

# European Court of Human Rights

# Case Example 1 – Protocol 1 / Article 1

- Mr X rented land for farming from Mr Y
- Mr Y advised Mr X that tenancy was terminated
- Mr X continued to use land
- Mr Y did not take any action for years
- Mr X registered 'Caution' at the Land Registry for Mr Y's land
- High Court awarded land to Mr X

# UK Courts

- Court of Appeal reversed decision of High Court
- House of Lords reversed decision of Court of Appeal
- Mr Y made application to ECHR
  - Violation of Article 1 of Protocol 1
  - Claiming compensation of £10 million for property loss, £191,408 for European Court costs, £383,479 for domestic court costs and £424,000 for reimbursement of costs to Mr X

# ECHR Judgment

- There was a violation of Article 1 of Protocol 1
- Limitation Act 1980 and Land Transfer Act 1925 constituted an interference by the State
- Application of 1925 and 1980 Acts upset the fair balance (proportionality) between the demands of public interest and Mr Y's right to peaceful enjoyment of his possessions.

## Case Example 2 – Articles 8,12,14

- Applicant was a post-operative male to female transsexual
- Birth certificate showed her biological sex at birth
- Request for a new National Insurance Number was rejected
- Social Security System use of nationally sensitive marking to reflect transsexual was differential treatment
- Pensionable age determined according to biological sex at birth – could not receive pension at 60 years

## Case Example 2 – Articles 8,12,14

- Made application to ECHR that Articles 8, 12, and 14 had been violated
- ECHR judgment held that Articles 8 and 12 had been violated and that there were no separate issues arising under Article 14

# Case Example 3 – Article 8

- A family had been settled for about 13 years on a site provided by the council for people with a nomadic lifestyle.
- The council then evicted them for causing a nuisance, using the summary eviction procedure.
- The family challenged the council's decision on the basis that their eviction was an unjustifiable breach of their right to enjoy their home.

# Judgement

- Breach of the right to respect for their home (Art 8) .
- Legal framework applying to the occupation of pitches on local authority gypsy sites did not provide the family with sufficient procedural protection of their rights.
- Special consideration should be given to their needs and their nomadic lifestyle because of the vulnerable position of gypsies in society.
- Any interference that would render them homeless could not be justifiable unless the public interest grounds were sufficiently weighty. The court found that there were no such grounds in this case.