
RELIGIOUS LIBERTIES

EUROPEAN COURT OF HUMAN RIGHTS FINDS NO RIGHT TO ABORTION UNDER EUROPEAN HUMAN RIGHTS CONVENTION

By William L. Saunders*

Before the European Court of Human Rights (“ECHR” or “the Court”) delivered its decision in the case of *A. B. and C. v. Ireland* (“*ABC*” or “*ABC v. Ireland*”) on December 16, 2010, there had been widespread speculation as to the potential breadth of the decision and its implications for the sovereignty of nation states that are members of the Council of Europe.¹ Such speculation was encouraged by the fact that instead of being heard by a single Chamber of the ECHR, the case had been referred to the Grand Chamber, composed of all judges of the ECHR, and by the fact that the Court took longer than it normally does to issue its opinion.

When issued, the opinion settled the question whether there is a “right” to abortion to be implied from the articles of the European Convention on Human Rights (“the Convention”) that supersedes a nation’s (in this case, Ireland’s) domestic law (where there is no such right), while simultaneously unsettling the political landscape in Ireland because of the ECHR’s interpretation of Irish national law, as will be discussed below.

I. Ireland’s Law

Ireland protects the right to life of the unborn. Abortion was illegal under the Offenses Against Persons Act of 1861, and Irish case law before 1983 held that the Constitution’s right to life implicitly protected the unborn. On September 7, 1983, the people of Ireland voted to make that implicit guarantee explicit, adopting the Eighth Amendment.²

The Eighth Amendment became Article 40.3.3 of the Irish Constitution, which recognizes the right to life of the unborn, and makes that right equal to that of the woman: “The State acknowledges the right to life of the unborn and, with due regard to the equal right to life of the mother, guarantees in its laws to respect, and, as far as practicable, by its laws to defend and vindicate that right.”

In a 1992 case, *Attorney General v. X and Others* (“the *X* case”), Ireland’s Supreme Court was asked whether a suicidal pregnant minor could leave the country to obtain an abortion. In interpreting the Constitution’s provision respecting the life of the unborn, Ireland’s Chief Justice opined that abortion in Ireland is permissible in certain limited circumstances,

the proper test to be applied is that 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, which can only be avoided by the termination of her pregnancy, such termination is permissible, having regard to the true interpretation of Article [40.3.3] of the Constitution.³

* William L. Saunders is Senior Vice President and Senior Counsel of Americans United for Life, and Chairman of the Federalist Society’s Religious Liberties Practice Group.

A measure to narrow the *X* decision was rejected by the Irish voters, 65% to 34%.⁴ In addition, the Thirteenth Amendment to the Irish Constitution makes clear that a woman may leave the country to have an abortion elsewhere.⁵ The Fourteenth Amendment also clarifies that information regarding abortion in other countries is not forbidden.⁶

II. The Complaint(s)

In the *ABC* case, three anonymous women, A., B., and C., claimed that an inability to obtain legal abortion in Ireland was a violation of their Convention rights. The ECHR determined that there were distinguishable and consequential differences between the women’s circumstances, and thus examined the arguments of A. and B. distinctly from those of C.

A. desired an abortion because of her “history of alcoholism, post-natal depression, and difficult family circumstances.”⁷ The Court classified A.’s reasons as concerning her “health and well-being.”⁸ The Court accepted as B.’s “core factual submission” that her abortion was sought because “she was not ready to have a child.” (B.’s complaint included that she had at one point feared her pregnancy to be ectopic,⁹ but she acknowledged that she knew her pregnancy was not ectopic before her abortion.¹¹) The Court thus classified B. as asserting “well-being reasons.”¹²

As characterized by the Court, C. sought an abortion “mainly [because she] feared her pregnancy constituted a risk to her life.”¹³ The Court considered her core submission to be that she desired an abortion

because of a fear (whether founded or not) that her pregnancy constituted a risk to her life (that her cancer would return because of her pregnancy and that she would not be able to obtain treatment for cancer in Ireland if she was pregnant) and because she would be unable to establish her right to an abortion in Ireland.¹⁴

The first two women, A. and B., complained under Article 3 (prohibition against torture), Article 8 (respect for private and family life), Article 13 (effective remedy), and Article 14 (discrimination) of the Convention about the prohibition of abortion in Ireland on health and well-being grounds. C. made an additional complaint under Article 2’s “right to life.”

