person'. U2 continued to ask him about the Quran. He encouraged U2's studies. U2 told him there were no scholars he could find in Turkey to help him. Arabic is not the first language of Turkish scholars and they recite the Quran differently. Al Ghabra had Islamic knowledge. He did not try to lead U2 into extremism or terrorism. U2 has his own strong mind. He did not want to be involved in terrorism. Al Ghabra told him that there was a man called Walid Al Agha in Turkey who was a person with knowledge who could improve U2's Arabic. U2 'did not think to ask how he knew Al Agha'. Al Ghabra gave U2 Al Agha's phone number. If Al Ghabra was trying to put U2 in touch with Al Agha for other reasons, he did not say so. U2 'contacted Al Agha purely on the basis of wanting to continue my Arabic studies that I had already been doing on Al Ghabra's recommendation'. He told the Turkish court that Al Ghabra had given him Al Agha's number. He saw no reason not to. He surmises that the Security Service may have records of his conversations with Al Ghabra.
61. He contacted Al Agha by phone, he thinks in around April 2015, for the first time, after Al Ghabra suggested it and gave him Al Agha's number. He thinks that they spoke Turkish at first. Al Agha's first language is Arabic but his Turkish is ok. He had a very distinct high voice. He told U2 he was living in Istanbul. He asked U2 about Konya. He was looking for somewhere to live. Two weeks later, Al Agha told U2 that he had found somewhere to live. U2 did not speak to Al Agha again until 'I met him by chance in Istanbul'.
62. Bakdash wanted to open an office in Istanbul because it is the business capital of Turkey. He asked U2 to come with him. He had planned to see a particular office in Sirinevler. He chose it because many Syrians live there. The office would be sublet by an Egyptian acquaintance. U2 and Bakdash were looking at the empty office. Two other men were there: Al Agha and Faisal Faridi. They were speaking Urdu in the office. Bakdash and U2 had no idea who they were. They seemed to know the Egyptian man. He introduced them out of politeness. They started speaking Turkish. When U2 heard Al Agha speaking Turkish, he thought he recognised his distinctive voice. It was so distinctive that it 'actually came up in the Turkish proceedings and I made a joke about his high voice'. U2 then said 'Walid?', and he said, 'Yes'. As U2 concedes (paragraph 197 of U2 1), this 'sounds like a huge and unlikely

coincidence'. Al Agha was living very near the office '(it could even have been in the same building, I think)'. U2 was there because he knew Bakdash and Bakdash was there because he knew the Egyptian man. 'There was nothing sinister about the meeting'. U2 had already contacted Al Agha and saw nothing in meeting him. He had been intending to do that anyway. He saw nothing wrong in this contact. 'The judge in the Turkish case commented on the coincidence but in the end seemed to accept my account'.

63. They talked about where Al Agha was living. He was going to move into 'a really nice villa in Silivri by the Coast'. He invited U2 to visit him there. U2 said he would take him up on his offer. He saw nothing wrong in it. Faridi said they knew one another from Pakistan. On one occasion Al Agha said that was not true. In court Al Agha said that they knew one another. U2 thinks that Karwani's evidence in the Turkish proceedings referred to this meeting. When asked why U2 was in Istanbul, he said, 'We all came here to Istanbul for different reasons...[U2] had business in Istanbul, which was how [U2] introduced us to Al Agha'.
64. U2 believes he was in Syria from 21 June or so until after 17 July 2017. He spent time with Toq and Dr Hassan (see paragraph 201 of U2 1).
65. He first visited Al Agha's villa in Syria in about September 2015. Jermaine Burke and he thought they would take up the offer of staying with him for a break. U2 rang Al Agha and asked if they could both come. He said they could. Karwani heard about the plan. He asked to come along. U2 felt bad and said he would ask Al Agha. He was not under the impression that Karwani knew Al Agha beforehand. He thinks he introduced them. They drove there in U2's car (a VW Bora). U2's son stayed in Konya with a Turkish family he knew and liked.
66. The villa was 'stylish and very large'. It was in a secure resort. There were two separate self-contained flats. There was a pool and there were stables. Al Agha was living there with his two wives, his mother, four sisters, brother in law and about three children. U2 understood that the rent was about US \$2000 per month and that Faridi paid it. He did not know why. They stayed for three days, separate from the family. They socialised and went swimming in the sea and had a nice break. Karwani and Al Agha 'hit it off.' They both spoke Pashtu together and it got on U2's nerves. Karwani kept in contact with Al Agha afterwards.
67. U2 was very disappointed in Al Agha, who was nothing like Al Ghabra had suggested. He was no scholar. He was very irritating and thought he knew everything. He was certainly not someone U2 could learn anything from. He had not met Al Agha in Syria. Jermaine Burke

and U2 liked the area very much. They decided to look for job opportunities there. They thought that if they could get work they would move. He did not think his salary with Bakdash was very good. Karwani was not part of this discussion. He thinks that Jermaine Burke was in contact with Al Agha by phone during this time. He had little contact with Al Agha himself. He did not know whether Al Agha was in Konya in September 2015. U2 did not meet him there then.

68. The second visit to the villa was in early November 2015. Jermaine Burke, U2 and U2's son went to Istanbul to look for work. They travelled by train and U2 borrowed his cousin's car in Istanbul. Jermaine Burke and U2 stayed at Al Agha's villa for about two days. It might have been longer. Karwani was not with them. He must have arrived separately. U2 cannot remember how. Karwani had his own relationship with Al Agha by then. U2 did not arrange it. U2 went with Al Agha to Ataturk Airport for Al Agha to pick up a small rental car. He had his own car but it was being customised, so he needed a car for a short time. Al Agha was not able to rent the car as he only had cash. U2 had a credit card so rented the car. U2 could do so because he was a Turkish resident.
69. Jermaine Burke had organised interviews in advance. His school (unnamed) was 'quite prestigious in Konya'. U2 went to some interviews with Jermaine Burke. He helped Jermaine Burke (who did not speak Turkish well) to communicate with a teacher who did not speak English well. U2 and the teacher hit it off. She was 'impressed about my ability to translate' (U2 1, paragraph 226). U2 had a diploma in accountancy but no teaching qualification. She implied that someone might be sacked soon and that U2 should return and they would speak soon. He was confident he would get a job there. Jermaine Burke was offered a job on the spot. He and U2 also looked at two flats.
70. On this visit, Al Agha showed U2 and Jermaine Burke pictures on his laptop of him in front of a vehicle holding an assault rifle. It was 'obvious' to U2 that Al Agha was in Syria. From what U2 heard in the Turkish proceedings, he suspected that Al Agha was using false documents to allow people to travel out of Turkey. U2 wonders if the United Kingdom authorities mistakenly believe that U2 helped arrange those. He did not. No one talked to U2 about Davis 'or anything like that'. They ate a few meals with Al Agha but were not with him all the time. Al Agha told tales about his past. U2 did not know that Al Agha's father was a senior Al Qaeda man. Neither U2 nor Jermaine Burke took him seriously. Jermaine Burke did not rate Al Agha's Arabic either.

