

**Canadian Human
Rights Tribunal**



**Tribunal canadien
des droits de la personne**

Citation: 2026 CHRT 3
Date: January 12, 2026
File No.: HR-DP-3045-24

Between:

Kagusthan Ariaratnam

Complainant

- and -

Canadian Human Rights Commission

Commission

- and -

Canadian Security Intelligence Service

Respondent

Ruling

Member: Ashley Bressette-Martinez

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I. OVERVIEW

[1] The Respondent, the Canadian Security Intelligence Service (CSIS), filed this motion and asks the Tribunal to place temporal and substantive limits on this complaint. Mr. Kagusthan Ariaratnam, the Complainant, filed his Statement of Particulars (SOP) and included allegations and information about alleged discrimination dating back to 1997. CSIS says that those allegations are not part of the substance of the complaint. It says that the only allegation of discrimination that was raised, investigated, and referred to the Tribunal by the Canadian Human Rights Commission (the “Commission”) was that CSIS discriminated against Mr. Ariaratnam by sharing information about his mental health in the context of a site access clearance that was required for a job he applied to in 2016. CSIS says that allowing the SOP in its current expanded form would not respect the legislative framework of the *Canadian Human Rights Act*, R.S.C., 1985, c. H-6 (CHRA) and would cause it prejudice because of the passage of time, loss of evidence, and its ability to put forward a defense.

[2] The Complainant argues that the motion should be dismissed because the scope of a complaint can only be limited by an explicit statement in the Commission’s referral letter to the Tribunal or by a lack of a nexus to the allegations in the original complaint form filed with the Commission. He says that neither of those apply in this case and that his complaint was referred in its entirety by the Commission.

[3] The Commission chose not to take part in this motion.

II. DECISION

[4] The motion is allowed in part. Mr. Ariaratnam can include disability or perceived disability, ethnic and national origin, race, and religion as grounds of discrimination in his SOP. However, I find that the allegations of discrimination against CSIS that predate the 2016 site access clearance were not part of his original complaint and were not referred to the Tribunal. They are an entirely new complaint and do not form part of this inquiry.

III. ISSUES

[5] The issues for decision are:

1. What is the substance and scope of Mr. Ariaratnam's complaint?
2. Is Mr. Ariaratnam required to modify his SOP?

IV. BACKGROUND

A. The 2018 Commission Complaint

[6] The procedural history leading to the complaint being referred to the Tribunal is complex. I have reproduced a short version of it for context.

[7] Mr. Ariaratnam applied for a job on Parliament Hill as a security guard in 2016. He was required to obtain a security clearance, known as a "site access clearance", as part of that application process. CSIS is responsible for conducting security assessments for federal departments that make requests for site access clearance. In this case, Mr. Ariaratnam never got a clearance, and he did not understand why. So, he filed a complaint about CSIS in 2017 because he thought that CSIS refused to provide one to him. He filed that complaint with the Security Intelligence Review Committee, now the National Security and Intelligence Review Agency (NSIRA). NSIRA is the government agency responsible for handling complaints about CSIS.

[8] Mr. Ariaratnam also filed a complaint about CSIS with the Commission. But the Commission put his complaint "on hold" in July 2018 because it knew that NSIRA was dealing with the same complaint about CSIS.

[9] NSIRA held a hearing about Mr. Ariaratnam's complaint in 2019. When he got a copy of the NSIRA hearing transcripts that year, he learned for the first time that CSIS gathered information through open-source internet searches and two immigration briefs that CSIS prepared in the context of screening him for citizenship. This is when he learned that CSIS

shared information about his mental health with the House of Commons and that it was the House of Commons that cancelled the site access clearance request.

B. The 2020 Commission Complaint

[10] Mr. Ariaratnam's complaint form was amended in February 2020 to include reference to the fact that CSIS shared information about his mental health with the House of Commons. His complaint form says that the alleged discrimination took place from January 2017 to February 2020. The complaint form lists disability and national or ethnic origin in the prohibited grounds of discrimination field. It also says that he experienced adverse differential treatment in the delivery of a service, in contravention of section 5 of the CHRA. Based on my reading of it, the complaint talks about two periods of time: pre-2016 and post-2016.

