

**Welcome to Landmark Chambers’  
Article 14 ECHR – from nuts and bolts to some  
big themes troubling the courts now**

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# Your speakers today are...



**Ben Fullbrook**

Introduction to Article 14



**Samantha Broadfoot QC**

Topic: 'Ambit'



**Admas Habteslasie**

Topic: 'Status'/ comparators



**Hafsa Masood**

&



**Richard Drabble QC**

Topic: Justification: Manifestly without reasonable foundation?



**Justin Bates**

Topic: SSHD v JCWI & National Residential Landlords Association & others

## Article 14

*A very short introduction*



**Ben Fullbrook**

14

**RIGHT NOT TO BE  
DISCRIMINATED  
AGAINST**



## ARTICLE 14

### **Prohibition of discrimination**

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

## Introduction

- Article 14 of the Convention enshrines the protection against discrimination in the enjoyment of the rights set forth in the Convention.
- ECtHR has held that the principle of non- discrimination is of a “*fundamental*” nature and underlies the Convention together with the rule of law, and the values of tolerance and social peace (*S.A.S. v. France* [GC], 2014, § 149; *Străin and Others v. Romania*, 2005, § 59).

## Ancillary right

- No independent existence
- No prohibition on discrimination as such. Must be discrimination in the enjoyment of *“the rights and freedoms set forth in this convention”*.
- Not necessary to show violation of substantive provision to fall within scope of article 14: ***Carson and Others v. the United Kingdom*** [GC], 2010, § 63
- *“Rights and freedoms”*, not just substantive provisions of ECHR, but additional rights, falling within the wider **ambit** of any Article of the Convention, for which the State has voluntarily decided to provide – e.g. appellate courts

## Forms of discrimination (1)

- Direct discrimination: “*difference in treatment of persons in analogous, or relevantly similar situations*” and “*based on an identifiable characteristic, or ‘status’*”: ***Biao v. Denmark*** [GC], 2016, § 89
  - E.g. Sentenced female offenders who had a small child were able to obtain deferral of the starting date for the service of their prison sentence until the child’s first birthday. The applicant complained that, as a man, he was excluded from such a possibility and thus directly discriminated against on the basis of his sex.
- Indirect discrimination: disproportionately prejudicial effects of a general policy or measure which, though couched in neutral terms, has a particular discriminatory effect on a particular group: ***Bioa***
  - E.g. Czech legislation imposing national testing to determine school placements, which based on mainstream population and did not take into account special characteristics of Roma children, who therefore more likely to perform poorly and be placed in worse schools: ***D.H. and Others v. the Czech Republic*** [GC], 2007

## Forms of discrimination (2)

- Discrimination by association: situations where the protected ground in question relates to another person somehow connected to the applicant
  - E.g. failure to take into the needs of a disabled child when determining his father's eligibility for tax relief re. the purchase of a specially adapted property: ***Guberina v. Croatia***, 2016
- Positive action: Article 14 does not prohibit a member State from treating groups differently in order to correct "*factual inequalities*" between them; indeed in certain circumstances a failure to attempt to correct such inequality through different treatment may in itself give rise to a breach of Article 14
  - E.g. tax advantages accruing when woman the main family breadwinner were found to be within margin of appreciation as state had objective and reasonable justification in providing positive discrimination in favour of married women who work: ***Lindsay v. the United Kingdom***, 1986



## Basis for discrimination

- Article 14 does not prohibit all differences in treatment but only those based on an identifiable, objective or personal characteristic, or **“status”**, by which persons or groups of persons are distinguishable from one another: ***Molla Sali v. Greece*** [GC], 2018, § 134
- Discrimination must be based on “*sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status*”
- The words “*other status*” have generally been given a wide meaning (***Carson and Others v. the United Kingdom*** [GC], 2010, § 70) and their interpretation has not been limited to characteristics which are personal in the sense that they are innate or inherent (*Kiyutin v. Russia*, 2011, § 56; *Clift v. the United Kingdom*, 2010, § 56).
  - E.g. Sexual orientation, age, gender identity, disability, immigration status

## Discrimination test

- Not all differences in treatment – or failure to treat differently persons in relevantly different situations – constitute discrimination, but only those devoid of “*an objective and reasonable justification*”: ***Molla Sali v. Greece*** [GC], 2018, § 135