71. When Faridi and Al Agha were together they seemed to get on but, apart, they would have digs at one another. Faridi kept saying what a great man Al Agha's father was and how he loved him so much. Al Agha would say that Faridi did not know his father. Faridi said that Al Agha could not be trusted. He said something about a passport not being delivered. 'It was all a bit odd'. U2 did not understand what was going on between them.
72. Jermaine Burke flew back to Konya. U2 understood that he would return soon, as he understood that Jermaine Burke had got the job. U2 agreed that on his return to Konya Jermaine Burke could borrow U2's car (the VW) to load up his stuff and drive it to Istanbul. U2 understood that Karwani went back with Jermaine Burke to help him move from Konya to Istanbul (or maybe to share the driving or to load the car: U2 cannot quite remember). U2 travelled back to Konya on the train with his son. U2 was still working in Konya and knew that he could not go back to Istanbul immediately. As far as U2 can remember, Jermaine Burke drove to Istanbul in U2's car within a few days of getting back to Konya.
73. U2 knows nothing about any contact between Karwani, Al Agha and Davis, such as was alleged in the Turkish proceedings. U2 knew nothing about Davis at all. He was not part of the arrangements for Davis to leave Syria, or for his travel to Istanbul or to the villa in Silivri. U2 went back to Konya with his son and went back to work. He was there for about a week before he went back to Silivri. He cannot remember exactly. He visited Al Agha's villa for the third time on 11 November 2015.
74. U2's plan was to get the job in the school. Jermaine Burke had also organised another job in case that fell through. If U2 got the job, he would move from Konya. U2 flew from Konya to Istanbul. He arrived early in the morning (his flight left at about 5 am). He arranged for Al Agha to pick him up from the airport. Al Agha took U2 to the villa. Everyone was still in bed. Davis, whom U2 did not know, was there. He had no idea who Davis was when he saw him. The Jordanian, Al Khaleileh, was also there. U2 did not know him. Al Agha's family were all there. U2 did not know who Davis was, or how he knew Al Agha and was in his villa. Jermaine Burke and Karwani were already there.
75. U2 did not stay long. He drove the small car he had rented for Al Agha as Jermaine Burke had his car. He needed to see Chaker Hammoudi's lawyer, Abdul Harim, as Hammoudi was facing deportation. He had a bag of Hammoudi's papers and belongings which Hammoudi had asked him to take to his lawyer. He did not look at them. They were later found in the car U2 had been using. U2 had been given access to Hammoudi's flat in Konya by

Atesyakar, the landlord, and U2 had picked the documents up from there. U2 was not able to see Hammoudi's lawyer in the end.

76. Karwani left with U2 in the morning. He wanted a lift to a shopping mall. U2 dropped him there at about 10 am and picked him up at about 10 pm. U2 thinks Karwani rang him once during the day. Karwani did not speak to U2 about Davis or tell U2 who Davis was. U2 knew nothing about Davis getting out of ISIS territory and into Turkey. As he has said, U2 did not know Davis at all. 'I don't recall, or know, what Jermaine did that day'. U2 and Karwani got back to the villa at about midnight. No one was up. He and Karwani were in the studio flat at the back. He does not know where Jermaine Burke was. U2 went to bed. The villa was raided in the early hours of 12 November.
77. In paragraphs 253-260 of U2 1, U2 sets out his own analysis of the events. U2 thinks that Nabil (Al Agha's brother in law) and Faridi are both informers. He has spoken to Faridi since. Faridi told U2 that he was given the job of getting Davis out by a senior person in ANF. U2 does not know if that is true. Faridi had links with smugglers and had money (from smuggling artefacts out of Syria). Karwani said he (it is not clear to whom the 'he' refers) had arranged Davis's stay in the villa.
78. U2 was detained in Turkey until 1 September 2016 when he was released on bail. He was charged with membership of an armed terrorist group, ISIS. He is innocent. 'It is an insult to suggest that a decent person is sympathetic to or involved in ISIS. ISIS is an enemy of humankind'. What they do is 'un-Islamic and unacceptable'. He does not know what the Security Service mean when they say that he was not 'entirely truthful' in his evidence in court. He went to ask the British Consulate for help on his release but was refused entry. He was acquitted on 8 May 2017.
79. He did not return to Syria after his release. He went back to Konya and carried on working for Bakdash. He then moved to Istanbul. He continued to work for Bakdash. He has no issues with the authorities there, apart from the fact that he is trying to avoid doing military service. He did some charitable work in 2016-17. Some money was raised in the United Kingdom for mattresses and blankets for refugees. It was transferred to him. He gave it to Rahman who bought the mattresses and blankets, and took them to Toq in Syria. Aid Convoy asked him to find a charitable partner to distribute food packs in Idlib in 2017. U2 found the Rahma Humanitarian Foundation in Istanbul. He understands that there was a

small distribution. He moved away from charitable work to concentrate on himself and his family.

80. He felt stranded in Turkey by the Decision. He has done what he can to make a life in Turkey, but still sees London as his home and would like to return. His arrest, detention and the loss of his citizenship have been hard for his family. His son is now living with him. U2 teaches English at an international school and his son is enrolled there. He got that job entirely by chance (U2 1, paragraph 271). His wife and daughter came back to Turkey in February 2018. They spent some time together, but their relationship was hit by what happened to U2. She does not want to stay in Turkey. She wants the children to be educated in the United Kingdom. They are 'currently' living as a family in Istanbul. U2 has a honey business and a soap business.

