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MANIFESTLY WITHOUT REASONABLE FOUNDATION

Where are we now?

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 proportionalitythe 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 Ble cic 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 MWRF, 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.

Title

- Text

Questions?

Thank you for listening

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