



Legislative scheme to provide housing for the homeless is in line with the European Convention

In today's **Chamber** judgment¹ in the case of **Fazia Ali v. the United Kingdom** (application no. 40378/10) the European Court of Human Rights held, unanimously, that there had been:

No violation of Article 6 § 1 of the European Convention on Human Rights

The case concerned the legislative scheme in the United Kingdom under which local authorities have a duty to provide housing to the homeless.

The Court found, in particular, that Ms Ali's right to accommodation was a "civil right" for the purpose of Article 6 § 1 and as such, she was entitled to a fair hearing before an "independent and impartial" tribunal. In this case, the appeal to the court open to Ms Ali did provide her with adequate protection in the determination of her civil right.

Principal facts

The applicant, Fazia Ali, is a British national who was born in 1980 and lives in Birmingham (the United Kingdom).

Ms Ali applied for housing assistance to Birmingham City Council in October 2006. She is a homeless person, and as the mother of two young children, in priority need of accommodation within the meaning of Part VII of the Housing Act 1996.

In March 2007, after Ms Ali's rejection of a second offer of accommodation, the local council notified her that – because of her refusal – it had discharged its duty to her under the 1996 Housing Act and that she was no longer entitled to accommodation. She requested that the council review its decision, alleging that she had not received a formal letter in writing with regard to the second offer of accommodation. As a result a Homelessness Review Officer employed by the local council conducted an enquiry. In May 2007 the Officer upheld the decision that Ms Ali's refusal of the offer of accommodation had discharged the council's main housing duty to her. The Officer concluded in particular that there was no reason to believe Ms Ali had not received the second offer of housing by letter and that, in any case, even if she hadn't received the letter, she had been well aware of the offer of accommodation, had viewed the property, and had turned it down.

On an appeal to the county court Ms Ali sought to challenge the Officer's finding that she had received the second offer of housing in writing. However, the judge declined to deal with the question because it considered it to be a "purely factual issue" and appeal lay only on "a point of law". That decision was upheld by the Court of Appeal and the Supreme Court. The Supreme Court notably held that Ms Ali's right to accommodation was not a "civil right" for the purpose of Article 6 § 1 of the European Convention on Human Rights.

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day. Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

Complaints, procedure and composition of the Court

Relying on Article 6 § 1 (right to a fair hearing / access to court), Ms Ali argued that the decision made by the Homelessness Review Officer had constituted a determination of her civil rights. She further argued that the Officer had not been an independent or impartial tribunal as required by Article 6 § 1 and that on appeal the county court did not have sufficient jurisdiction to conduct a full review on the merits of the Officer's decision that she was no longer entitled to accommodation.

The application was lodged with the European Court of Human Rights on 15 July 2010.

Judgment was given by a Chamber of seven judges, composed as follows:

Guido **Raimondi** (Italy), *President*,
George **Nicolaou** (Cyprus),
Ledi **Bianku** (Albania),
Nona **Tsotsoria** (Georgia),
Paul **Mahoney** (the United Kingdom),
Faris **Vehabović** (Bosnia and Herzegovina),
Yonko **Grozev** (Bulgaria),

and also Françoise **Elens-Passos**, *Section Registrar*.

Decision of the Court

Article 6 § 1 (right to a fair hearing / access to court)

The Court held that Ms Ali's right to accommodation owed to her by Birmingham City Council was a civil right within the meaning of Article 6 § 1 and, as such, she had been entitled to a fair hearing before an independent and impartial tribunal. As it was accepted that the Officer had not been independent, the Court considered whether the county court had sufficient jurisdiction to review her decision. It found that although the county court did not have the jurisdiction to conduct a full review of the facts, the appeal available to Ms Ali did permit it to carry out a certain review of both the facts and the procedure by which the factual findings of the Officer were arrived at. The Court considered that with regard to the "determination" of rights and obligations deriving from a social welfare scheme, when due enquiry into the facts has already been conducted at the administrative adjudicatory stage, Article 6 § 1 of the Convention could not be read as requiring that the judicial review before a court should encompass a reopening with a rehearing of witnesses. The appeal open to Ms Ali had therefore given her adequate protection as regards the judicial determination of her civil right.

In finding that there had been no breach of the Convention, the Court examined the whole of the legislative scheme in question and pointed to a number of significant procedural safeguards in relation to the enquiry before the Homelessness Review Officer: namely, the Officer was required to be senior in rank to the original decision-maker; the Officer could not have been involved in the original decision; Ms Ali was entitled to make representations which the Officer was obliged to consider; the Officer was required to give reasons for any adverse decision; and Ms Ali had to be informed of her right to apply to the County Court.

There had therefore been no violation of Article 6 § 1 of the Convention.

The judgment is available only in English.

This press release is a document produced by the Registry. It does not bind the Court. Decisions, judgments and further information about the Court can be found on www.echr.coe.int. To receive

the Court's press releases, please subscribe here: www.echr.coe.int/RSS/en or follow us on Twitter [@ECHRpress](https://twitter.com/ECHRpress).

Press contacts

echrpress@echr.coe.int | tel.: +33 3 90 21 42 08

Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)

Nina Salomon (tel: + 33 3 90 21 49 79)

Denis Lambert (tel: + 33 3 90 21 41 09)

Inci Ertekin (tel: + 33 3 90 21 58 77)

The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.