When deciding cases of discrimination, the Court will apply the following test:

1. Has there been a difference in treatment of persons in analogous or relevantly similar situations – or a failure to treat differently persons in relevantly different situations? The other person is called the “**comparator**”
2. If so, is such difference – or absence of difference – objectively justified? In particular,
  - Does it pursue a legitimate aim?
  - Are the means employed reasonably proportionate to the aim pursued? NB wide margin of appreciation given when state justifies measures on social/economic grounds: the test is whether the policy choice is “**manifestly without reasonable foundation**”

## ARTICLE 14: 'AMBIT'



**Samantha Broadfoot QC**

## Ambit 1

- A14 is not free-standing anti-discrimination provision
- Must relate to the enjoyment of one of the substantive ECHR rights
- “it is necessary but it is also sufficient for the facts of the case to fall ‘within the ambit’ of one or more of the [ECHR] articles” – *Stec v UK*

## Ambit 2

How to identify is something falls within the ambit of another right?

- **Caselaw** – e.g. the denial of a contributory social security benefit falls within the ambit of the A1P1 right (*Willis v UK* 25 EHRR 21)
- **Modality** - Article 14 comes into play “whenever the subject matter of the disadvantage ... constitutes one of the modalities of the exercise of the right guaranteed”: see eg *Petrovic v Austria* (1998) 33 EHRR 14, para 28.

## Ambit 3

Or, in domestic terms:

“Article 14 is engaged whenever the subject matter of the disadvantage comprises one of the ways a state gives effect to a Convention right (‘one of the modalities of the exercise of a right guaranteed’)”

Lord Nicholls in *M v SSPW* 2006 2 AC 91, para.16

- E.g. in relation to A8, *it is a way in which the state expresses its support for family life* – various benefit payments have been examined under A14 with A8 as a result: e.g. *McLaughlin* [2018] UKSC 48

## Ambit 4

- Link with ‘core values’? *M v SSWP* [2006] 2 AC 91
- Other authorities, under appeal, have summed it up as there needs to be a connection or link between the facts and the provision of the Convention conferring the substantive rights must be “more than merely tenuous”.
- However, Baroness Hale in *McLaughlin* warns us to be careful with the concept that ‘core values’ is the test – since this is a domestic construct.

## Ambit 5

- More expansive approach in *R (DA) v SSWP* [2019] UKSC 21?
- Nonetheless there are limits: see e.g. *R (SHU) v SSH, SSHD* [2019] EWHC 3569 (Admin)



## STATUS and COMPARATORS



**Admas Habteslasie**

## ARTICLE 14

In order for a difference in treatment to fall foul of Article 14, Qs (1) – (3) must be answered affirmatively and Q (4) negatively:

- (1) Does the treatment complained of fall within the ambit of one of the Convention rights?
- (2) Is that treatment on the ground of some recognised “status”?**
- (3) Is the situation of the claimant analogous to that of some other person who has been treated differently?**
- (4) Is the difference justified, in the sense that it is a proportionate means of achieving a legitimate aim?

*“Discrimination must always be on some ground. Completely blind, motiveless malevolence may be anti-social and abhorrent but it cannot amount to discrimination, because it is indeed indiscriminate.”*

*R (Carson) v SSWP* [2005] UKHL 37, Lord Walker at [50]

- Discrimination is prohibited:
  - (i) on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth
  - (ii) on the ground of ‘any other status’

## ‘ANY OTHER STATUS’: KEY POINTS

- Key authority is *R (Stott) v Secretary of State for Justice* [2018] UKSC 59
  - Authorities usefully summarised in judgment of Leggatt LJ (as he then was) in *R (SC & Ors) v SSWP* [2019] EWCA Civ 615 at [60] to [69].
- **The test is broad.** *"In the majority of cases, it is probably now safe to say that the need to establish status as a separate requirement has diminished almost to vanishing point":* *Stevenson v SSWP* [2017] EWCA Civ 2123 at [41].
- **The boundaries of the test are not entirely clear.** *"The question of what amounts to "other status" for Article 14 purposes is a complicated and often very difficult one."* *R (Bloomsbury Institute Limited) v The Office for Students* [2020] EWHC 580 (Admin) at [337].

