

**From the Committee of Ministers of the Council of Europe decision and resolutions adopted at its third special human rights meeting for 2011**

**IRELAND**

Application 25579/05      **A. B. and C. v. Ireland**      Enhanced procedure

Final judgment  
16/12/2010

**Case description:** This case concerns the absence of any legislative or regulatory regime providing an accessible and effective procedure by which the third applicant, who had a rare form of cancer, could have established whether she qualified for a lawful abortion in Ireland on the basis that her life was at risk (violation of Article 8).

**Status of execution before the meeting:** Action plan submitted on 16 June 2011 (see [DH-DD\(2011\)480](#)).

*Individual measures:* The European Court awarded the third applicant just satisfaction in respect of non-pecuniary damage. No other measure appears necessary.

*General measures:* The Irish authorities submitted an action plan on 16 June 2011 stating that they will establish an expert group to make recommendations to government on how the judgment should be implemented. The expert group will be established by November 2011. A plan setting out the terms of reference, members and meeting schedule for the group of experts will be submitted by the end of 2011.

The judgment has been published and disseminated.

**Notes:** The European Court noted that “the ground upon which a woman can seek a lawful abortion in Ireland is expressed in broad terms; Article 40.3.3. [of the Irish Constitution], as interpreted by the Supreme Court in the X case, provides that an abortion is available in Ireland if it is established as a matter of probability that there is a real and substantial risk to the life, as distinct from the health, of the mother, including a risk of self harm, which can only be avoided by a termination of the pregnancy” (§253).

The European Court also noted the general prohibition in criminal law on abortion in Ireland under the 1861 Offences Against the Person Act (“the 1861 Act”). 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).

**Link to relevant document:**

[DH-DD\(2011\)480](#) - Action plan

[DH-DD\(2011\)628E](#) : Communication from a NGO (Irish Family Planning Association (IFPA))

[DH-DD\(2011\)645](#) : Communication from a NGO (Irish Council for Civil Liberties)

**Decisions**

The Deputies,

1. acknowledged the action plan submitted in this case and that as regards general measures, the Irish authorities intend to establish an expert group by November 2011 and to outline its terms of reference, membership and meeting schedule by the end of 2011;
2. underlined the importance of putting in place substantive measures to execute the judgment and invited the authorities to keep the Committee informed in relation to the steps taken under the timetable set out in the action plan.