

# The ECHR and

# Ireland



EUROPEAN COURT OF HUMAN RIGHTS  
COUR EUROPÉENNE DES DROITS DE L'HOMME

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

# The ECHR and

Ireland

facts & figures

This document has been prepared by the Public Relations Unit and does not bind the Court. It is intended to provide basic general information about the way the Court works.

For more detailed information, please refer to documents issued by the Registry available on the Court's website [www.echr.coe.int](http://www.echr.coe.int).

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## **Council of Europe**

Accession: 5 May 1949

## **European Convention on Human Rights**

Signed: 4 November 1950

Ratified: 25 February 1953

## **ECHR judges**

Síofra O'Leary (since 2015)

Ann Power-Forde (2008-2014)

John Hedigan (1998-2007)

Brian Walsh (1980-1998)

Philip O'Donoghue (1971-1980)

Conor Alexander Maguire (1965-1971)

Richard McGonigal (1959-1964)

## **ECHR and Ireland at 1 January 2022**

1st judgment: *Lawless v. Ireland* no. 1 (14 November 1960)

Total number of judgments: 40

Judgments finding a violation: 25

Judgments finding no violation: 10

Friendly settlements/strikeout: 1

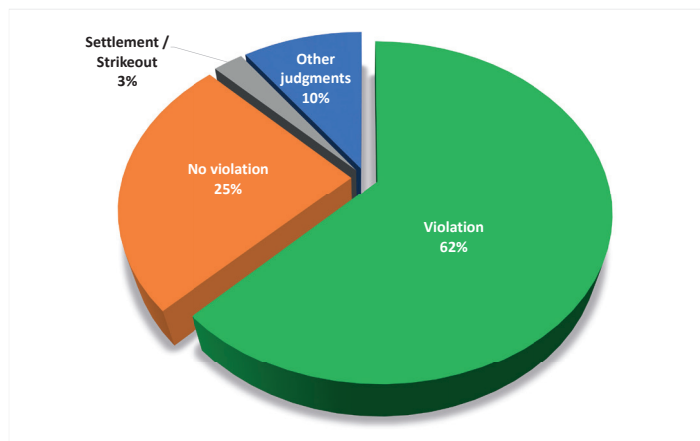
Other judgments: 4

Applications pending: 10

Applications finished: 1,158

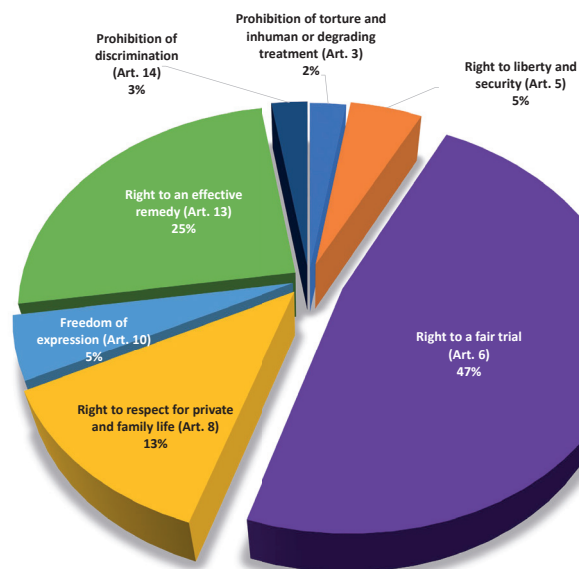
## Types of judgments

In more than 62% of the judgments delivered concerning Ireland, the Court has given judgment against the State, finding at least one violation of the Convention.



## Subject-matter of judgments finding a violation

Over 47% of violations found concern Article 6 (right to a fair hearing), specifically the length or fairness of proceedings.



## Impact of the Court's judgments

The Committee of Ministers, the Council of Europe's executive organ, supervises compliance with the Court's judgments and adoption of the remedial measures required in order to prevent similar violations of the Convention in the future.

The Court's judgments have led to various reforms and improvements in Ireland relating in particular to:

### Access to a court

Establishment of a civil legal aid and advice scheme covering family law matters, including maintenance and separation, thus ensuring an effective right of access to a court.

### Protection of privacy and reproductive rights

A legal and regulatory framework was introduced in 2013 to establish whether a woman meets the legal requirements for an abortion in Ireland. The law also provides for an emergency procedure and a review procedure before a committee of medical practitioners.

### Decriminalisation of homosexual relations

Decriminalisation of homosexual relations between consenting adult men following the adoption of the new Sexual Offences Act 1993.

### Equal treatment for children born out of wedlock

Equal treatment has been recognised for all children whether born out of wedlock or not in terms of custody, maintenance and property rights.

### Legislative framework for younger offenders in need of special care

A statutory framework for the High Court to deal with cases concerning young offenders in need of special care was created in 2011 and a Special Care Unit was set up to provide secure residential service to children and young people in need of specialised targeted intervention.

## Selected cases

### Case of Ireland v. the United Kingdom (18 January 1978)

The United Kingdom authorities exercised a series of “extrajudicial” powers of arrest, detention and internment in Northern Ireland from August 1971 until December 1975. The application concerned the scope and implementation of those measures as well as the alleged ill-treatment of persons thereby deprived of their liberty. The case led to the first Court judgment in an interstate case.

