**Case title:** Appleby v UK

**Case Number:** Application44306/98

**Country or Region:** EU

**Name & status of court or arbiter:** ECHR

**Date of decision:** 6th of May 2003

**Relevant law:** ECHR (Articles 10 and 11)

**Decision:** Where the private owner of a shopping centre refused to allow campaigners to distribute leaflets and canvass views in the main part of the shopping centre, the campaigners' rights to freedom of expression and freedom of peaceful assembly had not been breached.

**Summary:**

***Facts***

A complained that she had been prevented from meeting in Washington town centre, a privately owned shopping centre, to impart information and ideas about a proposed local development plan and consequently, her rights under the European Convention on Human Rights 1950 Art.10, Art.11 and Art.13 had been breached.

A maintained that (1) as the shopping centre had been built by a public entity on public land and a minister had approved the transfer to private ownership, the State was directly responsible for the interference with her freedom of expression and assembly; (2) access to the town centre was essential for the exercise of her Art.10 and Art.11 rights and thus, the State owed a positive obligation to secure the exercise of those rights within the shopping centre.

***Decision***

Held, dismissing the complaint, that:

(1) no element of state responsibility for the restriction on A's Art.10 and Art.11 rights could be derived from the fact that a public entity had transferred the property to the private owner or that this had been done with ministerial approval;

(2) although the primary purpose of the development of shopping centres was the pursuit of commercial interests, they were increasingly being designed to serve as gathering places and events centres. Such shopping centres could assume the characteristics of traditional town centres. These demographic, social, economic and technological developments did not require the automatic creation of rights of entry to private property. However, where the bar on access to property had the effect of preventing any effective exercise of the right to freedom of expression, a positive obligation could arise for the State to protect the enjoyment of Convention rights through the regulation of property rights. In the instant case, the restriction on A's ability to communicate her views was limited to the entrance areas and passageways of the shopping centre. She was not prevented from distributing leaflets on the public access paths into the area or from seeking the permission of individual store owners to set up a stand on their premises. It also remained open to A to campaign in the old town centre and to seek exposure in the local media. Thus, A had not been effectively prevented from communicating her views to her fellow citizens and accordingly, there was no violation of Art.10 or Art.11