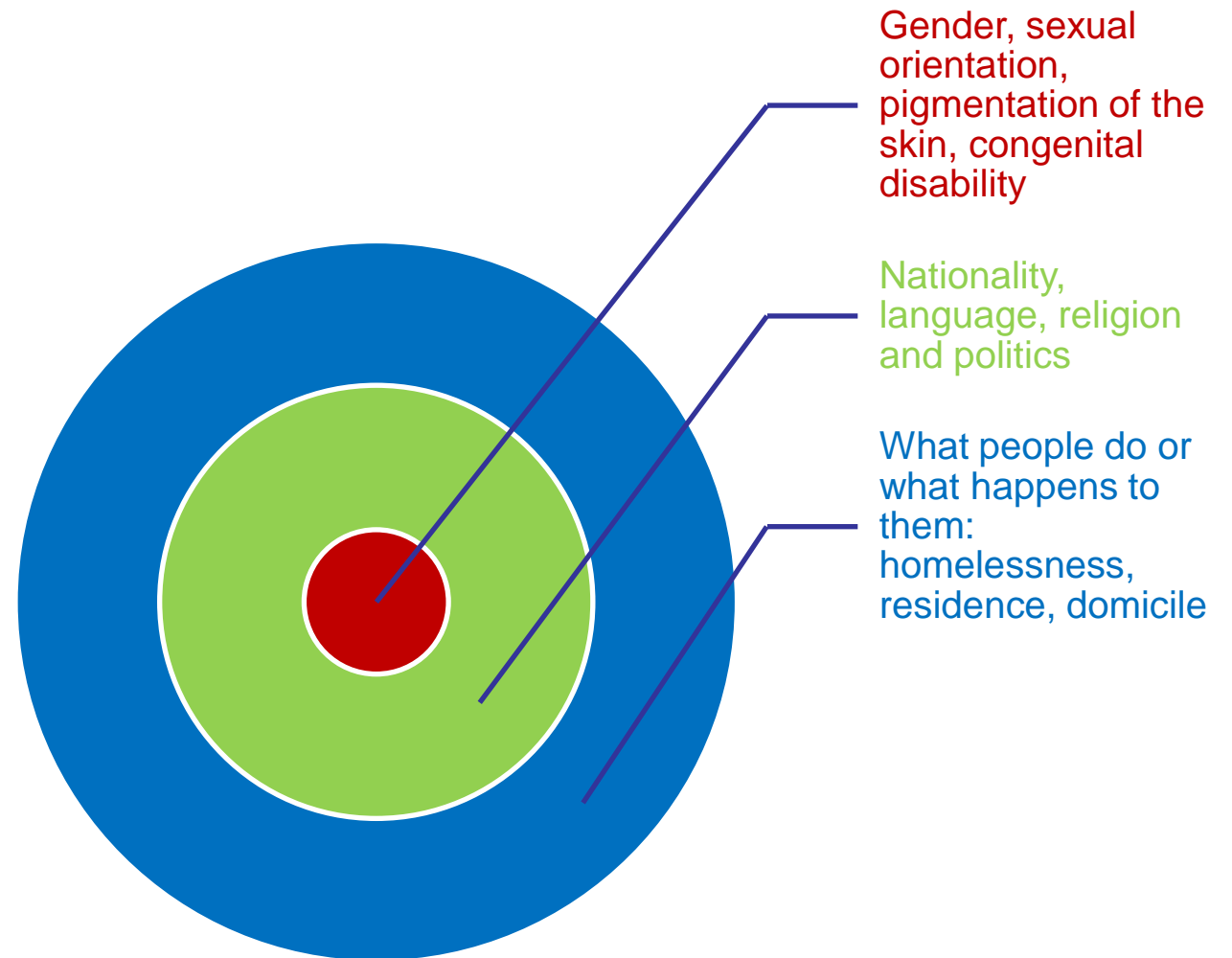
## STATUS: Relation to other parts of the test for discrimination

- Status pleaded must actually capture the entirety of the discrimination alleged; see e.g. challenge to two-child limit to universal credit and child tax credit awards in SC & Ors at [72]-[77]. Was status:
  - Being a child with multiple siblings? No, because non-siblings captured and siblings for whom adult is not responsible not captured
  - Household/family? Yes

