



HOMELESSNESS AND GYPSY AND TRAVELLER WOMEN

Bullet points from Stephen Cottle

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TOPICS TO BE COVERED

- FRAMEWORK FOR THE PROTECTION OF NATIONAL MINORITIES
- DICTA FROM CHAPMAN V UK
- PART 7 HOUSING ACT 1996
- S. 225 HOUSING ACT 2004
- CASE LAW

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INTERNATIONAL TEXTS

Article 5

1. The Parties undertake to promote the conditions necessary for persons belonging to national minorities to maintain and develop their culture, and to preserve the essential elements of their identity, namely their religion, language, traditions and cultural heritage.
2. Without prejudice to measures taken in pursuance of their general integration policy, the Parties shall refrain from policies or practices aimed at assimilation of persons belonging to national minorities against their will and shall protect these persons from any action aimed at such assimilation.”

CHAPMAN v UK

- “The Court considers that the applicant's occupation of her caravan is an integral part of her ethnic identity as a Gypsy, reflecting the long tradition of that minority of following a travelling lifestyle. This is the case even though, under the pressure of development and diverse policies or by their own choice, many Gypsies no longer live a wholly nomadic existence and increasingly settle for long periods in one place in order to facilitate, for example, the education of their children” .



CHAPMAN v UK

“the vulnerable position of Gypsies as a minority means that some special consideration should be given to their needs and their different lifestyle both in the relevant regulatory planning framework and in reaching decisions in particular cases” (paragraph 96)

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CHAPMAN v UK

While discrimination may arise where States without an objective and reasonable justification fail to treat differently persons whose situations are significantly different (see *Thlimmenos v. Greece* [GC], no. 34369/97, § 44, ECHR 2000-IV), the Court does not find, in the circumstances of this case, any lack of objective and reasonable justification for the measures taken against the applicant. (paragraph 129)

PART 7 OF THE HA 1996

- Under section 193(1) and (2) and 206 of the 1996 Act the housing authority has a duty:

“to provide individuals with [suitable] accommodation if they are homeless or threatened with homelessness within twenty-eight days, have a priority need for accommodation, are unintentionally homeless and have a connection with their area.” reside in it.”

Homelessness s 175 HA 1996

“(2) A person is ... homeless if he has accommodation but –

“
...
”

(b) it consists of a moveable structure, vehicle or vessel designed or adapted for human habitation and there is no place where he is entitled or permitted both to place it and to



CODONA v MID BEDS DC 2004 [EWCA] Civ 925

“suitability of offered accommodation in a homeless case now has the gloss of Article 8, which requires a balancing of countervailing factors where they exist.” per Auld LJ @ paragraph

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CHAPMAN v UK

In order to meet the requirement to accord respect something more than ‘taking account’ of an applicant’s gypsy culture is required. As the court in *Chapman* stated, respect includes the positive obligation to act so as to facilitate the gypsy way of life, without being under a duty to guarantee it to an applicant in any particular case.”

Codona – the high point

“It requires the authority carefully to examine a gypsy’s claim for such special consideration and, if satisfied that it is genuine, whether in all the circumstances of the case, it should attempt to meet it, and, if so, how.”
paragraph 49

S 225 HOUSING ACT 2004

Duties of local housing authorities: accommodation needs of gypsies and travellers

- (1) Every local housing authority must, when undertaking a review of housing needs in their district under of the Housing Act 1985 (c 68), carry out an assessment of the accommodation needs of gypsies and travellers residing in or resorting to their district.
- (2) Subsection (3) applies where a local housing authority are required under of the Local Government Act 2003 (c 26) to prepare a strategy in respect of the meeting of such accommodation needs.
- (3) The local authority who are that local housing authority must take the strategy into account in exercising their functions.



“Functions” includes functions exercisable otherwise than as a local housing authority

CASE LAW

- Codona v Mid Bedfordshire DC [2005] 1 HLR
- Lee v Rhondda Cynon Taff CBC [2008] EWCA 1013
- O'BRIEN v STH CAMBRIDGESHIRE DC [2008] EWCA Civ 1159



•O'BRIEN v STH CAMBRIDGESHIRE DC

“whether the council had an obligation to consider making and/or to make another site available before seeking injunctive relief, whether by virtue of section 71 of the RRA and/or because of the power under section 24 of the CCDA.”

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