The second national security statement

81. The Secretary of State served S2 in response to U2's witness statement in this appeal, and as a result of the Secretary of State's exculpatory review. The Secretary of State continued to rely on the assessments in the S1, but they were 'updated'.

i. After travelling to Turkey in February 2015, U2 associated with Islamist extremists.

ii. U2 travelled into Syria and it is likely that he aligned with Islamist extremist groups based in Syria.

iii. U2 has provided support and help to Islamist extremist groups.

82. U2 had been acquitted by the Turkish court on 8 May 2017 of a charge of being a member of an armed terrorist organisation. Although the second Statement does not say so, it is clear from the court documents that the charge related to ISIL. In support of the first assessment, the Secretary of State described five Islamist extremists with whom U2 admitted that he had associated.

83. U2's evidence showed that he had been an associate of Tauquir Ahmed Sharif ('Sharif'; referred to by U2 as 'Toq') since December 2012. He claimed to have done charitable work with him through Aid Convoy. U2 had said he was working with Sharif as recently as 2017. The Secretary of State assessed that Sharif travelled to Syria and aligned with an Al Qaeda-

aligned group. On 24 May 2017, the Secretary of State deprived Sharif of his British nationality on the grounds that his presence in the United Kingdom was not conducive to the public good.

84. U2 had been an associate of Jermaine Burke since 23 December 2012 and had started to become friends with him from March 2013, seeing him 'maybe every two weeks'. The transcript of the Turkish proceedings shows that there were 149 telephone contacts between U2 and Jermaine Burke in two months. U2 explained that this was because they were friends. U2 also said that he knew that Jermaine Burke had travelled to Syria, but he did not believe that Jermaine Burke supported terrorism or any attacks against the West. Despite that, the Secretary of State assessed that Jermaine Burke travelled to Syria and aligned with an Al Qaeda-aligned group.
85. U2 said that he had been an associate of Karwani's since December 2014, but did not have a 'really close relationship' with him. U2 agreed with Karwani's statement that Karwani 'did not really know U2'. However Karwani said that when describing his first meeting with U2, and said that after that, he was U2's 'friend'. Karwani's statement in court began by saying that all the defendants were his friends. U2 was arrested with Karwani in the same compound. Despite U2's statement, the Secretary of State's assessment was that U2 associated with Karwani. The Secretary of State also assessed that Karwani had associated with Islamist extremists in the United Kingdom and overseas. It is likely that he travelled to Syria to engage in terrorism-related activity, and that he had engaged in terrorism-related activity in support of ISIL.
86. U2 said that he had been an associate of Al Ghabra since December 2013 and that he had done legitimate charitable work with him through Aid Convoy. Al Ghabra is listed on United Nations Al Qaeda Sanctions List, and the US Treasury Sanctions List. He is subject to licensing conditions by HM Treasury. The Secretary of State assessed that Al Ghabra has an Islamist extremist mind set and is aligned to Al Qaeda. In the documents for the Turkish trial, Al Agha said that Al Ghabra had known his father 'a long time ago'. Al Agha's father is a senior figure in Al Qaeda. That link suggests that Al Ghabra has long-standing links with Al Qaeda.
87. U2 said that he had been an associate of Al Agha since April 2015. U2 and Al Agha were arrested in the same compound where they had both been staying. U2 said that he had visited Al Agha's 'villa' for long periods on two other occasions. The Secretary of State

assessed that there was an established friendship between them since U2 had been Al Agha's guest more than once. Al Agha was convicted by the Turkish court of being a member of an armed terrorist group and is in prison in Turkey. Al Agha's father, Al Filistini, is a senior Al Qaeda figure. This makes it likely that Al Agha has a personal allegiance to Al Qaeda or to Islamist extremist aligned to Al Qaeda.

88. Al Agha and U2 gave different accounts to the Turkish court of how they were put in touch with each other. U2 said he was given Al Agha's number by Al Ghabra and that he contacted Al Agha as a 'knowledgeable person'. Al Agha, however, said that he first contacted U2 on Whatsapp after getting his number from Al Ghabra. Al Agha asked 'Why would [U2] contact me? I got his number for help. My number is not with [U2]. I rang [U2]'. Those conflicting accounts stemmed from a desire to hide the truth. Both refer to Al Ghabra as the initial point of contact. The Secretary of State assessed that there was more to their introduction than U2's desire to improve his Arabic or Al Agha's desire for help in renting a flat.
89. On the account in his evidence, U2 lived in Konya near Jermaine Burke and Karwani, who are assessed to be Islamist extremists. He has known Jermaine Burke, Sharif and Al Ghabra for several years in the United Kingdom and overseas. Given the number of Islamist extremist associates he is assessed to have, and the nature of their links to extremism, the Secretary of State assesses that U2 was likely to know about their extremist views and activities. Jermaine Burke, Karwani and Al Ghabra are based in the United Kingdom.
90. In support of the second assessment, the Secretary of State noted that U2's own evidence was that he crossed the Syrian border many times, and that he was in Syria, for example, from 21 June to 17 July 2015. The Secretary of State maintained the assessment that while the ostensible purpose of the trips was to distribute aid, it is likely that U2 also aligned with Islamist extremist fighting groups in Syria. Given that most of his Islamist extremist associates are assessed to be aligned with Al Qaeda, the Secretary of State assessed that U2 aligned with Al Qaeda, and not with ISIL.
91. In support of the third assessment, The Secretary of State accepted that U2 had been involved in charitable work for organisations such as Aid Convoy for a number of years, and that there was a genuine charitable element in this. The Secretary of State referred to U2's evidence about the various roles he had performed, such as fundraising, preparing the convoys and publicity. The Secretary of State nonetheless assessed that there are corrupt

elements in charities giving aid to Syria, such as Aid Convoy. They often give money to Islamist extremist groups which are aligned to Al Qaeda as well as giving humanitarian aid to civilians. Aid Convoy was under investigation by the police and by the Charity Commission in 2013, because of concerns that money was being transferred to Islamist extremist groups in Syria. Witness XX told us in his oral evidence that it continues to be investigated by the Charity Commission. U2, it is assessed, knowingly gave help to Islamist extremist fighting groups.