Notably, even in the plaintiffs’ own words, “[n]one of the Applicants here are claiming that the State put any restrictions on their ability to *travel*; rather, they dispute that not being able to obtain necessary health care inside the State conflicts with their Convention rights.”¹⁵

The Court found that the plaintiffs failed to establish that they “lacked access to necessary medical treatment in Ireland before or after their abortions.”¹⁶ Moreover, C.’s “suggestions as to the inadequacy of medical treatment available to her for a relatively well-known condition (incomplete abortion) are too

general and improbable to be considered substantiated.”¹⁷ The Court’s handling of the merits of the plaintiffs’ other arguments will be discussed below.

III. Procedural Concerns

Article 35 §1 of the Convention requires that all possible domestic remedies be exhausted before the ECHR has jurisdiction.¹⁸ This requirement does not mean that individuals complaining of violations of their rights *can* take their case first to their nation’s court, but that they *must* first take their case through the courts of the country concerned, up to the highest possible level of jurisdiction. The *procedural* requirement respects the sovereignty of nations, and gives the State the first opportunity to provide redress for the alleged violation.

In the *ABC* case, there was no judgment of the Irish Courts for the ECHR to review because the applicants never sought such redress. Ireland’s counsel highlighted the significance of this failure during oral arguments, “no doubt that this application is a significant case . . . but also for the Court’s relationship with contracting states, their judicial processes and the principle of subsidiarity. . . . Rarely, if ever, [has the Court been asked to address] such important issues on such inadequate factual basis.”¹⁹

However, the applicants (plaintiffs) argued that they did effectively exhaust domestic remedies. They asserted that bringing their cause in the Irish courts would be futile,²⁰ compromise their confidentiality,²¹ and that for these women (who had all had their abortions prior to initiating their case with the ECHR) pursuing a domestic remedy would not “result in timely, tangible relief within Ireland for any of the women.”²²

A 2006 ECHR case, *D. v. Ireland*, provided precedence for dismissal for failure to exhaust local remedies. The case involved an Irish woman who, not allowed an abortion in her home country, traveled to Britain in order to legally abort. She sued the government of Ireland before the ECHR, citing several articles of the Convention in her complaint, including Article 3, which states that no one should be subjected to torture, inhuman or degrading treatment, or punishment, and Article 8, which recognizes the right to respect for private and family life. On July 5, 2006, the Court declared the case inadmissible “on the ground that the applicant had not exhausted domestic remedies, in that she failed to bring an action before the Irish courts.”²³

Though dismissal on procedural grounds thus appeared to be warranted in *ABC*, an early action signaled that such a dismissal was unlikely when the Court made the unusual move of referring the case to the Grand Chamber before the lower chamber issued an opinion.²⁴ Even so, there appeared some chance the case would be dismissed on Article 35 grounds when the hearing by the ECHR in December 2009 was noted as being “on the procedure and the merits.”

In any event, in the *ABC* decision itself, the Court reiterated that Article 35 §1 requires “that it may only deal with a matter after all domestic remedies have been exhausted.”²⁵ It noted that “it is incumbent on the aggrieved individual to . . . allow the domestic courts to develop [constitutional] rights by way of interpretation.”²⁶

As noted above, the Court considered the causes of A. and B. as distinct from C. on both the procedural and merit questions. And, the Court concluded, since A. and B. clearly would have not been permitted a legal abortion in Ireland (as they did not assert claims that an abortion was necessary for their “lives”), there was no “effective remedy available both in theory and in practice under which the first and second applicants were required to exhaust.”²⁷

As for C., who complained that she feared her pregnancy posed a risk to her life—as opposed to her health or well-being—the Court found, “the question of the need for [her] to exhaust judicial remedies is inextricably linked, and therefore should be joined, to the merits of her complaint under Article 8 of the Convention.”²⁸

Thus, the ECHR did not dismiss any of the three cases on Article 35 grounds.

