

Resolution CM/ResDH(2013)52¹
Gillan and Quinton against the United Kingdom
Execution of the judgment of the European Court of Human Rights

(Application No. 4158/05, judgment of 12 January 2010, final on 28 June 2010)

The Committee of Ministers, under the terms of Article 46, paragraph 2, of the Convention for the Protection of Human Rights and Fundamental Freedoms, which provides that the Committee supervises the execution of final judgments of the European Court of Human Rights (hereinafter “the Convention” and “the Court”),

Having regard to the final judgment transmitted by the Court to the Committee in the above case and to the violation established (see document [DH-DD\(2012\)978E](#));

Recalling that the respondent State’s obligation under Article 46, paragraph 1, of the Convention to abide to by all final judgments in cases to which it has been a party and that this obligation entails, over and above the payment of any sums awarded by the Court, the adoption by the authorities of the respondent State, where required:

- of individual measures to put an end to violations established and erase their consequences so as to achieve as far as possible *restitutio in integrum*; and
- of general measures preventing similar violations;

Having invited the government of the respondent State to inform the Committee of the measures taken to comply with its above-mentioned obligation;

Having examined the action report provided by the government indicating the measures adopted in order to give effect to the judgment including the information provided regarding the payment of the just satisfaction awarded by the Court (see document [DH-DD\(2012\)978E](#));

Having satisfied itself that all the measures required by Article 46, paragraph 1, have been adopted;

DECLARES that it has exercised its functions under Article 46, paragraph 2, of the Convention in this case and

DECIDES to close the examination thereof.

¹ Adopted by the Committee of Ministers on 7 March 2013 at the 1164th meeting of the Ministers’ Deputies.

Execution of Judgments of the European Court of Human Rights
Action Report

Gillan & Quinton v the United Kingdom (application no. 4158/05; judgment final on 28 June 2010)

Case Summary

On 9 September 2003 the applicants were stopped and searched by police using powers under the Terrorism Act 2000.

The Court found sections 44-46 of the Terrorism Act 2000 to be in breach of Article 8 (the right to respect for private and family life) of the European Convention on Human Rights (ECHR) because they were not "in accordance with the law".

The Court found the powers in those provisions (which enabled 'no suspicion' stop and search) were neither sufficiently circumscribed nor subject to adequate legal safeguards against abuse.

I. Individual Measures

Just satisfaction:

The just satisfaction award has been paid; evidence previously supplied. The "stop and search" of the applicants took place on 9 September 2003 and lasted no more than 30 minutes at maximum. No further individual measures are required.

II. General Measures

1. Publication:

The Government published an article on the Home Office website about the Court's judgment, including reference to the judgment and a weblink to the website of the ECtHR (www.homeoffice.gov.uk/media-centre/news/changes-use-stop-search).

A list of other publications where the judgment has been published was annexed to the Government's Action Plan of 1 October 2010 (see [DH-DD\(2011\)851E](#)).

2. Dissemination:

The Government took steps to bring the judgment to the attention of police and the public by:

- Announcing in both the House of Commons and the House of Lords, the steps that the Home Secretary had taken to ensure the powers under sections 44 to 46 of the Terrorism Act 2000 would be used in a way compatible with the Court's decision
(<http://www.publications.parliament.uk/pa/cm201011/cmhansrd/cm100708/debtext/100708-0001.htm#10070875001177>
<http://www.publications.parliament.uk/pa/ld201011/ldhansrd/text/100708-0002.htm#10070878000285>)
- Ensuring the Association of Chief Police Officers disseminated information about those guidelines to all police forces (www.npia.police.uk/en/16413.htm)
- Undertaking a comprehensive review of the powers, the results of which were announced in Parliament as part of a wider review of counter terrorism powers on 26 January 2011
- Introducing changes to domestic legislation in the Protection of Freedoms Act 2012, which received Royal Assent on 1st May 2012.

The judgment has also been widely reported in the media and is available via numerous, easily accessible websites.

III. Other general measures:

3. The Government took the following immediate steps to ensure the judgment was implemented.

4. On 8th July 2010 the Government announced that the powers under sections 44 to 46 would no longer be used in a way which had been found to be incompatible with article 8 of the ECHR in Court's judgment (see links above to statements made by the Home Secretary and the Minister for Security and Counter Terrorism). These guidelines were in place temporarily pending the outcome of a Government review of sections 44 to 47 (which formed part of a wider review into various counter-terrorism measures and powers) which sought to identify changes which should be made to the legislation to ensure it is compatible with the European Convention on Human Rights.

5. The outcome of that review was announced to Parliament on 26 January 2011 and can be found on the Home Office website at www.homeoffice.gov.uk/publications/counter-terrorism/review-of-ct-security-powers/. The review recommended significant changes to bring powers into compliance with ECHR rights and ensure that previous misuse associated with section 44 is not repeated.

6. In response to the review, the Government made an urgent remedial order under section 10 of and Schedule 2 to the Human Rights Act 1998, to immediately repeal and replace section 44 with new, circumscribed powers. The Home Secretary made an urgent remedial order containing the new provisions, which came into force on 18 March 2011. Full details of the remedial order can be found at www.homeoffice.gov.uk/publications/counter-terrorism/terrorism-act-remedial-order

7. The Protections of Freedoms Act 2012 places the powers provided by the Terrorism Act 2000 (Remedial) Order 2011 on a permanent footing. This Act received Royal Assent on 1 May 2012: <http://www.legislation.gov.uk/ukpga/2012/9/contents/enacted>.

8. Section 59 of the Protection of Freedoms Act 2012 repeals the stop and search powers in sections 44 to 47 of the 2000 Act. Section 60 and Schedule 5 to that Act introduce new and tightly circumscribed powers. The new powers enable the police to stop and search people and vehicles with no suspicion only in exceptional circumstances, where a senior police officer reasonably suspects that an act of terrorism will take place and where the powers are considered necessary to prevent such an act. In addition to this significantly higher threshold for the police to authorise the use of the powers, there are a number of strengthening safeguards provided by the Act.

9. Section 62 of the Protection of Freedoms Act 2012 inserts a new section 47AA to 47AE into the Terrorism Act, making provision for a Code of Practice for terrorism stop and search powers. New section 47AA places a duty on the Secretary of State to prepare a Code of Practice about the powers in section 43 and 43A of the 2000 Act (stop and search with reasonable suspicion), and those created by new section 47A of the 2000 Act.

10. Following a public consultation, the Codes of Practice governing the use of terrorism stop and search powers (in Great Britain and Northern Ireland) were laid before Parliament on 10 May 2012 and came into force on 10 July 2012. The relevant Codes of Practice for England, Wales and Scotland can be found at: [Code of Practice - Stop and Search - \(England Wales Scotland\)](#)
A separate link to the equivalent Code of Practice for Northern Ireland can be found at: [Code of Practice - Stop and Search \(Northern Ireland\)](#)

11. Commencement of the substantive stop and search provisions is provided for in the Protection of Freedoms Act 2012 (Commencement No. 1) Order 2012. The majority of the provisions within this Order came into force on 1 July, and stop and search powers came into force on 10 July (to ensure that the relevant Code(s) of Practice were in force before the substantive powers became available for use).

State of execution of judgment:

12. The Government considers that all necessary steps have been taken to implement the judgment, and that the case should be closed.