92. The Secretary of State noted the evidence of his charitable work which U2 had provided, but said that such evidence would be used by people who work for charities but also are involved in Islamist extremist activity, in order to hide what they are doing. The Secretary of State assessed that even after the Decision, U2 was involved in charity work that supported Islamist extremist groups in Syria. According to U2's evidence, he had done two things mainly between 2016 and 2017; sending money to Syria to buy mattresses and blankets for refugees and finding a partner to distribute food packs for Aid Convoy. He had moved away from charitable work in Syria. The Secretary of State considered it likely that, in the light of his continued association with people like Sharif, that U2 was doing charitable work which supported Islamist extremist groups in Syria.
93. U2 had accepted crossing check points and speaking to armed groups during his charitable work. The Secretary of State accepted that some engagement with armed groups was necessary for access and for security purposes. There was a distinction, however, between those who engaged only to the extent necessary to do their charitable work and those who support Islamist extremist groups.
94. The Secretary of State also assessed that U2 had a reputation as someone who could facilitate people. He had access to falsified documents which he used as part of his facilitation work. When police searched U2's home in early January 2014, they found a notebook with details of passports which had been electronically copied and imaged into documents. They included several British passports and one American passport. In the light of the circumstances of U2's arrest with Davis, and the assessment that U2 has such a reputation, the Secretary of State's assessment was that U2 was involved in facilitating Davis from Syria into Turkey. Davis was sentenced to seven and a half years' imprisonment for terrorist charges by the Turkish court. The Secretary of State assesses that Davis poses a risk to national security. In the Turkish proceedings, Davis admitted that he had been in the

zone in Syria which was controlled by ISIS and that he entered Turkey illegally using a forged passport. Davis is a British citizen who has been publicly identified as likely to be one of the four 'Beatles' who held British hostages in 2014-5.

95. The Secretary of State's assessment is that allegiances are more fluid in Turkey than in Syria and that freelance facilitators often work with both Al Qaeda and with ISIL operatives. It is common for ISIL and other Islamist extremist groups to share facilitators and routes. The divides between the groups only become entrenched in Syria. It is likely that U2 engaged with ISIL through his associates, such as Davis and Karwani, who were known to be associated with ISIL. The Secretary of State's assessment is that despite the loss of territory in Syria and Iraq, ISIL continues to encourage and claim responsibility for attacks in Europe and to be present in many other parts of the world, such as Yemen, Egypt and Libya.
96. MI5's assessment is that any traveller who facilitates support for Al Qaeda elements in Syria under the cover of giving humanitarian aid poses a threat to national security, whatever role he carries out, and whether or not he is directly involved in attack planning or fighting. Al Qaeda's long-term strategy is to attack the West and its interests in order to weaken the influence of the West, to inspire popular uprisings and to overthrow apostate Islamic governments. Open-source reporting indicated that Al-Zawahir made it clear that although the group focusses on local campaigns, it is still committed to attacking the West in the long term. The Secretary of State continues to assess that U2 is a threat to national security. The Secretary of State's assessment is that that risk is best managed outside the United Kingdom and that the Decision 'is the most effective mitigation of the risk posed to national security'.

Al Ghabra's profile

97. It is convenient here to quote from page 117 of S2. It is a narrative summary of the reasons why the Al Qaeda Sanctions Committee listed Al Ghabra. He was listed for being associated with Al Qaeda, Usama bin Laden or the Taliban and for 'participating in the financing, planning, facilitating, preparing, or perpetrating of acts or activities by, or in conjunction with, under the name of, on behalf of or in support of' and recruiting for' Al Qaeda and Harakatt Ul-Mujahin ('HUM'). He was said to have been in regular direct contact with senior people in Al Qaeda. He met the Al Qaeda director of operations in 2002. He has played a central role in radicalising young Muslims in the United Kingdom directly and using extremist media. After radicalising them, he recruited them to the Al Qaeda cause and often facilitated their travel, and through his contacts, arranged for them to attend Al Qaeda

training camps. Some went to plan overseas terrorist attacks from the United Kingdom. He has also provided material and logistical support to Al Qaeda, and to other organisations which provide logistical support to Al Qaeda. He organised travel to Pakistan for recruits seeking to meet senior Al Qaeda people and to receive specific training. He directly helped those engaged in TRA, both in the United Kingdom and elsewhere, by providing funding, logistical and material support. He facilitated the travel to Iraq of people based in the United Kingdom to fight and to support other fighters. He has strong links to HUM. He trained in an HUM training camp and went back to the United Kingdom to raise funds for HUM.

U2's second witness statement

98. In paragraph 2 of U2 2, U2 denies the allegations made against him. He gives further details of his knowledge of Sharif, Jermaine Burke, Karwani, Al Agha, Al Ghabra, of his travel into Syria, of his case in relation to the allegations that he supplied aid to Islamist extremist groups and that he had a reputation for facilitating people. He describes his employment, and responds to the allegation that he poses a risk.
99. He denies knowing that any of his associates were aligned with Islamist extremist groups. He complains that he does not know the details of the Secretary of State's case against his British associates who have been accused of such alignments. He would like to know more about that each case. He has not discussed these matters with his associates. They never told him that they were aligned to any Islamist extremist groups. He complains that Jermaine Burke and Karwani have been allowed to return to the United Kingdom.
100. He transferred money to Sharif and trusted him to use it for charitable purposes; indeed he saw with his own eyes what it was spent on. In September 2017, Sharif contacted him by phone and asked him to buy a small camera drone. He did so. Whatever he passed to Sharif over the years was not for terrorist purposes. He has not had any direct contact with Sharif since late 2017/early 2018.
101. He moved to the same block in Konya as Jermaine Burke because of his friendship with Jermaine Burke. Their friendship continued and they socialised much more often than every two weeks because of their proximity. They spent a lot of time together and were good friends. U2 is an avid user of his phone and keeps in regular contact with many people. 147 calls in 2 months shows that they were good friends and in regular contact. He was not distancing himself from Jermaine Burke in U2 1. 'I was, as a Turkish speaker, also everyone's translator and everyday he and others would ring and ask for help. This was

happening the whole time I was in Konya' (U2 2, paragraph 24). U2 understands that Jermaine Burke went to Syria on a convoy but does not know 'the full details of that'. Jermaine Burke did not, to U2's knowledge, enter Syria after U2 moved to Konya. U2 has kept in contact with Jermaine Burke since his return to the United Kingdom. They have spoken a bit about his case.

