



## ECHR rejects complaints by two men about UK security clearance removal procedures

The case of [Gulamhussein and Tariq v. the United Kingdom](#) (application nos. 46538/11 and 3960/12) concerned the withdrawal of the applicants' security clearances on the grounds of their being associated with terrorism, leading to their dismissal from their jobs as civil servants.

In its decision in the case the European Court of Human Rights has unanimously declared the applications inadmissible. The decision is final.

The Court found that even though some of the proceedings had been held in "closed" session because they referred to classified information, the men had been provided with proper safeguards for their rights to a fair trial, including by being provided with special advocates who could attend those closed hearings.

### Principal facts

The applicant in application no. 46538/11 was Bilal Gulamhussein, a dual British and Yemeni national who was born in 1967, while the applicant in application no. 3960/12 was Kashif Tariq, a British national who was born in 1979. Both men live in London.

Both men worked for the Home Office's immigration service when their security clearances were withdrawn, in May 2005 and December 2006 respectively.

Mr Gulamhussein was told that he had been identified as a close associate of a network of suspected Islamic extremists who supported the insurgency that was going on at the time in Iraq. Mr Tariq's clearance was withdrawn because members of his family were suspected of plotting a terrorist attack, putting him at risk of being subjected to undue influence.

Mr Gulamhussein and Mr Tariq appealed against the withdrawal of their clearances to the Security Vetting Appeal Panel, but their cases were dismissed in January 2011 and November 2010 respectively. Mr Gulamhussein also failed in his challenge to the Panel's procedures on the grounds of their not being in conformity with the right to a fair trial under the European Convention for including proceedings that were closed to him and his legal representatives.

Mr Tariq brought a case with the Employment Tribunal in March 2007, alleging discrimination on the grounds of race and religion, including that the Home Office had relied on stereotypical assumptions about him, Muslims and individuals of Pakistani origin being susceptible to undue influence.

The proceedings before the tribunal were based on open and closed material, and a legal dispute about what material should be in which domain went to the Employment Appeals Tribunal, the Court of Appeal and the Supreme Court, which resulted in more open evidence being made available. His Employment Tribunal case was eventually dismissed in July 2014.

Both men were represented by special advocates during the closed part of their proceedings.

### Complaints, procedure and composition of the Court

The applications were lodged on 21 July 2011 and 10 January 2012 respectively.

They invoked Article 6 § 1 (right to a fair hearing). Mr Gulamhussein complained about the Security Vetting Appeal Panel procedure while Mr Tariq alleged that the Employment Tribunal procedure had breached his rights to an adversarial hearing, equality of arms and a reasoned decision.

The decision was given by a Committee of three, composed as follows:

Kristina **Pardalos** (San Marino), *President*,  
Ksenija **Turković** (Croatia),  
Tim **Eicke** (the United Kingdom), *Judges*,  
and also Renata **Degener**, *Deputy Section Registrar*.

## Decision of the Court

In the case of Mr Tariq, the Court found that the Employment Tribunal proceedings had respected the safeguards set out in the case of [Regner v. the Czech Republic](#), in which a Czech civil servant had been deprived of his security clearance in proceedings that had involved classified evidence.

The safeguards in question were that the Employment Tribunal had had the necessary independence and impartiality, unlimited access to all the classified documents which justified the decision, and had duly exercised the powers of scrutiny available to it. The use of closed proceedings had also not been arbitrary or manifestly unreasonable and the Tribunal had been able to quash the security clearance decision if necessary. The proceedings had therefore been in accordance with Article 6 § 1.

In Mr Gulamhussein's case, the Court noted the Government's argument that Article 6 § 1 was not applicable to the Security Vetting Panel as it did not determine any rights. The Court agreed. The Panel made recommendations to the head of the department who then made the final decision. Although its recommendations were persuasive, they did not count as being decisive.

It also observed that Mr Gulamhussein's application would most likely have been inadmissible even if Article 6 § 1 had applied because the Panel's procedures appeared to be in line with the *Regner* safeguards.

*The decision is available only in English.*

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