IV. Merits of the Plaintiffs’ Claims—Articles 2, 3 and 8

The “right to life” is found in Article 2 of the Convention, which states:

1. *Everyone’s right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.*

2. *Deprivation of life shall not be regarded as inflicted in contravention of this article when it results from the use of force which is no more than absolutely necessary:*

(a) *in defence of any person from unlawful violence;*

(b) *in order to effect a lawful arrest or to prevent escape of a person lawfully detained;*

(c) *in action lawfully taken for the purpose of quelling a riot or insurrection.*

Asserting a violation of her Article 2 right to life, C. claimed:

[C.’s] right to life was violated by the State’s failure to ensure abortion when a woman’s life is at risk from continued pregnancy. The State’s assertion that the threat to Applicant C’s life constituted a “completely hypothetical scenario,” simply demonstrates the irrationality of laws that require an acute distinction between when continuation of pregnancy poses a substantial risk to a woman’s health rather than a risk to her life.²⁹

The Court, however, found C.’s complaint under Article 2 to be “manifestly ill-founded.” The Court held that there was “no evidence of any relevant risk” to her life, since there was no impediment to her traveling to England for an abortion “and none of her submissions about post-abortion complications concerned a risk to her life.”³⁰ Similarly, the associated claim (“no effective remedy”) made under Article 13 was rejected.³¹

Next the Court considered the claims under article 3. The prohibition against torture of Article 3 of the Convention reads: “*No one shall be subjected to torture or to inhuman or degrading treatment or punishment.*” To fall under Article 3’s definition of torture, the “ill-treatment must attain a minimum level of severity.”³² The Court found that the facts alleged by the

plaintiffs failed to reach that level of severity.³³

The Court spent the bulk of its opinion analyzing the plaintiffs' claims made under Article 8's "respect for private and family life." Article 8 of the Convention states:

1. *Everyone has the right to respect for his private and family life, his home and his correspondence.*
2. *There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.*

A. and B.'s complaints under Article 8 were based on the fact that Irish law does not permit abortion for "health and/or well-being" reasons.³⁴ C.'s complaint was based on lack of "legislative implementation" of measures of which she could avail herself to determine whether she would be afforded a legal abortion.³⁵

The Court noted that the "notion of 'private life' within the meaning of Article 8 of the Convention is a broad concept which encompasses, *inter alia*, the right to personal autonomy and personal development: "It concerns subjects such as gender identification, sexual orientation and sexual life, a person's physical and psychological integrity as well as decisions both to have and not to have a child or to become genetic parents."³⁶ Prior Court decisions found that "legislation regulating the interruption of pregnancy touches upon the sphere of the private life of the woman" and that "[t]he woman's right to respect for her private life must be weighed against competing rights and freedoms invoked including those of the unborn child."³⁷

Importantly, the Court noted that "Article 8 cannot, accordingly, be interpreted as conferring a right to abortion." But the Court found that the complaints of A. B. and C. "come within the scope for their private lives and accordingly Article 8."³⁸ Again, however, noting a "substantive" difference between C.'s complaint and those of A. and B., the Court thus considered the merits under their Article 8 claims distinctly.³⁹

Citing both *Bruggemann and Scheunter v. Germany* and *Vö v. France*, the Court acknowledged that "not every regulation of the termination of pregnancy constitutes an interference with the respect for the private life of the mother."⁴⁰ Moreover, "the essential question," the Court held, is whether there was an "unjustified interference" with the rights guaranteed under the Convention.⁴¹

The Court recalled that "the protection afforded under Irish law to the right to life of the unborn was based on profound moral values concerning the nature of life which were reflected in the stance of the majority of the Irish people against abortion during the 1983 referendum."⁴² And, though the Convention does not require the protection of the unborn, "it would be equally legitimate for a State to choose to consider the unborn to be such a person and to aim to protect that life."⁴³

The plaintiffs argued that "[t]he public consensus within Ireland and throughout the Council of Europe States supports exactly this type of balance which respects the State's interest

in the foetus yet allows legal abortion in select circumstances necessary to preserve the woman's health and well-being."⁴⁴ And they asked the Court to dismiss Ireland's rationale for its abortion law by asserting:

[T]here is little support for the State's argument that the current abortion regulations are necessary to protect public morals. . . . The public's moral view and the moral viewpoint found in relevant international human rights law accept that abortion should be legal in certain circumstances. . . . Yet regardless of the ideological basis for the State's assertion that banning all abortion protects the public morals, in fact, a moral viewpoint that seeks to balance the interests of the foetus with that of a woman's health and well-being in particular circumstances is far more proportionate and, thus, has been adopted by the majority of the Council states and by most human rights bodies worldwide.⁴⁵

The Court, however, noted that the "State authorities are in principle in a better position than the international judge to give an opinion on the 'exact content of the requirements of morals' in their country, as well as on the necessity of a restriction intended to meet them."⁴⁶