102. U2 was not trying to distance himself from Karwani in U2 1. He was not close to Karwani, even if he, Jermaine Burke and Karwani did things together. His relationships with Karwani and with Jermaine Burke were quite different. The contrast in frequency between his phone contact with Jermaine Burke and with Karwani illustrates that point. U2 did not hang out with Karwani because he liked him but because he felt awkward about leaving him out. He also translated for Karwani sometimes. He believes that Karwani met Al Agha through him. U2 brought Karwani to Al Agha's villa for the first time. After that, however, they had their own relationship. U2 had nothing to do with it. As U2 understands it, Karwani introduced Davis to Al Agha. That was accepted in the Turkish criminal case. U2 has had no contact with Karwani since November 2015 and wants none.
103. Al Ghabra gave U2 Al Agha's number after U2 moved to Turkey. U2's wish to improve his Arabic was sincere. He wished to continue his studies in Turkey with someone knowledgeable. Nobody told U2 that Al Ghabra was on the Sanctions List. He acted like an ordinary person. He was knowledgeable and supportive. He never knew that Al Ghabra had longstanding links to Al Qaeda or that he knew Al Agha's father.
104. Al Agha did not contact U2. U2 has no idea why Al Agha said that in the Turkish proceedings. Al Agha gave chaotic and muddled evidence. At times the interpreters did not understand him; this seemed to be deliberate. He seemed to be lying throughout his evidence, which is why, U2 thinks, he was convicted. Al Ghabra gave U2 Al Agha's number because Al Ghabra knew that U2 wanted to learn Arabic. U2 took the introduction at face value. 'If there was anything more to the introduction then I was not aware of it'. U2 was useful to Al Agha as a Turkish speaker and citizen (U2 2, paragraph 45). U2 has never asked Al Ghabra about him knowing Al Agha's father. Al Ghabra has told U2 that he is sorry for introducing U2 to Al Agha. He knows that contact with Al Agha has caused U2 'great trouble'.
105. Al Agha was in Konya, but when U2 was in Syria (Ramadan 2015). U2 did not know this. He had no knowledge of the phone contact between Al Agha and Davis or

between Karwani and Davis until the court proceedings. The Secretary of State is wrong to think that hospitality alone shown by Al Agha to U2 ('a common Arabic trait') shows that they were close friends. He only met Al Agha four times between April and November 2015.

106. U2 does not accept that his views on terrorism and Al Qaeda can be deduced from his links with Jermaine Burke, Karwani, Al Agha or Al Ghabra. If they had Islamist extremist views, U2 never knew. He shared their views about Assad and his attacks on Syrian Muslims, and that they had to be defended.
107. U2 accepts that he spoke to armed men in Idlib who belonged to different groups, depending on which group was in control. ISIS had their own clearly defined borders and U2 never crossed their borders. He never wanted or needed to. He never met any high-ranking members of either group, with one exception (paragraph 76 of U2 1, Tahari). He only had contact with those groups to the extent necessary to deliver aid. The Secretary of State is correct that U2 did not align with ISIL. The leaders of the armed groups were nothing more than gangsters. They had no real interest in the people in Syria. He has never had a conversation with any group about what happens after Assad, or their aims outside Syria. Using Syria as a base for attacks on the West would be atrocious. It would have placed him and his family in danger, and brought more pain on the people of Syria.
108. U2 was always aware of 'the specifics of where my humanitarian aid was going and I checked this myself'. So far as he knew, the fighting groups always had plenty of food money and equipment. They had no need of the 'small fry' U2 was involved with such as food packs, blankets and the odd camera.
109. U2 did not 'facilitate Davis's entry into Turkey (or into Syria or anywhere else at any other time)'. U2 was not approached 'by anyone arrested in the house in Silivri, in which I was arrested, to help facilitate Davis' (U2 2, paragraph 72). There was no evidence, or allegation, in the Turkey case to that effect. In paragraphs 73-75 and 77, U2 discusses evidence in the Turkey case about false documents. That evidence implicates others, not him. As far as he knows, he has no reputation, in Turkey or in the United Kingdom, for forging or creating passports to facilitate travel. U2 did know some smugglers' routes and could ask Sharif what routes might be available to leave Syria, which he had had to do himself. He is not sure how widely that was known or by who. People who knew what U2 was doing with his charity work might have believed he was capable of helping people to

access those routes. But that is different from making, or getting, false passports. U2 had nothing to do with that. A young British man called Ikram did call U2 to help get him out of Syria, U2 thinks because he knew U2 from the United Kingdom and was desperate. The deputy of AWI contacted him when the British lawyer Tasneem Akunje visited because U2 was English and could best talk to him. U2 also had a person contact him who wanted to leave Syria. He was a really funny person from Sweden called Abu Ali. He and Abu Ali had hit it off and exchanged numbers. Ali later called U2 because he knew U2. U2's only use of passports and identity documents was his 'fraudulent economic activity in the UK'. He explains further in paragraphs 80 and 81 of U2 1. He did not forge passports in the United Kingdom using the images on his laptop.

110. U2 works many hours, six days a week. His spare time is limited. He spends time when he is not working with his wife and children (when they are not in the village with his wife's family). U2 feels that he has done all he can for the people of Syria. He has to prioritise his family.

U2's cross-examination

111. U2 accepted that he had not entirely turned over a new leaf when found his religion. He had changed in certain aspects but not all. He was asked whether he had been sent to prison in 2014 because, over many months, he had carefully planned a scam on Ebay to defraud people. He quibbled that he had not defrauded people; rather, he had defrauded Ebay. That did not make it ok, but he felt he had to correct that point. The scam was not based on false documents; no documents had been forged. They were stolen documents. U2 explained that he had tricked himself into thinking it was a victimless crime.

112. He was asked why the court should accept that he was an honest witness. He said that 'One aspect should not paint all I do.' He was asked about statements he had made to the police during port stops. Some appeared patently untrue (that he had lived in France for ten years and had been a Jehovah's witness). He explained that his answers had been recorded incorrectly or misunderstood. They had made many mistakes in his interviews.