[11] For context, in his February 2020 complaint form, under "Complainant's Story", Mr. Ariaratnam says that he was a former child soldier forced at a young age to join the Liberation Tigers of Tamil Eelam. He fled to Canada in the 90s and was granted refugee status. He says that he was an unpaid informant for CSIS, and he mentions interactions that he had with CSIS agents from 2000 to 2017. The story in the complaint form includes information about a "Canadian government official" visiting him at his home, and it refers to subsequent interactions that he allegedly had with this official. The complaint form also contains information about visits to a medical clinic, interactions with law enforcement officials, and statements that officials instructed law enforcement authorities to take him to a medical facility where he was diagnosed with two mental health conditions. The complaint form also says that he provided information to the Canada Border Services Agency in 2009 about a migrant ship that arrived in Canada from Sri Lanka.

[12] Towards the end of the "Complainant's Story", Mr. Ariaratnam says that "CSIS improperly used the information it collected on me that is confidential in denying my site access clearance."

C. The Commission's process leading to the referral to the Tribunal

[13] In October 2020, the Commission determined that the complaint would be deferred until the NSIRA investigation was complete and made available to the parties. Two months later, in December 2020, and three years after the complaint was filed, NSIRA issued its report and found that CSIS shared information about Mr. Ariaratnam's mental health with the House of Commons. Neither party challenged the findings of NSIRA. And this is when Mr. Ariaratnam's complaint form was modified.

[14] In January 2021, the Commission told the parties that it was considering dismissing the complaint, on the basis that NSIRA could have addressed the allegations of discrimination as part of its process. The parties provided submissions to the Commission on this issue.

[15] More than a year later, in February 2022, the Commission issued its report recommending that it not deal with the complaint. It had to issue a supplementary report because it did not consider the parties' submissions. Ultimately, in the supplementary report, the Commission recommended that it not deal with the complaint because the Complainant raised or could have raised all his concerns regarding CSIS with NSIRA. In the supplementary report, the Commission said that the pre-2016 information was provided as background only. That report was about the 2016 site access clearance, and the Commission relied on the findings that NSIRA made in coming to its recommendation.

[16] Three months later, the Commission dismissed Mr. Ariaratnam's complaint filed under s. 41(1)(d) of the CHRA. The Complainant challenged the Commission's decision in Federal Court and he was successful (*Ariaratnam v. Canada (Attorney General)*, 2023 FC 1248). The Federal Court found that the Commission reached contradictory conclusions about what Mr. Ariaratnam raised before NSIRA and also about whether he knew the case to meet.

[17] In redetermining the complaint, the Commission issued a second supplementary report (the "2024 Report"). It recommended that the complaint be dealt with because Mr. Ariaratnam was unable to raise his human rights issues during the NSIRA process. The Commission said at paragraph 86 that "there is sufficient information in materials submitted

by the parties to support the Complainant's allegations that his personal characteristics, notably his disability (or perceived disability), may have been a factor which led to the Respondent improperly disclosing certain information about the Complainant to potential employers. Therefore, further inquiry by the Tribunal is warranted." Mr. Ariaratnam's complaint was referred to the Tribunal, pursuant to section 49 of the CHRA. Neither party challenged the referral decision.

D. Case management at the Tribunal

[18] Case management of this file began in the fall of 2024. Mr. Ariaratnam filed his SOP in February 2025. His SOP is 45 pages in length and his allegations date back to 1997. He is seeking monetary compensation as a remedy. He asks the Tribunal to award him roughly \$2.2 million in lost income, lost benefits over a 22-year period (yet to be calculated), more than \$1.6 million in interest, and the maximum amounts allowable for pain and suffering and willful and reckless conduct. He listed 308 documents and 8 witnesses in addition to himself. Five of those witnesses were/are CSIS agents.

[19] In April 2025, CSIS filed this motion and asked the Tribunal to order Mr. Ariaratnam to file a new SOP. Shortly after this motion was filed, the Commission referred this complaint to NSIRA, under section 45 of the CHRA. The Tribunal dealt with a motion on whether or not it ought to hold the complaint in abeyance pending the NSIRA proceeding (see *Ariaratnam v. Canadian Security Intelligence Service*, 2025 CHRT 105). I decided that the complaint should proceed, and the final submissions on this motion were filed in December 2025.