# Concentric circles: Lord Walker in *R (RJM) v SSWP* [2008] UKHL 63 – relation to proportionality analysis

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*“..most personal characteristics are those which are innate, largely immutable, closely connected with an individual's personality: gender, sexual orientation, pigmentation of skin, ...congenital disabilities. Nationality, language, religion and politics may be almost innate (...) or may be acquired (...); but all are regarded as important to the development of an individual's personality (...). Other acquired characteristics are further out in the concentric circles; ..more concerned with what people do, or with what happens to them, than with who they are (...). The more peripheral or debateable any suggested personal characteristic is, the less likely it is to come within the most sensitive area where discrimination is particularly difficult to justify.”*



## ‘ANY OTHER STATUS’: Personal characteristics?

- Focus in some, particularly earlier ECtHR authorities on ‘personal characteristics’. The following extract often cited: “*discriminatory treatment having as its basis or reason a personal characteristic ('status') by which persons or groups of persons are distinguishable from each other*”: Kjeldsen v Denmark (1976) 1 EHRR 711
- Problem with such extracts:
  - Circular; not much of a guide
  - the approach is not really reconcilable with where the case law has got to, where the approach is much broader

## ‘ANY OTHER STATUS’: Current test is broad

- *“The words ‘other status’ have generally been given a wide meaning and their interpretation has not been limited to characteristics which are personal in the sense that they are innate or inherent.”: Clift v UK (7205/07) at [89]*
- Status need not be immutable, but can be a matter of choice or circumstance



## ‘ANY OTHER STATUS’: Examples

- Examples:
  - Country of residence: Carson v UK (2010) 51 EHRR 13
  - Immigration status: Bah v UK (2012) 54 EHRR 21; R (Tigere) v Secretary of State for Business, Innovation and Skills [2015] UKSC 57
  - Prisoner serving a sentence of over 15 years: Clift v UK
  - Homelessness: R (RJM) v SSWP
  - Different categories of property owners: James v UK (1986) 2 EHRR 123
  - Military rank: Engels v Netherland (No 1) (1976) 1 EHRR 647
  - Person who, when a victim of a violent crime, was living together as a member of the same family as her assailant: JT v First-tier Tribunal [2018] EWCA Civ 1735

## ‘ANY OTHER STATUS’: Stott

- In Stott, the majority (Lord Carnwath dissenting) held that being a prisoner serving an extended determinate sentence (“**EDS**”) was a ‘status’ for purposes of Article 14
- Claimant argued that the more restrictive early release provisions for prisoners serving an EDS constituted discrimination in comparison with prisoners serving (ordinary) determinate sentences and discretionary life sentences
- Majority dismissed Article 14 challenge on basis of comparators/proportionality

## ‘ANY OTHER STATUS’: Stott

- The requirement of status must add something to the four-stage test
- Mere difference in treatment does not by itself constitute a status
- Need to consider “*the situation as a whole*”: per Lady Black in Stott
- An central q raised in Stott: Is there a requirement that the differential treatment exist independently of the status?
  - House of Lords in Clift: yes
  - ECtHR in Clift v UK: Definitely not
  - Relied on in R v Docherty (Shaun) [2016] UKSC 62

## THE INDEPENDENT EXISTENCE CRITERION?

- Majority in Stott:
  - Lady Black deprecated criterion; but it did not arise on the facts [75]
  - Lord Hodge: status test met, no desire to make broader comments: [184]
  - Lady Hale: status test met, Stott is stronger on facts than Clift [212]
  - Lord Mance: ‘No’ - no reason why a person may not be identified as having a particular status when the or an aim is to discriminate against him in some respect on the ground of that status: [231]; but does not arise on facts [236]

## THE INDEPENDENT EXISTENCE CRITERION?

- Issue: What is relationship between status and difference in treatment?
- Tension between:
  - Need to identify a ground for the difference in treatment in terms of a characteristic or classification which **is not merely a description of the difference in treatment itself**: Stott per Lady Hale at [209]-[212]; SC & Ors at [67]; also Simawi v London Borough of Haringey [2019] EWCA Civ 1770
  - Deprecation of independent existence criterion. Lord Mance in Stott: status need not have social or legal importance outside of the difference in treatment;
- Cases suggest this distinction is not clear.

