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ARTICLE 14: 'AMBIT'

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)

Thank you for listening

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