V. ANALYSIS

A. Legal framework – scope of a complaint

[20] The CHRA sets out a comprehensive framework for dealing with complaints of discrimination, which distinguishes the roles for the Commission and the Tribunal (*Canada (Canadian Human Rights Commission) v. Warman*, 2012 FC 1162 at para 55). The

Commission is responsible for receiving, screening, and investigating complaints (ss. 40, 44, and 49 of the CHRA). The Tribunal gets its jurisdiction to hear complaints based on the original complaint filed with the Commission and the Commission's decision when it refers a complaint to the Tribunal (ss. 44(3) and 49(1) of the CHRA, *Garnier v. Correctional Service of Canada*, 2023 CHRT 32 at para 9 [*Garnier*]). If the Commission decides that parts of the complaint are not being referred to the Tribunal for an inquiry, it will advise the Tribunal's Chairperson of this in its referral letter by providing reasons. However, if the Commission does not provide this guidance, the Tribunal assumes jurisdiction over the entire complaint as it was submitted to the Commission by the Complainant (*Nolet v. Canadian Armed Forces*, 2025 CHRT 92 at para 55 [*Nolet*]).

[21] When scope is at issue in a complaint, the Tribunal can consult a number of documents to help it determine what the complaint is about. SOPs are filed at the start of the hearing process at the Tribunal. It goes without saying that complaints can evolve during the Commission's investigation and an SOP can clarify, refine, and elaborate on the allegations of discrimination in a complaint (*Nolet* at para 56, *Karas v. Canadian Blood Services and Health Canada*, 2021 CHRT 2 at para 22 [*Karas*], citing *Casler v. Canadian National Railway*, 2017 CHRT 6 at para 9).

[22] But an SOP cannot introduce an entirely new complaint that has not been put before the Commission and referred to the Tribunal (*Nolet* at para 58). This would undermine the Commission's role under the CHRA (*Dorey et al. v. Employment and Social Development Canada*, 2023 CHRT 23 at para 80 [*Dorey*]; *Garnier* at para 10). Amendments that respect the factual foundation of the original complaint can be allowed (*Levasseur v. Canada Post Corporation*, 2021 CHRT 32 at para 17 [*Levasseur*]) but not where it alters the allegations in the original complaint to a degree that it is an entirely new matter being referred to the Tribunal (*Canadian Human Rights Commission v. Canadian Telephone Employees Association et al*, 2002 FCT 776 at paras 30-31). Where an allegation was before the Commission but was not referred to the Tribunal, it is not open to the Tribunal to re-add the allegation that the Commission declined to refer (*Campos-Ruiz v. Royal Canadian Mounted Police*, 2023 CHRT 17 [*Campos-Ruiz*]).

[23] There are other documents that the Tribunal can consult to determine the scope of a complaint, such as the original complaint form, the Commission's investigation report, letters, and any other administrative forms in the file (*Levasseur* at para 17). These documents help establish what the complaint is about to determine whether there is a sufficient nexus between the allegations in the SOP and the original complaint (*Levasseur* at para 16).

B. What is the substance and scope of Mr. Ariaratnam's complaint?

[24] The scope and substance of Mr. Ariaratnam's complaint is about the 2016 site access clearance as possible discrimination under section 5 of the CHRA, based on his disability or perceived disability, national and ethnic origin, race, and religion.

(i) Grounds of discrimination include national and ethnic origin, race and religion, in addition to disability and perceived disability

[25] CSIS argues that the original complaint focussed on disability or perceived disability as the sole ground of alleged discrimination and takes issue with the fact that Mr. Ariaratnam included additional grounds of discrimination in his SOP. CSIS says that the additional grounds were not raised before, are unrelated to the 2016 site access clearance, and that, based on this, they should not be included in the SOP because it would be prejudicial.

[26] Both the complaint form dated February 2020 and the Commission's 2024 Report list disability (or perceived disability) and ethnic and national origin as grounds of discrimination. Based on this, there is a sufficient connection with the substance of the original complaint to include them in the SOP (*Levasseur* at para 17). As for the additional grounds of race and religion, I also find that there is a sufficient nexus between them and the original complaint and that failing to include them would not respect the intersectionality provision at section 3.1 of the CHRA.

[27] As the Complainant correctly pointed out in his submissions, an SOP can include new grounds of discrimination if it supports the theory of his case (*Connors v. Canadian Armed Forces*, 2019 CHRT 6 at paras 10-12 [*Connors*]). In this case, Mr. Ariaratnam is

simply requesting to add grounds of discrimination so that the facts that he presents at the hearing can be analyzed from additional perspectives in terms of showing discrimination. I do not see how the inclusion of these grounds creates a prejudice to CSIS because adding them does not fundamentally transform the complaint or change the factual basis of the allegations. Mr. Ariaratnam can include these additional grounds of discrimination so that he can ask to introduce evidence about his race, religion, national and ethnic origin, and disability (or perceived disability) for the purpose of determining if they were factors in the alleged discrimination about the site access clearance (*Connors* at para 15).