The plaintiffs additionally argued that "[t]he State's view is disproportionate because it does not reflect current domestic consensus supporting greater access to legal abortion within Ireland."⁴⁷ However, the Court also noted that Ireland's rejection of a referendum of the Lisbon Treaty in 2008 was in part influenced by "concerns about maintaining Irish abortion laws."⁴⁸

The Court concluded that the restriction "pursued the legitimate aim of the protection of morals of which the protection in Ireland of the right to life of the unborn was one aspect."⁴⁹

Of significant importance to the Court's decision was whether the questions of how and when to regulate abortion fall within a nation's "margin of appreciation." Supra-European courts have traditionally considered abortion a national issue, giving great deference to individual member states regarding its regulation. In line with this judicial philosophy, they have not recognized the right of a woman to obtain an abortion, nor have they recognized a right to life of the unborn child, under the Convention. The Court has held that the right to life of the unborn, and the corollary regulation of abortion, fall in the margin of appreciation left to the Member States.

However, a 2007 case, *Tysiäc v. Poland* modified this jurisprudence somewhat.⁵⁰ Alicja Tysiäc, suffering from myopia, sought an abortion under the health exception to Poland's abortion law in 2000, believing her pregnancy would exacerbate the degenerative eye disease. No specialist who saw Tysiäc would certify that her health was threatened by the pregnancy, which was necessary to meet the Polish health exception for abortion, and she subsequently gave birth to her child. After the delivery, her eyesight continued to worsen but three ophthalmologists and a panel of the medical experts concluded that "the applicant's pregnancies and deliveries had not affected the deterioration of her eyesight."⁵¹ The Court dismissed Polish legal criteria for determining the legitimacy

of a woman's claim for a health exception, declaring, "Once the legislature decides to allow abortion, it must not structure its legal framework in a way that would limit real possibilities to obtain it."⁵² Specifically, the Court found Poland had violated Article 8 of the European Convention.

In the *ABC* case, the plaintiffs argued against abortion regulation falling within Ireland's margin of appreciation by proffering that, "A strong international consensus can demonstrate that a less burdensome alternative is available and preferred throughout the member States. . . . The State fails to address the fact that Ireland's abortion laws are completely incongruous with the European consensus and international standards on lawful abortion to protect women's health and well-being."⁵³

The Court considered that there is "indeed a consensus amongst a substantial majority of the Contracting States of the Council of Europe towards allowing abortion on broader grounds than accorded under Irish law."⁵⁴ However, the Court continued that it "does not consider that this consensus decisively narrows the broad margin of appreciation of the State."⁵⁵ Rather, "of central importance is the finding in [*Vö v. France*], that the question of when the right to life begins came within the States' margin of appreciation because there was no European consensus on the scientific and legal definition of the beginning of life . . ."⁵⁶ And, the margin of appreciation for protecting the life of the unborn "necessarily translates into a margin of appreciation for that State as to how it balances the conflicting rights of the mother."⁵⁷

Though not an "unlimited" margin of appreciation,⁵⁸ the Court determined that Ireland need not allow abortion for health and well-being reasons as asserted by A. and B.:

Having a right to lawfully travel abroad for an abortion with access to appropriate information and medical care in Ireland, the Court does not consider that the prohibition in Ireland of abortion for health and well-being reasons, based as it is on the profound moral views of the Irish people as to the nature of life and as to the consequent protection to be accorded to the right to life of the unborn, exceeds the margin of appreciation accorded in respect to the Irish State.⁵⁹

Accordingly, the Court concluded that no violation of the Article 8 rights of A. and B. had occurred.

However, since Irish law potentially permitted an abortion in C.'s circumstances (i.e. where the "life" of the mother was at stake, though C had not established she fit thereunder), the Court considered the appropriate question for examining C.'s claim to be "whether there is a positive obligation on the State to provide an effective and accessible procedure allowing [her] to establish her entitlement to a lawful abortion in Ireland . . ."⁶⁰

The Court complained that, subsequent to the *X* case's determination that an abortion was permissible where "as a matter of probability there is a real and substantial risk to life . . .," there has been "no criteria or procedures . . . whether in legislation, case law, or otherwise, by which that risk is to be measured or determined. . . ." Thus, the problem in C.'s circumstance was that there was an "uncertainty as to [the law's]

precise application."⁶¹

The Court considered it "evident that the criminal provisions of the 1861 Act would constitute a chilling factor for both women and doctors in the medical consultation process, regardless of whether or not prosecutions have in fact been pursued under that Act."⁶² Therefore, the Court found that the "normal process of medical consultation" was not sufficient for a woman to determine whether or not she was afforded a legal abortion.

