



Neutral Citation Number: [2025] EWHC 2606 (KB)

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
MEDIA AND COMMUNICATIONS LIST

No KB-2023-003361

Royal Courts of Justice
Strand WC2A 2LL

Ruling given in CLOSED: Monday, 7 July 2025
OPEN version published: 10 October 2025

BEFORE:

MR JUSTICE CHAMBERLAIN

BETWEEN:

MINISTRY OF DEFENCE

Claimant

- and -

GLOBAL MEDIA
AND OTHERS

Defendants

MR MARTIN GOUDIE KC, MR ZUBAIR AHMAD KC, MR ASHLEY UNDERWOOD KC, MR WILLIAM TYZACK, MR DOMINIC LEWIS AND MR ALEX JAMIESON (instructed by the Special Advocates' Support Office) appeared as Special Advocates for the ARAP Claimants.

MR PAUL MERTENS (instructed by the Special Advocates' Support Office) appeared as Special Advocate for Global Media and Others.

MS CATHRYN McGAHEY KC, MR JOHN BETHELL AND MS ANISA KASSAMILI (instructed by Government Legal Department) appeared on behalf of the Ministry of Defence.

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(Official Shorthand Writers to the Court)

APPROVED JUDGMENT

This is an OPEN version of a CLOSED judgement which was given orally by Chamberlain J at a hearing on 7 July 2025. Part of the original judgement has been reworded as a gist in paragraph 7. The gist reflects agreements reached between the Special Advocates and the MOD, and has been made to avoid disclosing information contrary to the interests of national security.

Mr Justice Chamberlain :

1. I have had the opportunity to consider the submissions that were made over the short adjournment. In essence, the position has been reached that the main parties to the injunction, that is to say the claimant and the media defendants, now agree, on the basis of the assessment contained in the Review Report of Mr Rimmer, that it is not sustainable for the injunction to continue. That is because of the very significant change in the assessment of the risk which would accrue to individuals in Afghanistan if the Taliban were to come into possession of the dataset. The Review Report is not equivocal in this respect. It makes clear that there is an overwhelming consensus among those sighted on the issue that the acquisition by the Taliban of the dataset would not lead to a significant increase in the risk to any individual.
2. In the light of that assessment, the Secretary of State indicated in writing on Friday 4 July that a decision had been taken to discontinue the Afghan Relocation Route (“the ARR”) and to apply to the court to discharge the injunction.
3. On Friday, I indicated that I would be prepared to hear Special Advocates on behalf of individuals in cases that were currently before the court. The reason for that was because I considered it important to see if there was anything that had been left out of account that I should bear in mind before finally deciding whether the injunction should be discharged.
4. I have heard from the Special Advocates for a number of individuals whose cases are currently before the court, namely TPL1, QP1, MXR, AFA and XY1. The principal submissions on behalf of the Special Advocates were made by Mr Goudie KC. I also heard submissions from Mr Ahmad KC and Mr Underwood KC.
5. The main submission made by Mr Goudie, and supported by the other Special Advocates, is that, before taking a final decision whether to discharge the injunction, I should modify the injunction so as to permit the underlying matters to be communicated to the OPEN representatives of the individuals whose interests the Special Advocates represent. The purpose of this would be to enable them to make submissions in their clients’ interests. Mr Goudie points out, fairly, that up until now the Government has been advancing submissions effectively on behalf of those in Afghanistan that may be at risk; whereas now the position is that the main parties to the injunction proceedings are *ad idem*. They both consider that the injunction should be discharged and there is no party before the court contending to the contrary. Essentially, Mr Goudie’s submissions are that the decision to discontinue the ARR may be challengeable in judicial review proceedings, and the affected individuals should have the opportunity to advance submissions to that effect before the injunction is discharged.
6. I have concluded that there is no practicable way of enabling that to happen which is consistent with the maintenance of the injunction and which also respects the very serious interference with Article 10 rights which the injunction gives rise to. The position, as I see it, is as follows.

7. To date, the decision has been taken that it would be incompatible with the maintenance of the injunction to let individuals in Afghanistan know about the matters to which the injunction relates. That is because it is liable to come to the attention of the Taliban if such communications are made to affected parties. In my judgment, the position in that respect has not changed. It remains the case that, if communications are made to affected persons in Afghanistan, it is likely that the protection that the injunction provides, even in the short term, may be lost in a disorderly way.
8. Secondly, we have now reached the position where the parties agree that the assessment contained in the Rimmer Review means that there is no longer a tenable basis on which to continue the injunctive relief, which as everybody recognises, constitutes a very serious interference with the Article 10 rights of the press and the correlative right of the public to receive the information they may wish to impart. I have considered carefully whether it is likely that any individual would be able, on the basis of their own circumstances, to challenge the conclusions of the Rimmer Review as to the level of risk associated with acquisition by the Taliban of the dataset. I bear in mind the principles which are applicable to judicial review of national security assessments set out in cases such as *Begum* and, more recently, *U3*. Essentially, such assessments are challengeable only on public law grounds. It seems to me to be vanishingly unlikely that any individual would be able, even on the basis of material known to them, to challenge successfully the national security conclusions reached in the Rimmer Review, given in particular the variety of sources on which that review draws.
9. In the circumstances, I have concluded that there is no realistic way in which I could achieve a position where individuals were able to make informed submissions to me in opposition to the discharge of the injunction without delaying by a substantial period the date on which the injunction is discharged. Various different procedural possibilities have been discussed during the course of the hearing today. Ms McGahey has very properly sought to put all the options before me. It does, however, seem to me that it would be practically impossible to achieve any meaningful participation by either the Special Advocates, who at present are unable to take instructions, or the OPEN representatives, without a very substantial delay to the discharge of the injunction.
10. Given my view about the prospects for challenging the conclusions drawn by Mr Rimmer and the importance in the public interest of discharging the injunction in circumstances where the main parties agree that it should be discharged, in my judgment, it would not be in the public interest, or indeed in the interests of any of the individuals concerned, to give directions which would lead to such a delay. I therefore decline to adopt any of the options which were outlined to me by the Special Advocates.
11. The injunction will be discharged with effect from a date which I will come to consider next, but that date will be next week. There will be no modification of the injunction to permit any of the OPEN representatives to learn of the underlying matters in advance of that date. The individuals affected will be

informed of the matters to which the injunction relates a short time in advance of the lifting of the injunction. If any applications are made to the court in that time, I will be available to hear them, but for the time being I propose to give directions and order that the injunction be discharged with effect from the date which I will decide shortly, but that date will be next week.
