

Supreme Court rules on abortion in Northern Ireland

07/06/2018 (EU/Competition, Public Law)

A seven judge panel of the Supreme Court today gave judgment in an appeal concerning the compatibility of the law of abortion in Northern Ireland with Articles 3 and 8 of the European Convention on Human Rights.

Lord Mance, Lord Reed, Lord Lloyd Jones and Lady Black accepted the argument of the Attorney General for Northern Ireland that the provisions of the Northern Ireland Act 1998, as amended, did not confer on the Northern Ireland Human Rights Commission capacity to bring an application for judicial review challenging the human rights compatibility of legislation in the abstract. Accordingly, there was no power to make any declaration of incompatibility under the Human Rights Act 1998. Lady Hale, Lord Kerr and Lord Wilson dissented on this point.

All members of the panel went on, however, to consider whether the Northern Ireland abortion legislation was compatible with Articles 3 and 8 ECHR. On this, Lady Hale, Lord Mance, Lord Kerr and Lord Wilson held that the prohibition on abortion in cases of rape, incest and fatal foetal abnormality violates Article 8 ECHR. Lord Kerr and Lord Wilson held that these prohibitions also violate Article 3 ECHR. Lady Black held that the prohibition violated Article 8 in cases of fatal foetal abnormality only. Lord Reed and Lord Lloyd Jones held that there was no violation of Article 3 or 8 in any case.

The judgment is [here](#).

Martin Chamberlain QC appeared on behalf of the Attorney General for Northern Ireland and argued the Article 3 issues.

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- Martin Chamberlain QC