## THE INDEPENDENT EXISTENCE CRITERION?

- Cases that test the boundaries:
  - *Mathieson v Secretary of State for Work and Pensions* [2015] UKSC 47: Art.14 (A1P1) challenge by a child with disabilities whose parents' disability living allowance ceased once he had been an in-patient in a NHS hospital for more than 84 days. Lord Mance accepted as a status: "*a child hospitalised free of charge ... in a NHS ... hospital ... for a period longer than 84 days*"
  - *Paulík v Slovakia* (2006) 46 EHRR 10. Applicant found in paternity proceedings to be the father of a child who could not disprove paternity by DNA testing was a status. But this was also the difference in treatment..

## What is *not* a status? Examples

- Introduction of a new sentencing regime for prisoners sentenced after a particular date: *Minter v UK* (2017) 65 EHRR SE6, *R v Docherty (Shaun)*
- Being a Zambrano carer: *HC v SSWP* [2017] UKSC 73 at [31]
- Differences in treatment between different courts or different parts of the UK, which are based on the geographical location of the person concerned: *Magee v United Kingdom* (2001) 31 EHRR 35

## Post-Stott

Case citing Stott seem to fall into three broad categories:

- (1) Stott as authority for status being broad; therefore test is met.
- (2) Status is complicated. Let's assume it is made out and deal with proportionality.
- (3) Reliance on a more restrictive approach in spite of Stott. E.g.
  - (a) relying on independent existence criterion (Banks v HMRC [2020] UKUT 101)
  - (b) Relying on a personal characteristics or ejusdem generis approach: Banks and also NUPFC v Certification Officer (23 July 2019) (on appeal)



## ANY OTHER STATUS': Post-Stott

- Revised benefit cap challenge – R (DA) v SSWP [2019] UKSC 21
  - Argt: benefit cap discriminated against lone parents with young children;
  - Pleaded statuses include: lone parents; lone parents of children aged under two (and/or under five); children aged under two (and/or under five) of lone parents;
  - Lords Wilson and Kerr, Lady Hale: in light of Stott, no doubt all meet test
  - Lords Hodge, Hughes, Carnwath, Reed: assumed status but doubtful.  
Lord Hodge: *“the boundaries of “other status” in Article 14 is a subject on which there is, as yet, little clarity.”*

## COMPARATORS

- Difference in treatment is defined in relation a comparator group: the class of persons said to receive more favourable treatment than the claimant.
- **Situations of claimant group and comparator group must be similar in all relevant respects apart from the ground of alleged discrimination;** otherwise no discrimination.
  - the court looks to the essence of the (substantive) right in question to ask whether claimant and comparator are in a *relevantly similar* situation: two need not be identical
- Often elided with justification: *R (Carson) v SSWP* [2006] 1 AC 173 at [3].

# Is there a relevant difference between claimant and comparator?

- Discrimination not made out where there is a relevant difference, e.g.:
  - Two-child limit case: discrimination argument on basis of status as children failed at this hurdle, because the comparator group is **adults**; however, adults are not in a relevantly similar position because they do not receive the benefit in question, child tax credit: [81]
  - Non-resident persons in UK not analogous to resident in the UK for the purposes of pension provision; the former did not contribute to the UK economy and pay tax: ***Carson v UK***
  - Self-employed not in analogous situation with employed persons for the purposes of tax legislation: ***X v United Kingdom*** (19843) 7 EHRR 135

## KEY POINTS

### STATUS

- Test for ‘any other status’ is broad, but boundaries not clear.
- Key case is Stott.
- Status must be pleaded to capture the entirety of the discrimination alleged.
- Status should not simply recite difference in treatment.
- Nature of status will bear on extent of justification required: concentric circles.

### COMPARATORS

- Situations of claimant group and comparator group must be similar in all relevant respects apart from the ground of alleged discrimination. This is assessed in light of the essence of the substantive right.
- Unless comparator case is obviously wrong, court will normally consider this with proportionality.

