

**Decision of the Committee of Ministers of the Council of Europe in relation to
A., B. and C. v. Ireland (pending case under Enhanced Supervision)**

Date of issue of judgment: 16th December 2010

Case description: The European Court considered that the third applicant, who had a rare form of cancer, could not establish - due to a lacuna in the legal framework - whether she met the criteria to access an abortion, which is lawful in Ireland when there is a real and serious risk to the life of the mother (violation of Article 8).

Status of execution: *Individual measures:* The European Court awarded the third applicant just satisfaction in respect of non-pecuniary damage. Given the circumstances of the case and the just satisfaction awarded by the Court, no other measure appears necessary.

General measures: The Irish authorities provided an initial action plan on 16 June 2011 stating that they would establish an expert group to make recommendations to government on how the judgment should be implemented (see DH - DD(2011)480E). In an updated action plan provided on 13 January 2012, the authorities confirmed the establishment of that group (see DH-DD(2012)66E). As specified in the updated action plan, the remit of the expert group is to recommend a series of options to the Irish government on how to implement the judgment. These options should take into account the over-riding need for speedy action and the constitutional, legal, medical, and ethical considerations involved. The group will meet regularly (at least once a month) and report back to the Irish government within 6 months from its establishment.

Last exam of the Committee of Ministers:

CM reference texts

Action plan [DH-DD\(2011\)480 <https://wcd.coe.int/wcd/ViewDoc.jsp?Ref=DH-DD%282011%29480&Language=lanEnglish&Ver=original&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383>](https://wcd.coe.int/wcd/ViewDoc.jsp?Ref=DH-DD%282011%29480&Language=lanEnglish&Ver=original&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383)

Updated Action plan [DH-DD\(2012\)66E <https://wcd.coe.int/ViewDoc.jsp?id=1899091&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383>](https://wcd.coe.int/ViewDoc.jsp?id=1899091&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383)

Communication from a NGO (Irish Council for Civil Liberties) [DH-DD\(2011\)645 <https://wcd.coe.int/ViewDoc.jsp?id=1822783&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383>](https://wcd.coe.int/ViewDoc.jsp?id=1822783&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383)

Communication from an association (Irish Family Planning Association) [DH-DD\(2011\)628E <https://wcd.coe.int/ViewDoc.jsp?id=1820117&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383>](https://wcd.coe.int/ViewDoc.jsp?id=1820117&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383)

Committee of Ministers of the Council of Europe

1136th meeting (6-8 March 2012) - Notes

When examining the case, it may be useful to consider some of the Court's findings: -

The Court found it «...evident that the criminal provisions of the 1861 Act would constitute a significant chilling factor for both women and doctors in the medical consultation process...» and that «Both the third applicant and any doctor ran a risk of a serious criminal conviction and imprisonment in the event that a decision taken in medical consultation ... was later found not to accord with Article 40.3.3. of the Constitution» (§254).

The European Court accepted that the «implementation of Article 40.3.3. [of the Irish Constitution] would impose on the State ... a sensitive and complex task» (§266).

Taking into account these findings by the Court, the Committee underlined in its last decision in this case (September 2011), the importance of putting in place substantive measures to execute the judgment.

Further, given the current status of execution the question is raised of how - whilst waiting for measures to execute the judgment to be adopted - the situation of women who find themselves in a similar position to the third applicant is addressed.

Decisions

The Deputies

1. noted that the expert group tasked with recommending a series of options to the Irish authorities on how to implement the judgment had been established, that the timetable had been fixed for the group and that the group had met twice and established sub-groups on medical and legal affairs;

2. expressed concern regarding the situation of women who believe their life may be at risk due to their pregnancy in circumstances similar to those experienced by the third applicant;

3. welcomed the commitment of the Irish authorities to the expeditious implementation of the judgment, strongly encouraged the authorities to ensure that the expert group completes its work as quickly as possible and invited the authorities to keep the Committee regularly updated on the group's progress and to inform it of the substantive measures that the authorities plan to take as soon as possible.

[https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Del/Dec%282012%291136/12&Language=lanEngli sh&Ver=original&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&Back ColorLogged=F5D383](https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Del/Dec%282012%291136/12&Language=lanEngli sh&Ver=original&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383)