

ADMINISTRATIVE LAW BAR ASSOCIATION

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THE HUMAN RIGHTS ACT: ONE YEAR ON

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GENERAL PRINCIPLES

The status of Strasbourg decisions

R (Alconbury Developments Ltd) v Environment Secretary [2001] 2 WLR 1389
Aston Cantlow v Wallbank [2001] 3 All ER 393

Section 3- the rule of statutory construction

R v A (No 2) [2001] 2 WLR 1546
R v Lambert [2001] 3 WLR 206
R v Offen [2001] 1 WLR 253
Cachia v Faluyi The Times, 11 July 2001
Wilson v First County (No.2) [2001] 3 WLR 42
R v Mental Health Review Tribunal, ex p H [2001] HRLR 752

Public authorities

Poplar Housing and Regeneration Community Association Ltd v Donoghue [2001] 3 WLR 183
R (Heather) v The Leonard Cheshire Foundation, 15 June 2001
Aston Cantlow v Wallbank [2001] 3 All ER 393

Horizontality

Direct statutory horizontality

Wilson v First County Trust [2000] QB 407 and *Wilson v First County Trust (No 2)* [2001] 3 WLR 42

The development of the common law

Douglas v Hello! Ltd [2001] 2 WLR 992
Venables v News Group Newspapers [2001] 2 WLR 1038

Prescribed by law

B v Chief Constable of Avon and Somerset [2001] 1 WLR 340
R (Rath) v Advertising Standards Authority [2001] HRLR 436

Proportionality

R (Mahmood) v Secretary of State for the Home Department [2001] 1 WLR 840
R (Isiko) v Secretary of State for the Home Department [2001] HRLR 295
R v A (No 2) [2001] 2 WLR 1546

R v Home Secretary, ex p Daly [2001] 2 WLR 1622
R (Samaroo) v Home Secretary, The Times, 18 September 2001

Judicial deference

Brown v Stott [2001] 2 WLR 817
R v Lambert [2001] 2 WLR 211
Poplar Housing and Regeneration Community Association Ltd v Donoghue [2001] 3 WLR 183

Remedies

A-G Reference (No 2 of 2001), The Times, 12 July 2001
Marcic v Thames Water Utilities (No 2) (10 July 2000) following [2001] 3 All ER 698

Costs

R v Secretary of State for Transport and the Regions, ex p Challenger [2000] HRLR 630

THE IMPACT OF THE HUMAN RIGHTS ACT

Education

Article 6

R v Richmond LBC, ex p JC [2001] ELR 21 (school preference not "civil right")
R v Hertfordshire County Council, ex p A [2001] ELR 239 (inhouse lawyer does not make deprive disciplinary tribunal of its independence or impartiality)
R(B) v Head Teacher and Governing Body of Alperton Community School, The Times, 8 June 2001 (Exclusion proceedings not "criminal charge")

Article 2 of First Protocol

R v Birmingham City Council, ex p Youngson, The Times, 10 January 2001 (full time vocational dance course not unreasonable public expenditure)
P v National Association of Schoolmasters/Union of Women Teachers, [2001] IRLR 532 (education in separate room not denial of right to education)

Immigration and asylum

Article 3

X v Secretary of State for the Home Department [2001] 1 WLR 740 (removal to Gambia where unable to obtain treatment for schizophrenia not inhuman treatment)

Article 8

R v Secretary of State for the Home Department, ex p Hakansoy [2001] Imm AR 16 (deportation does no breach)
R v Secretary of State for Home Department ex p Seri [2001] Imm AR 169 (refusal of exceptional leave no breach)
R (Mahmood) v Secretary of State for the Home Department [2001] 1 WLR 840 (deportation no breach)
R (Isiko) v Secretary of State for the Home Department [2001] HRLR 270 (deportation no

breach)

R (Samaroo) v Home Secretary The Times, 18 September 2001 (deportation no breach)

R (McCullum) v Secretary of State for the Home Department [2001] ACD 58 (refusal of entry to homosexual as member of family)

R (Montana) v Secretary of State for the Home Department [2001] 1 WLR 552 (withholding citizenship no breach of family life)

Mental health

Article 5

R v Mental Health Review Tribunal, ex p H [2001] 3 WLR 512 (ss 72(1), 73(1) Mental Health Act incompatible with Article 5)

Anderson v Scottish Ministers (2000) 8 BHRC 590 (not incompatible with Article 5 to detain patient for public protection)

R v East London and the City Mental Health NHS Trust, ex p von Brandenburg [2001] 3 WLR 588 (mental health tribunal compatible with Art 5(4))

R v Mental Health Review Tribunal London South and South West Region, ex p C, The Times, 11 July 2001 (practice of listing cases 8 weeks from date of application breaches Art 5(4))

R v Camden and Islington Health Authority, ex p K [2001] 3 WLR 588 (Art 5 not breached if health authority cannot procure suitable level of care and detention continues)

Prisoners

Article 2

R(Wright) v Secretary of State for the Home Department [2001] EWHC Admin 520

Article 3

R v Governor of HMP Frankland, ex p Russell [2000] HRLR 512 (punishing prisoners for refusing to wear uniforms by providing one meal is inhuman and degrading)

Article 5

R(Greenfield) v Secretary of State for the Home Department [2001] 1 WLR 1731 (Div Ct) (deprivation of liberty which is part of original sentence no breach of Art 5(1))

R v Secretary of State for the Home Department, ex p Anderson and Taylor, The Times, 27 February 2001 (tariff for mandatory life sentence no breach)

R v Offen [2001] 1 WLR 253 (automatic life sentence no breach if "exceptional circumstances" read to include any person who is not significant risk to public)

Article 6

R (Daly) v Secretary of State for Home Department [2001] 2 WLR 1622 (no justification for excluding prisoner for searches of legally privileged material)

R(Carroll) v Secretary of State for the Home Department The Times 16 August 2001 (prison disciplinary proceedings no breach of Article 6)

Article 8

R (N) v Ashworth Special Educational Authority, The Times, 26 June 2001 (random telephone monitoring no breach)

R v Secretary of State for the Home Department, ex p Mellor [2001] 3 WLR 1731 (no right to give semen for artificial insemination)

R v Secretary of State for Health, ex p L [2001] 1 FLR 406

R (P, Q and QB) v Secretary of State for the Home Department [2001] EWCA Civ 1151