# JUSTIFICATION

## An introduction



**Hafsa Masood**

A difference of treatment between persons (or the failure to treat differently persons in relevantly different situations) violates Article 14 only if it ***“has no objective and reasonable justification.”***

That is, **“if it does not pursue a legitimate aim or if there is not a reasonable relationship of proportionality between the means employed and the aim sought to be realised.”**

*(Molla Sali v Greece [GC], 2018 at [135]; Eweida & Others v United Kingdom at [88])*

## *Bank Mellat v HM Treasury (No 2)*

In *Bank Mellat* [2013] UKSC 39, Lord Reed JSC formulated the test for justification in four questions:

- “(1) whether the objective of the measure is sufficiently important to justify the limitation of a protected right;*
- (2) whether the measure is rationally connected to the objective;*
- (3) whether a less intrusive measure could have been used without unacceptably compromising the achievement of the objective; and*
- (4) whether, balancing the severity of the measure’s effects on the rights of the persons to whom it applies against the importance of the objective, to the extent that the measure will contribute to its achievement, the former outweighs the latter.”*

## *Bank Mellat v HM Treasury (No 2)*

- Lord Reed commended this test/approach (with its roots in case law under the Canadian Charter of Fundamental Rights) in the following terms:  
*“Its attraction as a heuristic tool is that, by breaking down an assessment of proportionality into distinct elements, it can clarify different aspects of such an assessment, and make value judgments more explicit.”*
- *Bank Mellat* was not an Article 14 case, but Lord Reed’s formulation has been used as a test for assessing justification under Article 14. It has been referred to in recent Article 14 cases as “*the conventional*” test/inquiry (see e.g. *R(DA) v SSWP* [2019] UKSC 21, at [55] per Lord Wilson).
- But it is not the last word.



## The mapping of a different path: “manifestly without reasonable foundation”

- In *R (DA) v SSWP* [2019] UKSC 21, Lord Wilson observed, at [55]:  
*“This court has been proceeding down two different paths in its search for the proper test by which to assess justification under Article 14 for an economic measure introduced by the democratically empowered arm of the state”*
- “*Manifestly without reasonable foundation*” had been treated as a distinct test of justification in social security context (in cases preceding *Bank Mellat*) e.g. *Humphreys v Revenue and Customs Comrs* [2012] UKSC 18 (in the context of payment of state benefits, the test for whether a difference of treatment on the basis of sex could be justified was whether it was “*manifestly without reasonable foundation.*”)
- Question which has vexed courts is what part, if any, this formula has to play in assessing justification in the context of economic/social policy, and its relationship to the conventional *Bank Mellat* test.

## The conventional test

### Questions (1), (2) and (3)

- Question 1: does the impugned, potentially discriminatory, measure have a legitimate aim?
  - Not difficult hurdle to surmount.
  - Recent case which failed on this basis was *Gilham v MOJ* [2019] UKSC 44 (held no legitimate aim advanced for failing to extend protection of ‘whistle-blower’ legislation to judges).
- Question 2: is the measure rationally connected to that aim?
- Question 3: could a less intrusive measure have been used to achieve the aim?

## The conventional test

### Question (4): fair and proportionate balance

- Question 4: is the impact of the rights infringement proportionate to the likely benefit of the impugned measure (or, as its sometimes put, does the impugned measure strike a fair balance between the rights of the individual and the interests of the community)
- Relevant considerations include:
  - **The nature of the measure and context:** e.g. in matters of social and economic policy courts will afford appropriate weight and respect to the judgment of the executive/legislature (*R (Drexler)* [2020] EWCA Civ 502 at [57]; *R (JCWI)* [2020] EWCA Civ 542 at [141] & [143]). Extent of area of judgment depends on branch of state involved, the degree of economic and/or social policy involved, and the extent to which the executive/legislature addressed their mind to potential adverse effects.

## The conventional test

### Question (4): fair and proportionate balance

- Relevant considerations (continued):
  - **The ground(s) of discrimination:** discrimination on certain, so-called, “suspect” grounds (e.g. sex, race, sexual orientation), will call for more stringent scrutiny/weightier reasons will be required to justify any potential discrimination (*R (Carson) v SSWP* [2005] 37 at [15]-[17]; *Drexler* at [56]; *JCWI* at [141])
  - **Extent to which measure achieves the aim pursued**
  - **Adverse effects of measure/nature and level of discrimination**
  - **Obligations under other international conventions** (may be of some relevance): e.g. *R (A) v Health Secretary* [2017] UKSC at 41 at [34]-[35], though see *R(SG) and others) v SSWP* [2015] UKSC 16

# MANIFESTLY WITHOUT REASONABLE FOUNDATION

Where are we now?