Though the Court found there was a violation of C.'s Article 8 rights, the Court noted that it was not its role "to indicate the most appropriate means for the State to comply with its positive obligations."⁶³ However, the Court observed that "legislation in many Contracting States has specified the conditions governing access to a lawful abortion and put in place various implementing procedural and institutional procedures."⁶⁴

The ECHR's suggestion that Ireland enact legislation to comply with its Article 8 obligations has caused a good deal of political turmoil. Many in Ireland regard the ECHR's characterization of their laws as inaccurate. (They claim that there is no "right to abortion" in any circumstances in Ireland; rather there is a right of a woman to medical treatment that may result in the death of the unborn child as a side-effect.) In the recent political elections, politicians from the winning parties signed pledges not to change the law.⁶⁵

Conclusion

The question of whether nation-state members of the Council of Europe are obligated to create legal rights to abortion under the European Convention of Human Rights has apparently been settled by the *ABC* decision. Abortion is one of several social issues largely left to the individual state to decide, under the long-standing "margin of appreciation." However, to the extent a state does create abortion rights, the ECHR's decision in *ABC* demonstrates that it will require that state to make, pursuant to its Article 8 obligations, "effective means" available to obtain that right.

Endnotes

1 The Council of Europe was established by the European Convention on Human Rights and is currently composed of forty-seven nations.

2 The referendum passed on a vote of 67% to 33%. See DEP'T OF THE ENV'T, HERITAGE, AND LOCAL GOV'T, REFERENDUM RESULTS 1937-2009, at 32-33 available at <http://www.environ.ie/en/LocalGovernment/Voting/Referenda/PublicationsDocuments/FileDownload,1894,en.pdf> (last visited May 26, 2011) [hereinafter REFERENDUM RESULTS].

3 Attorney General v. X, [1992] 1 I.R. 1 (Ir. S.C.) (Finlay, C.J., opinion).

4 REFERENDUM RESULTS, *supra* note 2, at 42. The proposed additional text to Article 40.3.3 would have read, "It shall be unlawful to terminate the life of an unborn unless such termination is necessary to save the life, as distinct from the health, of the mother where there is an illness or disorder of the mother giving rise to a real and substantial risk to her life, not being a risk of self-destruction."

5 *Id.* at 44-45 ("This subsection shall not limit freedom to travel between the State and another state.").

6 *Id.* at 46-47 ("This subsection shall not limit the freedom to obtain of make available, in the State, subject to such conditions as may be laid down by law,