113. He accepted that he had told police that he was particularly friendly with two people on the convoys called Mohammed Kamran and Abdul Wahid. He was very defensive when asked what had happened to Kamran. He was reminded that he had said in paragraph 82 of U2 1 that some people had things on their mind beyond delivering aid, and that Kamran was the first United Kingdom suicide bomber and that Wahid had been killed in the first US

drone strike on an ISIS position. He was asked whether it was a remarkable coincidence that this is what had happened to two people he had been friendly with. He tried to explain that there were two people called Wahid. He then said that Ms Harrison might be able to help him; he had become friendly with an English man called Donald White who had blown himself up.

114. U2 explained that Konya was a nice, laid-back place, about seven hours' drive from Istanbul and about ten hours' drive from Reyhanli. He accepted that it was very conservative religiously. He liked it because of that. He was defensive when asked whether there were a lot of Syrians living there; he said every city in Turkey had a lot. We note that in paragraph 181 of U2 1 he had said that there were a lot of Syrian refugees in Konya. He moved to Konya because it was religiously conservative, Jermaine Burke was there; 'that was the decision really'.

115. He was working 9-5 every day, five or six days a week. He found a school there for his six-year old son. He accepted that his son was very dependent on him; having left his family and friends in the United Kingdom, all he had was U2. It was then suggested that, nevertheless, U2 was doing a full-time job, and crossed the border many times into Syria, which was ten hours' drive away. He was asked how long he was away from home for. His reply was that he had done many trips to Syria overall, but not while he was in Turkey. He was referred to paragraph 187 of U2 1: 'I continued helping in Syria and crossed the border many times' (in a section of U2 1 under the heading 'Leaving UK 2015'). He said 'Many times: define that'. He was reminded that 'many times' was his phrase. He repeated that he was referring generally to trips in Syria, not to the number of trips he had made once he was living in Turkey.

116. U2 said that each trip lasted two to four weeks. It was suggested that this was obviously dangerous, that he knew of reputable charities, such as MSF and IHH. If all he was doing was delivering aid, he was asked why he did not just give the aid to those charities. His reply, in effect, was that it was all about 'our brand name'. He did not like the other charities. He did not accept that that was because he wanted to reach groups aligned to Al Qaeda. He could not convincingly explain why he would leave his son and put himself in danger. He was putting himself at risk to help others, he said.

117. He met Al Ghabra on the first convoy to Syria. He did not tell Al Ghabra that he was moving to Turkey. He could not remember how he got back in touch with Al Ghabra. He

put U2 in touch with Al Agha. Al Ghabra did say that Al Agha was a knowledgeable person and that U2 could continue his Arabic studies with him. He was asked why, if he was living in a religiously conservative city, with Arabic speakers, he would arrange to study eight hours' away in Istanbul. It was suggested that Al Ghabra had recommended Al Agha because he was in Al Qaeda. U2 denied this, while, in the next breath, adding that he had not been impressed by Al Agha's Arabic. He added in his witness statement that Jermaine Burke had not been impressed, either. When asked whether this was a pack of lies, U2 maintained that Al Agha helped him with his studies, and that was it: Al Ghabra put U2 in contact with Al Agha for Arabic. He could not remember his first phone conversation with Al Agha, although he described it in paragraph 194 of U2 1. He accepted that that account said nothing about Arabic lessons. It would have been mentioned, U2 said, when asked whether he had forgotten that he had contacted Al Agha for Arabic lessons. He tried to explain that he had not known initially that Al Agha was in Istanbul, but was reminded that he had said in paragraph 194 of U2 1 that Al Agha had told him that in their first phone conversation. We note that Al Agha showed U2 pictures of himself 'obviously in Syria' with a gun. U2 started to realise that Al Agha was a 'bigmouth' and that he should keep his distance from him.

118. He did not take his son to Silivri because he did not think he would like a trip to the sea. It was suggested that an eight-hour drive was a long way to go for a seaside break to stay with a man he had only met once. He said 'Not if you like driving'. Karwani had come because he wanted to 'tag along'. He had clearly forgotten, when asked about how he had travelled each time to Silivri, the details of those journeys in his witness statement. He would not accept that it was an extraordinary coincidence that despite the frequency of his contact with Karwani in Konya, he had not, apparently, known that Karwani would be in Silivri. He explained that by then Karwani and Al Agha had their own relationship.

119. U2 now knows that when he went to the villa the third time, there was someone very significant in the house. Al Agha was not reluctant to have U2 in the house. That was not because Al Agha knew that U2 already knew Davis. U2 was only there because of a job. According to the evidence in the Turkish case, there was no phone contact between Davis and U2 and only three contacts between U2 and Al Agha. Davis was not hidden from U2. He saw someone in the basement who he thought was from Syria. They gave each other salaam.

120. It was suggested that it would have made more sense for U2 to stay with his cousin in Istanbul than at the villa. It was suggested that his evidence about the cars made no sense. He said that it was all true and that he had nothing to add.

Our assessment of U2's evidence

121. This is not a case in which there are many relevant contemporaneous documents. The only significant documents relate to the Turkish trial. In assessing U2's evidence, we have therefore had to rely to a great extent on two things; its inherent probability or otherwise, and the inferences we felt able to draw about U2's attitudes and approach to life from his replies in cross-examination.

122. U2 did not impress us from the start. We were surprised at his defensive and pedantic efforts to correct Ms Giovannetti's description of his fraud in the United Kingdom. When faced with things he appeared to have said that were implausible, he relied more than once on errors in the understanding of others. We were not persuaded that this explanation always worked. As Ms Giovannetti reminded us in her closing submissions, there was conflicting evidence in the Turkish trial about how U2 and Al Agha first contacted one another. Al Agha's evidence was that he contacted U2 by Whatsapp after Al Ghabra gave Al Agha U2's number, so that U2 could be a guarantor for the house. U2's initial evidence in his statement to the public prosecutor was that Al Agha called U2 first. Al Ghabra told him to find Al Agha; he was a knowledgeable person who would help U2. U2's later evidence in the trial was that his statement to the public prosecutor was 'full of errors as my Turkish was insufficient and I was not provided with any translator. The police told me that my Turkish was sufficient...' and that he had called Al Agha first. This is an implausible explanation for U2's change of account because it is clear from many passages in his witness statements that his Turkish was excellent, and he was relied on as a translator both by Bakdash and by U2's friends (see, for example, paragraphs 184 and 226 of U2 1, and paragraphs 24 and 45 of U2 2).