(ii) Pre-2016 allegations are not part of this inquiry

[28] CSIS does not take issue with the fact that the Commission referred the entire complaint to the Tribunal. It does, however, argue that the substance of this complaint is and has always been the 2016 site access clearance as a service under section 5 of the CHRA. It says that Mr. Ariaratnam significantly expanded and changed the scope of his original complaint and has altered it in a way that makes his original allegation about the 2016 site access clearance a peripheral issue in comparison to the new allegations that predate 2016, which are rooted in section 7 of the CHRA.

[29] Mr. Ariaratnam says that the original complaint form he filed should be treated as a synopsis only and that it should not be restricted by form over substance, given the quasi-constitutional nature of the CHRA (*AA v. Canadian Armed Forces*, 2019 CHRT 33 at paras 56-57 [*AA v. CAF*]). He argues that CSIS's motion is based on three irrelevant bases: 1) a report from the Commission that was "fundamentally flawed"; 2) the fact that screening decisions by the Commission do not limit the scope of a complaint; and 3) information entered in the summary fields of the form by the Commission is inconsistent and was entered without his knowledge or consent. He says that he was never able to correct this information because he only learned about it after the Tribunal's process began. He also says that unless the Commission specifically excludes allegations, there is a presumption that the entire complaint is referred (*Jorge v. Canada Post Corporation*, 2021 CHRT 25 at para 211).

[30] There is no question that given the quasi-constitutional nature of the CHRA, complaints should not be unduly restricted by form over substance to give full effect to the right to live free from discrimination (*AA v. CAF* at para 57). While I sympathize with the parties in terms of the lengthy and complex history of this complaint, the way that Mr. Ariaratnam has framed the issue is incorrect because the background information and details in his complaint form are not substantive allegations that were part of his complaint and referred to the Tribunal. I agree with CSIS that the Commission referred a complaint about the site access clearance to the Tribunal—nothing more. I do not agree that the February 2020 complaint form sets out allegations of discrimination against CSIS in terms of unpaid work, refusal to hire, interference with other employment, recklessness about exposing the complainant, and him being discredited and described as being delusional. However, I do not intend to minimize the seriousness of what Mr. Ariaratnam described in his complaint form.

[31] Mr. Ariaratnam filed his complaint in 2018 after he was denied a site access clearance, and he amended it in 2020 after he learned that CSIS shared information about his mental health with potential employers, and this is what the complaint is about. I do not disagree that Mr. Ariaratnam's complaint form outlines, in very broad strokes, his alleged interactions with CSIS beginning in 1997—some 20 years prior to the 2016 site access clearance being denied and him filing complaints about CSIS. But in reading his February 2020 complaint and the Commission's 2024 Report, it appears to me that the Commission considered that the information about the pre-2016 period is contextual so that the reader can understand what transpired with the site access clearance.

[32] There is a stark difference between the complaint that the Commission referred and the SOP that was filed in this case. The SOP that Mr. Ariaratnam filed has more than 100 paragraphs about the pre-2016 allegations and a substantial remedial claim, whereas the 2016 site access clearance issue appears in only 10 or so paragraphs. The majority of his remedial ask in the millions of dollars is also tied to pre-2016 allegations related to employment under section 7 of the CHRA. The document list that he provided is made of hundreds of documents about lost wages, and more than half of his witnesses are former or current CSIS agents whom he interacted with many years before the site access

clearance. The SOP is heavily focussed on section 7 CHRA allegations about “employment.” These allegations are not particularized in any way in his complaint or in any of the Commission Reports for Decision that were attached to the referral. This is simply not a situation where a detail or peripheral aspect that was not scrutinized by the Commission has been added to the SOP (*Dorey* at para 92).

[33] While complaints can evolve, their evolution must respect the substance of the original complaint that was considered by the Commission (*Nolet* at para 56). But in this case, Mr. Ariaratnam’s SOP contains entirely new allegations, and it does more than refine, clarify, and elaborate on the original allegations that were in his complaint form. His SOP introduces multiple new lines of inquiry that were not considered by the Commission in any of its reports or in any of the documents that were part of the referral (*Garnier* at para 10). This is problematic because the Commission has a gatekeeping function, which is critical to the CHRA framework (*Karas* at para 16), and the Tribunal cannot deal with a complaint that was not referred to it by the Commission. This is particularly true in this case, where the Commission could have considered the pre-2016 allegations that were in Mr. Ariaratnam’s amended complaint form, but the context suggests that the Commission considered them to be merely background information and not part of the allegations it referred (*Campos-Ruiz*).