- information relating to services lawfully available in another State.”)
- 7 Applicants’ Reply to the Observations of Ireland on the Admissibility and Merits, Application No. 25579/05, at 106 (Dec. 23, 2008) [hereinafter Applicants’ Reply Brief]. In the very first footnote of the reply brief, the plaintiffs defined “health” broadly, stating that “[h]ealth is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity.” *Id.* (citing to the Preamble to the Constitution of the World Health Organization, July 22, 1946, 14 U.N.T.S. 185).
- 8 *A. B. C. v. Ireland*, Application no 25579/05, 16 December 2010, at 125.
- 9 *Id.*
- 10 An ectopic pregnancy is one in which the fertilized egg develops somewhere outside the uterus, presenting a danger to the mother.
- 11 *A.B.C.*, Application no 25579/05 at 125.
- 12 *Id.*
- 13 *Id.*
- 14 *Id.*
- 15 Applicants’ Reply Brief, *supra* note 7 at 42.
- 16 *A.B.C.*, Application no 25579/05 at 127.
- 17 *Id.*
- 18 Convention for the Protection of Human Rights and Fundamental Freedoms, Sept. 3, 1953, *available at* <http://conventions.coe.int/treaty/en/Treaties/Html/005.htm> (last visited May 26, 2011) [hereinafter Convention].
- 19 Video footage of the oral arguments before the Grand Chamber is available at http://www.echr.coe.int/ECHR/EN/Header/Press/Multimedia/Webcasts+of+public+hearings/webcastEN_media?&p_url=20091209-1/en/ (last visited May 26, 2011).
- 20 Applicants’ Reply Brief, *supra* note 7, at 35: “Requiring Applicants A, B, and C to pursue domestic litigation in order to comply with the exhaustion requirement is futile because the State has demonstrated numerous times that it will not provide an effective remedy for women and girls harmed by its draconian abortion regulation.” Moreover, they argued:
- Each Applicant’s chance of success in the domestic courts is further diminished by the fact that when interpreting the use of the term “unborn” in the Constitution, the Irish courts would be prohibited from weighing the evolving domestic and international consensus that favours access to abortion when a woman’s health or well-being is at risk, nor could the courts be informed by any public or State discussion on the evolving meaning of the Irish constitutional provision regarding abortion.
- Id.* at 47.
- 21 *Id.* at 58 (stating that there is a “high likelihood that Applicants A, B and C would not have been able to keep their identities confidential had they brought their claims in the domestic courts.”)
- 22 *Id.* at 49.
- 23 *D. v. Ireland*, 27 June 2006, no. 26499/02.
- 24 *See* EUROPEAN COURT OF HUMAN RIGHTS, THE COURT IN 50 QUESTIONS, *available at* http://www.echr.coe.int/NR/rdonlyres/5C53ADA4-80F8-42CB-B8BD-CBBB781F42C8/0/FAQ_ENG_A4.pdf (last visited May 26, 2011). A case comes to the Grand Chamber, an exceptional situation, in one of two ways. First, after a Chamber judgment has been delivered, the parties may request referral of the case to the Grand Chamber and such requests “are accepted on an exceptional basis.” Second, cases are sent to the Grand Chamber when relinquished by a Chamber. “The Chamber to which a case is assigned can relinquish it to the Grand Chamber if the case raises a serious question affecting the interpretation of the Convention or if there is a risk of inconsistency with a previous judgment of the Court.”
- 25 *A. B. C. v. Ireland*, Application no 25579/05, 16 December 2010, at 142.
- 26 *Id.*
- 27 *Id.* at 149.
- 28 *Id.* at 155.
- 29 Applicants’ Reply Brief, *supra* note 7, at 17, 104. (citing *Joint Obs. of Center for Reproductive Rights*).
- 30 *A.B.C.*, Application no 25579/05, at 158-159.
- 31 *Id.* at 159.
- 32 *Id.* at 164.
- 33 The associated claim under Article 13 was thus rejected.
- 34 *Id.* at 167.
- 35 *Id.*
- 36 *Id.* at 212.
- 37 *Id.* at 213.
- 38 *Id.* at 214.
- 39 *Id.*
- 40 *Id.* at 216.
- 41 *Id.* at 218.
- 42 *Id.* at 222.
- 43 *Id.*
- 44 Applicants’ Reply Brief, *supra* note 7, at 67.
- 45 *Id.* at 76. (citing *Joint Obs. of the Center for Reproductive Rights*).
- 46 *A.B.C.*, Application no 25579/05, at 223.
- 47 Applicants’ Reply Brief, *supra* note 7, at 86.
- 48 *A.B.C.*, Application no 25579/05, at 225.
- 49 *Id.* at 227.
- 50 *Tysiac v. Poland*, Application no. 5410/03, 20 March 2007.
- 51 *Id.* at 21.
- 52 *Id.* at 116.
- 53 Applicants’ Reply Brief, *supra* note 7, at 90.
- 54 *A.B.C.*, Application no 25579/05, at 235.
- 55 *Id.* at 236.
- 56 *Id.* at 237.
- 57 *Id.* at 237.
- 58 *Id.* at 238.
- 59 *Id.* at 241.
- 60 *Id.* at 246.
- 61 *Id.* at 253.
- 62 *Id.* at 254.
- 63 *Id.* at 266.
- 64 *Id.*
- 65 The Court concluded that while there was a violation of C.’s Article 8 rights, there was not an established causal link between the violation and her claims for damages regarding her travel abroad for her abortion: “While it may be that [she] preferred the certainty of abortion services abroad to the uncertainty of a theoretical right to abortion in Ireland, the Court cannot speculate on whether she would have qualified or not for an abortion in Ireland had she had access to the relevant regulatory procedures.” The Court did award damages—in the sum of 15,000 Euros—for the “considerable anxiety and suffering” experienced by C., for lack of the process (not for lack of obtaining a legal abortion). *Id.* at 279.