123. We noticed that there were times when, during his cross-examination, U2 looked distinctly uncomfortable. In an apparently characteristic (but only intermittent) facial expression he would roll his eyes and look away. An example was when he was asked about how long he had lived in France. A further example was when he was asked about his contact with Jermaine Burke, when 'out of the blue', Jermaine Burke, an old friend, got in touch with him from Turkey in November 2014. He was asked whether he had discussed

with Jermaine Burke what Jermaine Burke had been doing since they had last been in touch. He said that he could 'not remember clearly' and then talked about teaching English and translating documents in a hospital. He looked uncomfortable when he was asked about the number of trips he had made to Syria when he was living in Konya. He also looked uncomfortable when he was asked about the cars and why he had not stayed with his cousin when he made his third trip to the villa.

124. We have not given this factor much weight, because we know that being cross-examined is a very stressful experience, and people who are telling the truth can sometimes look uncomfortable. U2 only looked uncomfortable occasionally, however.

125. We noticed that there were times, for example when he was asked about Kamran and Wahid, when it seemed that U2 had forgotten what he had said in his witness statements, and answered in a way which, he hoped, would limit the immediate damage threatened by a line of questioning. A similar thing happened when he was asked whether there were a lot of Syrians in Konya and when he was reminded that he had said in his witness statement that he had made many trips to Syria.

126. We have given the most weight in our assessment to the concatenation of coincidences and unlikely events which U2 describes. There are many. We mention a few.

127. U2 became friendly on his first convoy with Kamran and Wahid. U2 happened to end up in the same block of flats in Konya as other people (Jermaine Burke and Karwani) who, the Secretary of State assesses, are Islamist extremists. He happened to know Usman Ali, who was from the same Mosque as the killers of Fusilier Rigby. He got to know Al Ghabra well, and formed a positive opinion of him, without knowing Al Ghabra was on the UN Sanctions List. Al Ghabra recommended Al Agha to him as an Arabic teacher; unbeknownst to U2, Al Agha is the son of a prominent Al Qaeda leader whom Al Ghabra had known for years. Faridi and Al Agha talked about Al Agha's father in U2's presence, without mentioning who Al Agha's father was. Yet Al Agha's Arabic is unimpressive (as Al Ghabra must have known). U2 happened to meet Al Agha, whom he had never met before, but whose voice he recognised, quite by chance when looking at an office in Istanbul with his boss. The final coincidence is that U2 happened to be arrested at a place which, the Turkish court found, was an ISIL safe house, with Davis and all the others; three of whom were later convicted of being members of an armed terrorist group, ISIL.

128. We know that coincidences do happen. Life is often stranger than fiction. An example of a plausible piece of luck is U2's account, in paragraph 271 of U2 1, of how he got his job at the international school. The question for us is whether it is probable that U2 has experienced the number of significant and at times unfortunate coincidences which his evidence suggests he has. We do not consider that it is probable. This (and the factors we describe above) make us sceptical about his evidence. That scepticism naturally leads us to wonder why he has had to rely on so many improbabilities to explain his place in the sequence of events in this case.

Witness X X

129. Witness X X gave evidence for the Security Service. He was tenaciously cross-examined by Ms Harrison. He maintained the assessments in the OPEN national security statements. Many of his answers, however, were either that he could neither confirm nor deny a proposition, or that he could not answer a particular question in OPEN. We do not consider that his evidence greatly helps us in our OPEN assessment of this appeal.

Our assessment of the appeal

130. There is a great deal of common ground about the facts of this case. We are therefore able to make some findings on the balance of probabilities. We find that U2 has a criminal past in the United Kingdom. He has been convicted of a significant offence of dishonesty which involved the use of stolen passports and driving licences, and the setting up of bogus bank accounts. U2 made many trips to Syria under the auspices of Aid Convoy. He made many trips while he was living in the United Kingdom and while he was living in Turkey.

131. He moved to Konya, in Turkey, after he had been arrested in the United Kingdom on suspicion of handling stolen goods. Because of his friendship with Jermaine Burke, he found a flat in the same block as Jermaine Burke. Karwani and Hammoudi also lived there.

132. U2 has many close friends who are, or were, Islamist extremists, or who are assessed by the Secretary of State to be Islamist extremists. They include Kamran, Walid, Al Ghabra, Usman Ali, Sharif, Jermaine Burke, Karwani, and Al Agha. On his own account, albeit only twice, he met Tahari, the leader of a group affiliated to Al Qaeda. Again on his own account (U2 1, paragraphs 155-6, 155-9, 188, and U2 2, paragraph 78), he was approached by people who thought he could get them out of Syria.

133. U2 was arrested in the early hours of 12 November 2015 in an ISIS safe house with, among others, Davis, Jermaine Burke, Karwani and Al Agha. As Ms Giovannetti put it in her closing submissions, U2 was either there as part of a plot to facilitate Davis's escape from Syria to Turkey, or he was there for a job interview.
134. There is then a question about what inferences we can draw, on the balance of probabilities, from these uncontentious facts, and on the basis of our assessment of U2's evidence. That assessment is that some of U2's evidence was untruthful, and some of it was deliberately evasive.
135. We consider that U2 was trying to minimise the number of trips he had made to Syria from Turkey. We were also not persuaded by his reasons for personally delivering material to Syria, given the risks, and the fact that, once he had moved to Turkey, his son was solely dependent on him. He did not explain to our satisfaction why it was so important for him personally to deliver blankets and food packs to refugee camps. We infer that that was not all that he was doing.
136. It is inherently unlikely that a person with Al Ghabra's background would have put U2 in touch with Al Agha, the son of a prominent Al Qaeda figure, whom Al Ghabra had known for years, in order for U2 to learn Arabic; all the more so if Al Agha's Arabic was so poor that two non-Arabic speakers (U2 and Jermaine Burke) could quickly detect its deficiencies. It is inherently improbable that U2 did not know about Al Agha's father, not least because Faridi and Al Agha were talking about him in U2's presence, Faridi saying that he loved Al Agha's father so much (U2 1, paragraph 233). It is inherently improbable that Al Agha would invite U2, a virtual stranger, to stay in an ISIS safe house, especially on the third occasion, when Davis was there. What are the probable alternatives? It is much more likely that Al Ghabra put U2 in touch with Al Agha for a purpose connected with Al Qaeda, that U2 knew all along about Al Agha's background, and that U2 was their trusted associate and was part of a plan connected with Davis.
137. It seems to us that U2's account of his reasons for going to Konya and for visiting Al Agha in Silivri was untruthful and incomplete. It hinged in part on the 'huge and unlikely coincidence' of U2 and Al Agha bumping into each other by chance in an office in Istanbul. U2's explanations for three three-man trips from Konya to Silivri in a short space of time, and for the associated logistical arrangements, particularly the arrangements with cars, were unconvincing. We do not understand why Karwani, the 'cling-on', came on each trip when

