

Ahmed and Others v. the United Kingdom - 22954/93

Judgment 2.9.1998

Article 10

Article 10-1

Freedom of expression

Restrictions on the involvement of senior local government officers in certain types of political activity: *no violation*

[This summary is extracted from the Court's official reports (Series A or *Reports of Judgments and Decisions*). Its formatting and structure may therefore differ from the Case-law Information Note summaries.]

I. ARTICLE 10 OF THE CONVENTION

A. Whether there had been an interference

Not disputed that applicants as public servants could rely on guarantees in Article 10 and that there had been an interference with their rights under that Article.

B. Whether the interference was justified

1. "Prescribed by law"

Regulations designed to lay down rules for a large number of local government officers restricting their participation in certain forms of political activity which could impair their impartiality – inevitable that conduct which might lead third parties to question an officer's impartiality cannot be defined with absolute precision – open to an officer to seek advice if uncertain as to whether a particular action might infringe Regulations – furthermore, scope and application of allegedly vague provisions had to be seen in light of vice which parent Act sought to avoid.

2. Legitimate aim

Interferences which resulted from application of Regulations to applicants pursued legitimate aim: to protect rights of others, council members and electorate, to effective political democracy at the local level.

3. "Necessary in a democratic society"

Reiteration of basic principles contained in Court's judgments on Article 10.

Regulations adopted in light of findings of official inquiry into impact of involvement of senior local government officers in political activities on their duty of political impartiality – findings pointed to specific instances of abuse of power by certain officers and potential for increased abuse in view of trend towards confrontational politics in local government – Court considers that Regulations

addressed an identified pressing social need: to strengthen tradition of senior officers' political neutrality – addressing that need through adoption of Regulations restricting participation of senior officers in defined forms of political activity which might call into question their duty of political impartiality well within margin of appreciation of respondent State in this sector.

In view of Court, restrictions imposed on applicants not open to challenge on grounds of lack of proportionality – Regulations only applied to carefully defined categories of senior officers like applicants who perform duties in respect of which political impartiality vis-à-vis council members and public is paramount consideration – restrictions only concern speech or writing of a politically partisan nature or activities within political parties which would be likely to link senior officers in eyes of public with a particular party political line – recent government review of continuing need for restrictions concluded that their maintenance in force justified.

Conclusion: no violation (six votes to three).

II. ARTICLE 11 OF THE CONVENTION

Court's reasoning in support of its conclusion that no violation of Article 10 equally valid to support a finding of no violation of Article 11: restrictions on applicants' activities within political parties prescribed by law, pursued legitimate aim and constituted a proportionate response to a pressing need.

Conclusion: no violation (six votes to three).

III. ARTICLE 3 OF PROTOCOL No. 1

Aim of Regulations was to secure political impartiality of senior officers such as applicants – that aim also legitimate for purposes of restricting applicants' rights to stand for election – essence of rights under this Article not impaired – for example, restrictions only apply for as long as applicants occupy politically restricted posts.

Conclusion: no violation (unanimously).