

AS TO THE ADMISSIBILITY OF

Application No. 24744/94
by Richard John HUGGETT
against the United Kingdom

The European Commission of Human Rights (First Chamber) sitting in private on 28 June 1995, the following members being present:

Mr. C.L. ROZAKIS, President
Mrs. J. LIDDY
MM. E. BUSUTTIL
A.S. GÖZÜBÜYÜK
A. WEITZEL
M.P. PELLONPÄÄ
B. MARXER
G.B. REFFI
B. CONFORTI
N. BRATZA
I. BÉKÉS
G. RESS
A. PERENIC
C. BÎRSAN

Mrs. M.F. BUQUICCHIO, Secretary to the Chamber

Having regard to Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms;

Having regard to the application introduced on 4 June 1994 by Richard John HUGGETT against the United Kingdom and registered on 1 August 1994 under file No. 24744/94;

Having regard to the report provided for in Rule 47 of the Rules of Procedure of the Commission;

Having deliberated;

Decides as follows:

THE FACTS

The applicant is a British citizen born in 1944. He lives in Christow, Exeter. The facts of the application, as submitted by the applicant, may be summarised as follows.

The particular facts of the case

The applicant was an independent candidate in the elections to the European Parliament which were held on 9 June 1994. It is his view that political parties have no status in English electoral law, that they are an unnatural restraint on the evolution of democracy and that they are not an indispensable feature of representative democracy.

The applicant, who contested solely the Devon and East Plymouth seat, did not request and did not have a broadcast.

On 19 January 1995 the Chief Political Adviser of the BBC replied to a letter from the applicant. He explained that the BBC was not required to broadcast party political broadcasts or election broadcasts by statute but "because time on television is offered to political parties by the BBC for them to explain their policies and politics as they see fit." He added that the 12.5% threshold had been set by the broadcasters, and ended his letter:

"As you suggest electoral law is geared to individuals rather than parties but this does not govern the offer of time for party political broadcasts on the BBC. I am sure you are not suggesting that an offer of broadcasting time should be made to every individual candidate in every single election which takes place in the United Kingdom!"

Relevant domestic law

The British Broadcasting Corporation ("the BBC") is a public corporation governed by a Royal Charter which defines its objects, powers and obligation, its constitution and the sources and uses of its revenues.

The BBC makes time to broadcast party political broadcasts. Election broadcasts are those party political broadcasts which take place during a general election, and there is a similar series which takes place during elections to the European Parliament.

"The broadcasting authorities make certain periods available after the election is announced, and the parties agree how the time is to be allocated between them. After nomination day, the claims of minor parties are considered, when additional time - shorter than that allotted to the main parties - is allotted to any party which has not less than ... twenty candidates (Halsbury's Laws of England, vol. 45, para. 576; the figure of twenty has now been reduced to ten).

A party which stands in at least 12.5% of seats in a European election in the United Kingdom (i.e., in the 1994 elections, ten seats) qualifies for one party election broadcast lasting five minutes. It had initially been intended to set the threshold at 20%, but it was reduced after objection by the Green Party.

COMPLAINTS

The applicant alleges a violation of Articles 10 and 14 of the Convention.

Under Article 10, the applicant complains that because he was not able to make a party political broadcast, he was denied the right to impart information and ideas without influence by public authority. He points out that the Home Office is charged with the conduct of elections, and that the Home Office has stated that the allocation of broadcasting time is a matter of Government policy.

Under Article 14 of the Convention in connection with Article 10, the applicant regards the grant of party political broadcasts only to forms of organisation ("the party") which are not known to British electoral law but not to him as discriminatory.

THE LAW

The applicant alleges a violation of Articles 10 (Art. 10) and 14 (Art. 14) of the Convention in that he was not entitled to a political broadcast in the campaign for the elections to the European Parliament.

Article 10 (Art. 10) of the Convention provides, so far as relevant, as follows.

"1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. ...

2. The exercise of these freedoms, since it carries with it

duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary."

Article 14 (Art. 14) of the Convention provides as follows:

"The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."

The applicant submits that the responsibility for the limitation on party political broadcasts lies with the Home Office, as the authority charged with the conduct of elections, and with the broadcasters, as the framers of the specific rules.

The Commission notes that it appears from the domestic law summarised above that responsibility for political broadcasts in the United Kingdom lies with the BBC, which gives air time for political broadcasts on editorial policy grounds.

The Commission next notes that the applicant has not submitted a copy of any express refusal of a political broadcast in connection with the 1994 elections to the European Parliament, and he has not challenged the rules allotting air time to candidates by way of an application for judicial review. However, the Commission is not required to determine questions of the applicant's status as a victim or of whether he has exhausted domestic remedies as prescribed by Article 26 (Art. 26) of the Convention. Nor is it required to determine whether the BBC's rules on political broadcasts engage the responsibility of the United Kingdom under the Convention, as even if all these questions are answered in the applicant's favour, the application is nevertheless inadmissible for the following reasons.

It is clear that the time available for political broadcasts is not unlimited and that some criteria must be applied for the fair allocation of air time. The criteria applied by the BBC for the grant of air time for political broadcasts - namely that the recipients should be a party presenting candidates in at least 12.5% of seats in an election - are set with a view to facilitating the public expression of political opinions which are likely to be of general interest and to command some general public support. In the absence of a challenge by way of judicial review to the criteria, the Commission cannot see any arbitrariness or discrimination in the application of these criteria which could conflict with the provisions of Article 10 (Art. 10) of the Convention, either alone or in connection with Article 14 (Art. 14) of the Convention. In particular, there is no indication that the applicant has been treated in any way differently from a small "recognised" political party which was contesting just one seat at European elections.

It follows that the application is manifestly ill-founded within the meaning of Article 27 para. 2 (Art. 27-2) of the Convention.

For these reasons, the Commission, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

Secretary to the First Chamber

President of the First Chamber

(M.F. BUQUICCHIO)

(C.L. ROZAKIS)