**Richard Drabble QC**

## The original cases

- Stec v UK 41 EHRR 295
- RJM 2009 1 AC 311
- Humphreys 2012 1 WLR 1545

## Challenges to its applicability and resolution

- Domestically, number of attempts to modify.
- Last word in benefits cases appears to be *R(DA) v SSWP* 2019 1 WLR 3289 at [65] *“there was – and there still remains – clear authority both in the Humphreys case and in the bedroom tax case for the proposition that at least in relation to the Government’s need to justify what would be a discriminatory effect of a rule governing entitlement to welfare benefits, the sole question is whether it is manifestly without reasonable foundation. Let there be no future doubt about it.*

## A possible synthesis

- In *R(C) v SSWP* [2019] 1 WLR 5687 Legatt LJ said at [89]:  
*“ Although it is not immediately obvious how the ...test relates to the assessment of proportionality .....the explanation may be that the court is required to ask whether the difference in treatment is manifestly disproportionate to the legitimate aim. This would accord with the statement ..in *Blecic v Croatia* 41 EHRR 13 [65] that it will accept the judgment of the domestic authorities “unless that judgment is manifestly without reasonable foundation, that is unless the measure employed is manifestly disproportionate to the aim pursued.” (emphasis added by Leggatt LJ)*
- Fits with *In re McLaughlin* [2018] 1 WLR 4250 at [38] – [39] and [83]; and *Humphreys* [22].



## The Strasbourg position

- In *A v United Kingdom* a chamber of the ECtHR ruled that the bedroom tax breached article 14 read together with article 8, in its application to Sanctuary Scheme homes. It declined to apply MWRP, explaining *Stec* on the basis that it was concerned with a state adjusting historical discrimination.
- In January 2020, the UK applied to appeal to the Grand Chamber. In March 2020 the Grand Chamber refused permission to appeal.

# SSHD v JCWI & National Residential Landlords Association & others



**Justin Bates**

## What was it about?

The “right to rent” (Immigration Acts 2014 and 2016)

- Landlords prohibited from letting residential property to someone without a right to rent (whether as tenant or other occupier)
- In broad terms, that means people unlawfully present in the UK
- Sanctions that can be imposed on landlords are
  - Criminal (up to 5 yrs imprisonment)
  - Civil (fixed penalty notice of up to £3,000 per contravention)
  - Regulatory (loss of landlord licence under Pts 2, 3, Housing Act 2004; Banning Order / Rogue Landlord Database under Housing and Planning Act 2016)
  - Market based (breach of buy to let mortgage terms)

## What was the effect?

- PRS is an unsophisticated area of the market
  - 62% of landlords own only one property
  - The “lodger” market is growing at an enormous rate
- Landlords responded by
  - Preferring tenants with British passports
  - In the absence of that document, preferring people who were white and with anglo-saxon names

JCWI sought judicial review, alleging the 2014 and 2016 Acts *caused* discrimination by landlords so as to infringe Arts.8 and 14

## Decisions

High Court [2019] EWHC 452 (Admin)

- Right to seek a home falls within Art.8 and therefore Art.14 prohibits discrimination
- Where the state interferes with your right to seek a home it must do so in a way that does not cause unlawful discrimination
- The legislation (and in particular the sanctions) caused landlords to discriminate where they would not otherwise wish to do so (“safety first”)

Court of Appeal [2020] EWCA Civ 542

- Prepared to assume that Arts.8 and 14 are engaged
- Accepts that the scheme causes discrimination
- But it is justified

## Implications

Two points

- 1) JCWI seeking permission to appeal to the Supreme Court
  - Number of interesting points, not least State responsibility for discrimination by third party actors (LL) in response to legislation
  
- 2) Ambit of Art.8 includes right to seek a home (and then Art.14 protection within that)
  - Relevance for allocation schemes under Part 6, Housing Act 1996
  - Court of Appeal trying to avoid deciding whether Arts.8 and 14 can be used to challenge allocation schemes in that way (see *R (H) v Ealing LBC*; *R (Ward) v Hillingdon LBC*; *R (Gullu) v Hillingdon LBC*)

## Q&A

**We will now answer as many questions as possible.**

**Please feel free to continue sending any questions you may have via the chat section which can be found along the top or bottom of your screen.**

# Thank you for listening

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