U2 disliked him. We did not understand why U2 lent his car to Jermaine Burke for the duration, given that Jermaine Burke's family seem to have stayed in Konya, nor why U2 could not have stayed with his cousin for any job interview, and borrowed his car. We did not understand why U2 had to hire a car from the airport, particularly as he disliked Al Agha.

138. There are other loose ends. U2 did not like Hammoudi (U2 1, paragraph 185). We do not understand why he went to the bother of getting access to Hammoudi's flat in Konya from the landlord, getting Hammoudi's papers, and then planning to take them to Hammoudi's lawyer in Istanbul (U2 1, paragraph 247), particularly since he did not manage to meet the lawyer. We infer that he had somehow to explain why Hammoudi's papers were found in his car.

139. We infer that the story about the job interview was not true. We also infer that U2 was trying to explain a complex series of comings and goings for which there was another explanation. The other explanation is that U2 was involved in some way in the plot to facilitate Davis. We do not go so far as to find that his specific role was to forge documents; we are not able to say that, and do not need to go that far.

140. We conclude that it is more probable than not that the three key OPEN assessments are accurate. We also conclude that if they are, the Secretary of State was entitled to decide that U2 is a risk to national security and his presence in the United Kingdom is not conducive to the public good. We independently agree with that assessment, although, in that regard, we defer to some extent to the Secretary of State's expertise in the assessment of risks to national security. But it seems plain to us that a person who has the kinds of friends that U2 has, who has been involved in giving physical support to Islamist extremist groups in Syria, and who was involved in a plot to move Davis from Syria, is a risk to national security. That risk is underscored by the fact that U2 has given misleading and untruthful evidence to us in an attempt to minimise his role. We have not, in reaching those conclusions, relied to any extent on the CLOSED material.

141. We turn to consider U2's legal arguments in the light of those findings. The first question we ask is whether the Decision survives the application of the EU test of proportionality.

142. The legitimate aim is the protection of national security. The Decision is effective to achieve that aim, because it ensures that U2 is outside the United Kingdom. We accept the

Secretary of State's assessment, which, in any event, seems to us to be self-evidently right, that the risks posed by Islamist extremists are best managed if they are outside the United Kingdom. We add that it is obviously a lot less expensive to manage risk in that way, as valuable investigative resources can be used for other purposes.

143. We consider that the Decision is no more onerous than is necessary to achieve that aim. Other available measures (a TPIM or a temporary exclusion order - 'TEO') are less onerous, but not as effective. The Decision was therefore 'necessary' to achieve the legitimate aim.

144. We do not consider that there is a choice of equally effective measures. Deprivation, which ensures that U2 cannot ever come to the United Kingdom unless he gets entry clearance, is the most effective way of managing the risk which he poses. Lesser measures, such as a TEO, or a TPIM, would not be as effective as that in managing the risk. We reject Ms Harrison's submission that risk can be better managed if a person is in the United Kingdom. It seems to us obvious that no amount of conditions, or careful watching of a person who is in the United Kingdom, can achieve the assurance of knowing that they are outside the UK permanently. We also reject her submission that the best way of managing any risk is to allow U2 to return and to prosecute him.

145. We accept that the Decision produces adverse effects on U2 and on his family. He was born in the United Kingdom and most of his family live here. The United Kingdom is his home. We accept that he and his wife would like to come back here and have their children educated here. His mother is ill and cannot visit him in Turkey. We do not consider that these effects are disproportionate to the legitimate aim which is pursued, that is, the protection of national security. The best interests of U2's children do not point in a different direction. Their best interests lie in being brought up in a family unit with their parents, wherever their parents may be. They are not strangers in Turkey. Both their parents have family in Turkey, and speak Turkish. There is no evidence about this, but we infer that the children speak Turkish, too; not least because the boy was at school in Konya from the age of six, and was looked after by U2's landlord's family, or by U2's cousin, when U2 was away.

146. We will approach this appeal on the footing that article 8 is engaged. In our judgment, the protection of national security is sufficiently important to justify a limitation on article 8 rights. The Decision, which reduces the risk posed by U2 to national security, is

rationally connected to the objective of protecting national security. A less intrusive measure, such as a TEO or TPIM, could not have been used without unacceptably compromising the protection of national security. Balancing the severity of the Decision's effects on U2 and his family against the importance of protecting national security, to the extent that the Decision will contribute to its achievement, the latter outweighs the former. The impact on the rights of U2 and of his family is not disproportionate to the likely benefit of the Decision.

147. In reaching our conclusions on EU proportionality and on article 8, we have not forgotten Ms Harrison's submissions about the apparent disparity between the treatment by the Secretary of State of Jermaine Burke and of Karwani and her treatment of U2. Witness X X was not able to comment on those cases in OPEN, but we have considered his evidence about them in CLOSED. Nothing in our CLOSED judgment changes our OPEN conclusions on these two issues.

Conclusion

148. For these reasons, we dismiss this appeal on the merits. We are able to reach that conclusion on the basis of the OPEN material and arguments, with one exception. That concerns Ms Harrison's argument about the way in which the Secretary of State handled the cases of Karwani and Burke. We consider that issue in our CLOSED judgment. For the reasons given in our CLOSED judgment, we are able to say that this argument does not affect our OPEN conclusion on this appeal.

149. The CLOSED material supports our OPEN conclusion, and does not undermine it.

150. We are also able to say, for the reasons given in our confidential and CLOSED judgments, that the arguments raised by Ms Harrison in the confidential hearing do not affect our conclusion, either.