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**Date:** 31/10/2019

**DH-DD(2019)1248**

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Meeting: 1362<sup>nd</sup> meeting (December 2019) (DH)

Item reference: Action plan (24/10/2019)

Communication from the United Kingdom concerning the case of Catt v. the United Kingdom (Application No. 43514/15)

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Réunion : 1362<sup>e</sup> réunion (décembre 2019) (DH)

Référence du point : Plan d'action

Communication du Royaume-Uni concernant l'affaire Catt c. le Royaume-Uni (requête n° 43514/15)  
**(anglais uniquement)**

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DGI

24 OCT. 2019

SERVICE DE L'EXECUTION  
DES ARRETS DE LA CEDH

**Execution of Judgments of the European Court of Human Rights**  
**ACTION PLAN**

**CATT V THE UNITED KINGDOM**

**Application number 43514/15**

**Judgment final on 24 April 2019**

**Information submitted by the United Kingdom Government on 24 October 2019**

**CASE SUMMARY**

The applicant was an elderly pacifist who participated in demonstrations including protests organised by a group called Smash EDO. Whilst he had no criminal record and was not considered a danger to anyone, the protests involved disorder and criminality and information about the protests and members of Smash EDO was collected by the police and held on the database referred to in the proceedings as the domestic extremism database.

In 2010, the applicant requested that information relating to his attendance at demonstrations and events, mostly related to Smash EDO, between 2005 and 2009 be deleted from the database. The request was initially refused, however, following a review in 2012, records that referred primarily to him were deleted. Some entries that made incidental reference to him did however continue to be retained on the database. He challenged this, arguing that retaining the data was not necessary within the meaning of Article 8.

The European Court of Human Rights found a violation of the applicant's Article 8 rights. The Court accepted that there were good policing reasons why such data had to be collected, and in the case of the applicant it had been justified because Smash EDO's activities were known to be violent and potentially criminal. However, the Court expressed concerns about the continuing retention of the data, as it did not consider there to be a pressing need, after a time, to retain the data relating to him.

The Court considered that the continued retention of data in the applicant's case had been disproportionate because it revealed political opinions requiring enhanced protection. It had been accepted he did not pose a threat (taking account of his age) and there had been a lack of procedural safeguards, the only safeguard provided by the Management of Police Information (MoPI) Code of Practice being that data would be held for a minimum of six years and then reviewed. The Court did not consider that this was applied in a meaningful way as the decision to retain the data did not take account of the heightened level of protection it attracted as data revealing a political opinion. The Court rejected the argument that it would be too burdensome to review and delete all entries on the database relating to the applicant; also, if this were accepted as a valid reason for non-compliance, that would create a route to allow violations of Article 8.

The applicant was awarded EUR 27,000 plus any tax that may be chargeable to the applicant, in respect of costs and expenses. This was to be paid within three months from the date on which the judgment became final.

**INDIVIDUAL MEASURES**

**Just satisfaction:**

The just satisfaction award has been paid. Evidence of payment has been supplied separately.

**Other measures:**

The Government has taken the following individual measures in respect of the applicant.

1. The police unit (National Domestic Extremism and Disorder Intelligence Unit) which held the standalone database containing the applicant's six data entries which were the subject of the judgment, has ceased to exist.
2. The information held by this unit was transferred to the National Counter Terrorism Policing Operations Centre within the Metropolitan Police Service (MPS). A new national database (the National Common Intelligence Application (NCIA)) supports the work of this Centre, and is detailed in the General Measures section below.
3. Other police forces migrated their respective standalone databases to the NCIA. Searches were then conducted by the Compliance & Protective Monitoring Unit across the migrated databases for any references to the applicant. Any remaining references to the applicant that were identified were deleted by 4 October 2019.
4. The same exercise was conducted in respect of any PDF records held and all references to the applicant were deleted from those records by 4 October.
5. The Undercover Policing Inquiry ([www.ucpi.org.uk](http://www.ucpi.org.uk)) requires that MPS data is adequately preserved for the purposes of the inquiry. The MPS have therefore maintained a copy of the standalone database referred to in paragraph 1, which contains references to the applicant. Access to this database is restricted to fewer than 20 individuals and it is preserved only for the purposes of the inquiry.

## **GENERAL MEASURES**

The Government has taken the following general measures:

The National Common Intelligence Application (NCIA) database has been created to replace forces' individual counter-terrorism databases. The NCIA is a national database and is administered centrally by the National Counter Terrorism Police Headquarters within the MPS. As this data is now on one database and is under the control of one police force, this ensures a consistent approach to the review, retention and disposal of this information. A team of assessors determine whether a record is relevant and necessary and whether it is proportionate for the record to be added to the database, and their decisions are recorded.

The NCIA database schedules a review for all records at either 6, 7 or 10 years depending on the category of the data. A user may also trigger a record for review at another date in time if considered necessary.

The work of the assessor team in the MPS will be supported by a revised review, retention and disposal (RDD) policy in respect of the records held on the new NCIA database.

The Government is considering what further general measures should be taken. The police are operationally independent and this work is led by the Metropolitan Police Service, the College of Policing and the National Police Chiefs Council (NPCC). This work will include a review and refresh of the Management of Police Information guidance. This work is led by a national level 'Records Management Working Group' which also includes a member from the Information Commissioner's Office, whose role is to uphold information rights in the public interest.

## **Publication:**

The judgment has been published in the following law reports:

(2019) 69 E.H.R.R. 7

The Times (Law Reports), 29 January 2019

[2019] ECHR 76 (<https://www.bailii.org/eu/cases/ECHR/2019/76.html>)

It also attracted media attention and was summarised in a number of legal and general websites:

<https://ukhumanrightsblog.com/2019/01/30/privacy-and-the-peace-protestor-an-extended-look/>

<https://www.ukpoliceblog.com/index.php/9-blog/201-the-catt-that-got-the-cream>

### **Dissemination:**

The judgment was disseminated by the Home Office to the police and other law enforcement agencies at the Law Enforcement Facial Images and New Biometrics Oversight and Advisory Board meeting held on 6 March 2019. Membership of the board includes police force representatives, Government departments and representatives from the devolved administrations. The meeting was also attended by representatives from the Information Commissioner's Office, the Investigatory Powers Commissioner's Office, the Office of the Biometrics Commissioner, the National Law Enforcement Data Service, the Surveillance Camera Commissioner, the Forensic Science Regulator's Office and the Police and Crime Commissioner for Surrey. Minutes of the meeting are publicly available at:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/808240/Facial\\_Images\\_and\\_New\\_Biometrics\\_Oversight\\_and\\_Advisory\\_Board\\_Mar\\_19\\_Minutes.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/808240/Facial_Images_and_New_Biometrics_Oversight_and_Advisory_Board_Mar_19_Minutes.pdf)

Further, Home Office officials disseminated the judgment to members of the joint NPCC and Home Office FIND (Forensics Information Databases) Strategy Board, which oversees the police use of DNA and fingerprints.

The judgment focuses on the policies and processes in place for reviewing the collection and retention of data collected for law enforcement purposes in England & Wales. As policing is a devolved matter, each devolved administration is responsible for their respective policy and guidance on the collection and retention of information for police purposes. As above, the judgment has been disseminated to the devolved administrations to consider whether their policies are affected.

The judgment has been disseminated to UK Government officials responsible for human rights legislation.

### **State of execution of judgment:**

The Government will forward further information as soon as possible.