[34] I acknowledge that the Commission chose to refer this complaint under section 49 of the CHRA, which does not require it to conduct a full investigation. However, I do not find that the proposition that the Commission is not obligated to investigate every aspect of a complaint before referring it to the Tribunal is applicable in this case (*Connors* at paras 39-40). This is not a case where the Commission read the complaint and decided to refer it to the Tribunal quickly.

[35] There is no denying that the parties invested considerable effort and time over more than six years before the Commission referred the complaint to the Tribunal. I will not go back over the complex procedural history of this complaint but suffice to say that the Commission considered, on multiple occasions, whether it ought to deal with the complaint. Between 2018 and 2024, there were multiple reports for decision and, in those reports, the Commission outlined its understanding of what this complaint was about: the 2016 site

access clearance as a section 5 CHRA complaint. I can only presume that if the complaint was about the events predating 2016, this would have been said or referenced at least once, in at least one of the Commission's reports along the way. But that is not the case here. Based on this, I cannot conclude that the Commission considered or intended to refer the pre-2016 allegations to the Tribunal (*Nolet* at para 115). Because of this finding, I do not need to address the arguments that the parties made about any potential prejudice in terms of including the pre-2016 allegations as part of this inquiry. They are simply out of scope.

[36] The pre-2016 allegations are an entirely new line of inquiry that was not considered by the Commission as part of this referral, and allowing them as part of this proceeding would undermine the fairness of the process (*Gaucher v. Canada (Armed Forces)*, 2005 CHRT 1 at para 18). I cannot allow the expansion of this complaint because it would not respect the gatekeeping function role that the Commission has under the CHRA (*Karas* at para 16). It is not the Tribunal's role to determine if the Commission should have referred those allegations. The question for the Tribunal is only what the Commission in fact referred.

[37] As a final note, based on the Tribunal's understanding of the information and submissions from the abeyance motion, NSIRA was scheduled to complete its report on the section 45 CHRA referral of this complaint by December 15, 2025. The Tribunal presumes that the Commission has or will soon be deciding whether it will be dealing with Mr. Ariaratnam's complaint, according to the process under section 46(2) of the CHRA. While it is possible that another complaint could be referred to the Tribunal, my role as the member assigned to hear this case is to ensure that the complaint goes ahead as informally and expeditiously as the requirements of natural justice and the Tribunal's Rules of Procedure allow (see s. 48.9(1) of the CHRA and Rule 5). The parties may not agree with the decision I made in this motion, and they are free to challenge it should they wish to do so. However, in terms of next steps in case management, I am committed to working with the parties to ensure that SOPs are filed quickly so that hearing dates can be scheduled. The parties deserve an opportunity to present their case at a hearing, after all these years, and to get a decision from the Tribunal on whether discrimination happened in the context of the 2016 site access clearance.

C. Is Mr. Ariaratnam required to modify his SOP?

[38] Yes. Mr. Ariaratnam must file a new SOP based on the scope of this inquiry being about the 2016 site access clearance as a possible violation of section 5 of the CHRA, based on his disability or perceived disability, national or ethnic origin, race, and religion. His requested remedy, document list, witness list, and anticipated will-say statements for his witnesses must also align with this ruling. He is allowed to include information from 1997 to 2016 as “context” to understanding his complaint about the site access clearance.

VI. ORDER

[39] The motion is allowed in part. Mr. Ariaratnam must file a new SOP, along with a revised disclosure and witness lists, four (4) weeks from the date on which this ruling is communicated to the parties.

[40] CSIS’s SOP is due seven (7) weeks from the date of this ruling.

[41] Mr. Ariaratnam’s reply SOP, if any, is due eight (8) weeks from the date of this ruling.

Signed by

Ashley Bressette-Martinez
Tribunal Member

Ottawa, Ontario
January 12, 2026

Canadian Human Rights Tribunal

Parties of Record

File No.: HR-DP-3045-24

Style of Cause: Kagusthan Ariaratnam v. Canadian Security Intelligence Service

Ruling of the Tribunal Dated: January 12, 2026

Motion dealt with in writing without appearance of parties

Written representations by:

Nicholas Pope, for the Complainant

Charles Maher, for the Respondent