Hatton and Ors. v. United Kingdom

Country: United Kingdom
Region: Europe
Year: 2001
Court: European Court of Human Rights
Health Topics: Child and adolescent health, Environmental health
Human Rights: Right to family life, Right to health, Right to privacy

Facts

Eight applicants, all British citizens, lived on properties in the areas surrounding Heathrow Airport. They complained that United Kingdom’s “noise quota” policy introduced in 1993 allowing for increased flights and levels of noise at night and especially in the early morning interfered with their rights pursuant to Article 8 (right to respect for his or her private and family life, home and correspondence) of the European Convention on Human Rights (ECHR). The applicants also claimed that the State’s effort to resolve the issue through judicial review was not an effective remedy within the meaning of Article 13, as it failed to examine the merits of decisions by public authorities and was prohibitively expensive for individuals. The Chamber had found a violation of Article 8 in favour of applicants whereupon the government appealed to the Grand Chamber.

Decision and Reasoning

The Grand Chamber found no violation of the applicants’ rights under Article 8 (right to privacy) and held that in implementing the 1993 policy on night flights, a fair balance had been struck between the competing interests of the individual applicants affected by the night noise and the community as a whole according to the margin of appreciation of the States. The Court found that the country had economic interests in the continued operation of night flights. Moreover only a small percentage of people were affected by sleep disturbance, making the interference not unreasonable.

The Grand Chamber did, however, find a violation of applicants’ rights under Article 13 (right to an effective remedy). Prior to the entry into force of the Human Rights Act 1998, the Courts had not been able to consider whether the claimed increase in night flights represented a justifiable limitation on the right to respect for the private and family lives or the homes of those who lived near Heathrow Airport.

Decision Excerpts

"96. Article 8 protects the individual's right to respect for his or her private and family life, home and correspondence. There is no explicit right in the Convention to a clean and quiet environment, but where an individual is directly and seriously affected by noise or other pollution, an issue may arise under Article 8. Thus, in Powell and Rayner v. the United Kingdom (judgment of 21 February 1990, Series A no. 172, p. 18, § 40), where the applicants had complained about disturbance from daytime aircraft noise, the Court held that Article 8 was relevant, since “the quality of [each] applicant's private life and the scope for enjoying the amenities of his home [had] been adversely affected by the noise generated by aircraft using Heathrow Airport”. Similarly, in López Ostra v. Spain (judgment of 9 December 1994, Series A no. 303-C, pp. 54-55, § 51) the Court held that Article 8 could include a right to protection from severe environmental pollution, since such a problem might “affect individuals' well-being and prevent them from enjoying their homes in such a way as to affect their private and family life adversely, without, however, seriously endangering their health”. In Guerra and Others v. Italy (judgment of 19 February 1998, Reports of Judgments and Decisions 1998-I), which, like López Ostra, concerned environmental pollution, the Court observed that “[the] direct effect of the toxic emissions on the applicants' right to respect for their private and family life means that Article 8 is applicable” (p. 227, § 57)." Page 22.

"98. Article 8 may apply in environmental cases whether the pollution is directly caused by the State or whether State responsibility arises from the failure to regulate private industry properly. Whether the case is analysed in terms of a positive duty on the State to take reasonable and appropriate measures to secure the applicants’ rights under paragraph 1 of Article 8 or in terms of an interference by a public authority to be justified in accordance with paragraph 2, the applicable principles are broadly similar. In both contexts regard
must be had to the fair balance that has to be struck between the competing interests of the individual and of the community as a whole; and in both contexts the State enjoys a certain margin of appreciation in determining the steps to be taken to ensure compliance with the Convention. Furthermore, even in relation to the positive obligations flowing from the first paragraph of Article 8, in striking the required balance the aims mentioned in the second paragraph may be of a certain relevance (see Powell and Rayner, p. 18, § 41, and López Ostra pp. 54-55, § 51, both cited above)." Page 22-23.