

February 2014

Khan v. the United Kingdom (dec.) - 11987/11

Decision 28.1.2014 [Section IV]

Article 1

Jurisdiction of states

Absence of territorial jurisdiction in respect of immigrant applicant who had voluntarily returned to his country of origin

Facts – The applicant, a Pakistani national, came to the United Kingdom in 2006 on a student visa. In 2009 he and four other Pakistani nationals were arrested on suspicion of conspiracy to carry out acts of terrorism. They were released by the police without charge but were served with a notice of intention to deport and taken into immigration detention. The applicant voluntarily left the United Kingdom in August 2009. In December 2009 he was notified by letter of the Secretary of State's decision to cancel his leave to remain in the United Kingdom on the grounds that his presence would not be conducive to the public good for reasons of national security. The letter also informed him that he was judged to be involved in Islamist extremist activity. His appeal against the decision to cancel his leave was dismissed by the Special Immigration Appeals Commission (SIAC). In his application to the European Court the applicant complained, *inter alia*, of violations of Articles 2, 3, 5 and 6 of the Convention.

Law – Article 1: Whether Articles 2, 3, 5 and 6 were engaged turned on whether the applicant could be said to be "within the jurisdiction" of the United Kingdom. A State's jurisdictional competence under Article 1 was primarily territorial, although the Court had recognised two principal exceptions to that principle, namely circumstances of "State agent authority and control" and "effective control over an area"*. In the present case, where the applicant had returned voluntarily to Pakistan, neither exception applied, particularly as he had not complained about the acts of British diplomatic and consular agents in Pakistan and remained free to go about his life in the country without any control by agents of the United Kingdom. Moreover, and contrary to the applicant's submission, there was no principled reason to distinguish between someone who was in the jurisdiction of a Contracting State but had left voluntarily and someone who was never in the jurisdiction of that State. Nor was there any support in the Court's case-law for the applicant's argument that the State's obligations under Article 3 required it to take that provision into account when making adverse decisions against individuals, even when those individuals were not within its jurisdiction. Lastly, jurisdiction could not be established simply on the basis of the proceedings before SIAC. The mere fact that the applicant had availed himself of his right to appeal against the decision to cancel his leave to remain had no direct bearing on whether his complaints relating to the alleged real risk of his ill-treatment, detention and trial in Pakistan fell within the jurisdiction of the United Kingdom: it was the subject matter of the applicants' complaints alone that was relevant.

Conclusion: inadmissible (incompatible *ratione loci*).

* See *Al-Skeini and Others v. the United Kingdom* [GC], 55721/07, 7 July 2011, [Information Note 143](#).

© Council of Europe/European Court of Human Rights
This summary by the Registry does not bind the Court.

Click here for the [Case-Law Information Notes](#)