*Violation of Article 3 (prohibition of inhuman and degrading treatment)*

*No violation of Article 15 (derogation in time of emergency)*

*No violation of Article 5 (right to liberty and security)*

*No violation of Article 14 (prohibition of discrimination)*

### Case of Airey (9 October 1979)

The applicant had been unable to obtain a judicial separation from her violent husband because she did not have the financial resources to pay court fees and her request for legal aid had been refused.

*Violation of Article 6 (right to a fair trial)*

*Violation of Article 8 (right to respect for private life)*

### Case of Norris (26 October 1988)

The applicant complained about the existence in Ireland of laws which made certain homosexual practices between consenting adult men criminal offences.

*Violation of Article 8 (right to respect for private life)*

### Case of Open Door and Dublin Well Woman (29 October 1992)

The applicants were companies that provided information to pregnant women in Ireland about abortion facilities elsewhere. In 1988 the Supreme Court issued an injunction preventing them from assisting pregnant women to travel abroad for an abortion.

*Violation of Article 10 (freedom of expression)*

### Case of Heaney and McGuinness (21 December 2000)

Anthony Heaney and William McGuinness were arrested on suspicion of serious terrorist offences. After advising them that they had the right to remain silent, police officers requested them under the Offences against the State Act to give details about their movements at the time of the relevant offences. The Court found a violation of the applicants’ right to remain silent and their right not to incriminate themselves.

The ECHR and Ireland in facts and figures

*Violation of Article 6 (right to a fair trial)*

### Case of “Bosphorus Airways” (30 June 2005)

In May 1993 the Irish authorities seized an aircraft in Irish territory which Bosphorus Airways had leased from Yugoslav Airlines. It was seized under a regulation of the Council of the European Communities implementing the United Nations sanctions regime against the Federal Republic of Yugoslavia (Serbia and Montenegro). The Court developed a presumption of equivalent protection of fundamental rights in European Union law.

*No violation of Article 1 of Protocol No. 1 (protection of property)*

### Case of McFarlane (10 September 2010)

The case concerned unjustified delays in criminal proceedings brought against the applicant for offences (false imprisonment and unlawful possession of firearms) allegedly committed in 1983, of which he was acquitted in 2008. The Court found in particular that Irish law provided no effective remedy for unjustified delays in criminal proceedings.

*Violation of Article 6 (right to a fair trial)*

*Violation of Article 13 (right to an effective remedy)*

### Case of A, B and C (16 December 2010)

The applicants, all three of whom lived in Ireland, travelled to the United Kingdom to have an abortion. They complain about the restrictions on the possibility of abortion in Ireland.

*No violation of Article 8 (right to private and family life) in respect of the first and the second applicants*

*Violation of Article 8 in respect of the third applicant (on account of the failure to implement the existing Constitutional right to a lawful abortion in Ireland)*

### Case of O’Keeffe (28 January 2014)

The case concerned the question of the responsibility of the State for the sexual abuse of a schoolgirl, aged nine, by a lay teacher in an Irish National School in 1973.

*Violation of Article 3 (prohibition of inhuman and degrading treatment) and of Article 13 (right to an effective remedy)*

*No violation of Article 3 as regards the investigation into the complaints of sexual abuse at Ms O’Keeffe’s school*

### Case of Independent Newspapers (Ireland) Limited (15 June 2017)

The applicant company was the publisher of the Irish daily newspaper. In 2004 the newspaper published a series of articles about a public relations consultant, Ms L., reporting on rumours of an intimate relationship between her and a Government minister. Ms L. successfully sued the applicant company for defamation, and a jury awarded her damages of 1,872,000 euros (reduced to 1,250,000 euros by the Supreme Court on appeal). The applicant company complained to the European Court that the award had been excessive and had violated its right to freedom of expression.

*Violation of Article 10 (freedom of expression)*

### Case of Doyle (23 May 2019)

The case concerned the applicant's complaint that his right of access to a solicitor was restricted during questioning on suspicion of murder. Although the applicant could consult with his solicitor prior to the first interview and thereafter, police practice at the time meant solicitors were not permitted to be present during police questioning.

*No violation of Article 6 (right to a fair trial)*

## Selected measures to execute judgments

### General measures

#### Case of Airey (9 October 1979)

Introduction of a scheme of civil legal aid and advice covering family-law matters, including those relating to maintenance and separation, thereby guaranteeing an effective right of access to a court.

#### Case of Johnston (18 December 1986)

Prohibition of divorce and lack of recognition of the family life of persons who, after the breakdown of the marriage of one of them, were living together with their children.

**Amendment of legislation on the status of children, ensuring equal rights to all children, whether born within or outside marriage.**

#### Case of Norris (26 October 1988)

The law making homosexuality criminal offence was found to be in breach of the Convention.

**Decriminalisation of homosexual acts between consenting adults.**

#### Case of A, B and C (16 December 2010)

Introduction in 2013 of a legal and regulatory framework for establishing whether a woman satisfies the statutory conditions for an abortion in Ireland: the abortion must be performed by two medical practitioners who have jointly certified that there is a real and substantial risk of the loss of the woman's life on account of illness; the law also provides for an emergency procedure and a review mechanism before a committee of medical practitioners.

### Individual measures

#### Cases of Quinn and Heaney & MacGuinness (20 December 2000)

Failure to respect the applicants' right to remain silent and not to incriminate themselves, and consequent breach of the presumption of their innocence. The applicants' convictions were quashed.

**The new position of the courts regarding the rules on admissibility of evidence is that a statement obtained as a result of a statutory demand is inadmissible if it was not given voluntarily.**



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