

Case C-171/96

Rui Alberto Pereira Roque

v

His Excellency the Lieutenant Governor of Jersey

(Reference for a preliminary ruling
from the Royal Court of Jersey)

(Freedom of movement for persons — 1972 Act of Accession —
Protocol No 3 on the Channel Islands and the Isle of Man — Jersey)

Opinion of Advocate General La Pergola delivered on 23 September 1997 I - 4610
Judgment of the Court, 16 July 1998 I - 4636

Summary of the Judgment

- 1. Accession of new Member States to the Communities — 1972 Act of Accession — Protocol No 3 on the Channel Islands and the Isle of Man — Equal treatment of Community nationals — Scope of the principle — Deportation from Jersey of a national of a Member State other than the United Kingdom — Difference in treatment compared with that of a British citizen who is not a Channel Islander — Whether permissible*
(EC Treaty, Art. 48(3); Act of Accession of 1972, Protocol No 3, Arts 4 and 6)

2. *Accession of new Member States to the Communities — 1972 Act of Accession — Protocol No 3 on the Channel Islands and the Isle of Man — Freedom of movement for workers — Inapplicable to the Channel Islands — Equal treatment of Community nationals — Scope of the principle — Deportation from Jersey of a national of a Member State other than the United Kingdom — Limitation of grounds for deportation to those laid down by Article 48(3) of the Treaty — None — Prohibition against making an arbitrary distinction in the choice of criminal sanctions against nationals of Member States other than the United Kingdom*
(EC Treaty, Arts 48(3) and 227(5)(c); Act of Accession of 1972, Protocol No 3, Art. 4; Council Directive 64/221)

3. *Accession of new Member States to the Communities — 1972 Act of Accession — Protocol No 3 on the Channel Islands and the Isle of Man — Deportation from Jersey of a national of a Member State other than the United Kingdom — Effect on the right of entry to and residence in the territory of the United Kingdom — None*
(EC Treaty, Art. 227(5)(c); Act of Accession of 1972, Protocol No 3)

1. The rule on equal treatment set out in Article 4 of Protocol No 3 on the Channel Islands and the Isle of Man annexed to the 1972 Act of Accession does not have the effect of prohibiting the deportation from Jersey of nationals of a Member State other than the United Kingdom, even though British citizens, including those who are not Channel Islanders within the meaning of Article 6 of Protocol No 3, are not liable to be deported from Jersey.

the grounds specified in that provision, in particular grounds justified by the requirements of public policy, measures which they cannot apply to their own nationals, inasmuch as they have no authority to expel the latter from the national territory or deny them access thereto. Also, since Channel Islanders are British nationals, the distinction between them and other citizens of the United Kingdom cannot be likened to the difference in nationality between the nationals of two Member States.

Article 4 of Protocol No 3 precludes any discrimination between natural and legal persons from the Member States in relation to situations which, in territories where the Treaty is fully applicable, are governed by Community law. However, Article 48(3) of the Treaty permits Member States to adopt, with respect to the nationals of other Member States and on

2. By virtue of Article 227(5)(c) of the Treaty and Protocol No 3 on the Channel Islands and the Isle of Man annexed to the 1972 Act of Accession, the provisions on freedom of movement for workers do not apply in the territories of the Channel Islands.

Therefore, Article 4 of Protocol No 3 is not to be interpreted as limiting the reasons for which a national of a Member State other than the United Kingdom may be deported from Jersey to those justified on grounds of public policy, public security or public health, laid down by Article 48(3) of the Treaty and set out in detail by Directive 64/221 on the coordination of special measures concerning the movement and residence of foreign nationals which are justified on grounds of public policy, public security or public health.

Article 4 of Protocol No 3 does, however, prohibit the Jersey authorities from making a deportation order against a national of another Member State by reason of conduct which, when attributable to citizens of the United Kingdom, does not give rise on the part of the Jersey authorities to repressive measures or other genuine and effective measures intended to combat such conduct. Even if difference of treatment between citizens of the United Kingdom and nationals of other Member States is allowed, the rule on equal treatment laid down by Article 4 prohibits the Jersey authorities from basing the exercise of their powers on factors which would have the effect of applying

an arbitrary distinction to the detriment of nationals of other Member States.

3. Protocol No 3 on the Channel Islands and the Isle of Man annexed to the 1972 Act of Accession cannot be interpreted in such a way that a deportation order made by the Jersey authorities against a national of a Member State other than the United Kingdom would have the effect of prohibiting that person's entry to and residence in the territory of the United Kingdom for reasons and considerations other than those for which the United Kingdom authorities might otherwise restrict the free movement of persons under Community law.

It is clear from Article 227(5)(c) of the Treaty and Protocol No 3 that those provisions are not intended to affect provisions of Community law concerning, in particular, the free movement of nationals of other Member States in the territory of the United Kingdom. They cannot therefore be interpreted in such a way that, as a result of the system they establish, the rights of nationals of other Member States would be weakened as regards entry to and residence in the territory of the United Kingdom.