



Grand Chamber hearing concerning the fairness of a procedure revoking the security clearance of a vice-minister

The European Court of Human Rights is holding a **Grand Chamber**¹ hearing today **Wednesday 19 October 2016 at 9.15 a.m.** in the case of **Regner v. the Czech Republic** (application no. 35289/11).

The case concerns the fairness of the judicial review of an administrative decision revoking Mr Regner's security clearance, which had been a prerequisite for him to be able to discharge a high-level function in the Ministry of Defence.

The hearing will be broadcast from 2.30 p.m. on the Court's Internet site (www.echr.coe.int). After the hearing the Court will begin its deliberations, which will be held in private. Its ruling in the case will, however, be made at a later stage.

The applicant, Václav Regner, is a Czech national who was born in 1962 and lives in Prague.

In September 2006 the National Security Authority decided to revoke the security clearance which Mr Regner had been granted to perform his duties as deputy to a Vice-Minister of Defence, on the grounds that he was a risk to national security. However, the decision made no reference to the confidential information on which it was based; the information in question was classified as "restricted" and, in accordance with the law, could not be disclosed to him.

On an appeal by Mr Regner, the President of the National Security Authority confirmed the existence of the risk. An application by Mr Regner for judicial review was subsequently rejected by the Prague City Court, to which the documents in question had been transmitted by the National Security Authority. Mr Regner and his lawyer were not authorised to consult them. The Supreme Administrative Court rejected his subsequent appeal, holding that the disclosure of the information would result in exposure of the intelligence service's working methods, disclosure of sources of information or attempts by the applicant to influence potential witnesses. Mr Regner then lodged an appeal with the Constitutional Court, complaining that the proceedings had been unfair. The Constitutional Court dismissed his appeal in November 2010, finding that it was not always possible to ensure all the procedural guarantees of fairness where confidential information relating to national security was at stake.

Relying on Article 6 § 1 (right to a fair trial) of the European Convention on Human Rights, Mr Regner complains that the administrative proceedings in his case were unfair, in that it was impossible to have access to a decisive piece of evidence classified as confidential which had been made available to the courts by the defendant.

Procedure

The application was lodged with the European Court of Human Rights on 25 May 2011.

¹ Under Article 43 of the European Convention on Human Rights, within three months from the date of a Chamber judgment, any party to the case may, in exceptional cases, request that the case be referred to the 17-member Grand Chamber of the Court. In that event, a panel of five judges considers whether the case raises a serious question affecting the interpretation or application of the Convention or its protocols, or a serious issue of general importance, in which case the Grand Chamber will deliver a final judgment. If no such question or issue arises, the panel will reject the request, at which point the judgment becomes final. Otherwise Chamber judgments become final on the expiry of the three-month period or earlier if the parties declare that they do not intend to make a request to refer.

In its Chamber [judgment](#) of 26 November 2015, the European Court of Human Rights held, unanimously, that there had been no violation of Article 6 § 1 of the Convention, finding that, as far as possible, the decision-making procedure had complied with the requirements of adversarial proceedings and equality of arms, and had incorporated adequate safeguards to protect Mr Regner's interests.

On 2 May 2016 the Grand Chamber Panel [accepted](#) the applicant's request that the case be referred to the Grand Chamber.

The Government of the Slovak Republic was granted leave to intervene in the written proceedings as a third party.

Composition of the Court

The case will be heard by a Grand Chamber, composed as follows:

Guido Raimondi (Italy), *President*,
András Sajó (Hungary),
Işıl Karakaş (Turkey),
Luis López Guerra (Spain),
Mirjana Lazarova Trajkovska ("the Former Yugoslav Republic of Macedonia"),
Khanlar Hajiyev (Azerbaijan),
Linos-Alexandre Sicilianos (Greece),
Erik Møse (Norway),
Aleš Pejchal (the Czech Republic),
Krzysztof Wojtyczek (Poland),
Egidijus Kūris (Lithuania),
Robert Spano (Iceland),
Mārtiņš Mits (Latvia),
Georges Ravarani (Luxembourg),
Pere Pastor Vilanova (Andorra),
Alena Poláčková (Slovakia),
Georgios A. Serghides (Cyprus), *judges*,
Marko Bošnjak (Slovenia),
Pauliine Koskelo (Finland),
Carlo Ranzoni (Liechtenstein), *substitute judges*,

and also Johan Callewaert, *Deputy Grand Chamber Registrar*.

Representatives of the parties

Government

Vít Alexander Schorm, *Agent*,
Vladimír Pysk, Lenka Zahradnická and Helena Bončková, *Counsel*;

Applicant

Marek Bilej, Dominika Káňová and Anna Kukrálová, *Counsel*.

Mr Václav Regner, the applicant in this case, will also attend the hearing.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.