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- 2.98 Article 14 discrimination must be based on a particular ‘status’ or characteristic of the person. In *Cameron Mathieson v Secretary of State for Work and Pensions*,<sup>173</sup> when reviewing this question the Supreme Court accepted that ‘status’ was not limited to innate characteristics such as gender, sexual orientation, pigmentation of skin and congenital disabilities (para 21) – holding that in that case it included ‘a severely disabled child who was in need of lengthy in-patient hospital treatment’ (para 19). In *Hurley v Secretary of State for Work and Pensions*<sup>174</sup> the status in question was that of a disabled person ‘being cared for by a family member’ (para 64). The European Court of Human Rights has confirmed that Article 14 is engaged when direct or indirect discrimination occurs.<sup>175</sup>
- 2.99 In *Hurley* the court held that where adverse indirect discrimination is identified, a fourfold test of its reasonableness is required namely:
- First, is the objective sufficiently important to justify an adverse impact? Second, is it rationally connected with the objective? Third, could a measure with a lesser adverse impact on the disadvantaged group have been used? Fourth, having regard to those matters, has a fair balance been struck between the interests of the community and the rights of those with a protected characteristic? (para 67)

170 It may be that major improvement in this field will more likely flow from EU law, ie the Amsterdam Treaty amendments.

171 *DH v Czech Republic* Application no 57325/00, 13 November 2007.

172 *Timishev v Russia* (2005) Application nos 55762/00 and 55974/00, 13 December 2005.

173 [2015] UKSC 47, [2015] 1 WLR 3250.

174 [2015] EWHC 3382.

175 *Thlimmenos v Greece* (2000) 31 EHRR 411; and see also *R (MA) v Secretary of State for Work and Pensions* [2014] EWCA Civ 13, [2014] PTSR 584 where *Thlimmenos* discrimination was held to be almost indistinguishable from indirect discrimination.