

Morgan and others (Respondents) v Ministry of Justice (Appellant) (Northern Ireland)

Case ID: 2022/0056

Case summary

Issue

Whether Section 30 of the Counter Terrorism and Sentencing Act 2021 is incompatible with Articles 5 and/or 7 of the European Convention on Human Rights (the 'ECHR'). If so, what (if any) remedy is appropriate.

Facts

The Respondents plead guilty to terrorism offences. On 13 November 2020, Colton J sentenced the Respondents to custodial terms of imprisonment. All sentences were to be served half in custody and half on licence. On 29 April 2021, the Counter Terrorism and Sentencing Act 2021 (the "2021 Act") received Royal Assent. Section 30 of the 2021 Act introduced Article 20A ('Article 20A') into the Criminal Justice (Northern Ireland) Order 2008 (the "2008 Order"). Article 20A provided that no prisoner convicted of certain terrorism offences shall be released on licence unless they have served two-thirds of their sentence in custody. The effect of Article 20A was that the Respondents must serve two-thirds of their sentences in custody and one-third on licence, rather than half in custody and half on licence. However, the end date of the Respondents' determinate custodial sentences was unaltered.

The Respondents appealed to the Court of Appeal. They submitted that Section 30 of the 2021 Act was incompatible with Articles 5, 6, and/or 7 of the ECHR. They sought an order that the terms of their original sentences be restored. The Court of Appeal granted a declaration of incompatibility to the effect that Section 30 of the 2021 Act is incompatible with Article 7 of the ECHR. The Court of Appeal found that Article 6 of the ECHR was not engaged and did not make a determination regarding Article 5 of the ECHR.

The Appellant was granted permission to appeal the declaration of incompatibility with Article 7 of the ECHR and the Respondents were given permission to cross-appeal in relation to compatibility with Article 5 of the ECHR only.

Judgment appealed

[\[2021\] NICA 67](#)

Parties

Appellant(s)

Ministry of Justice

Respondent(s)

Seamus Morgan and others

Appeal

Justices

Lord Reed, Lord Sales, Lord Hamblen, Lord Burrows, Lord Stephens

Hearing start date

22 February 2023

Hearing finish date

22 February 2023

Watch hearing

22 February 2023 [Morning session](#) [Afternoon session](#)

A decision in this matter was given on 27 March 2023. The full judgment will be published on 19 April 2023.

Watch Decision

27 March 2023 [Decision](#)

Judgment details

Judgment date

19 April 2023

Neutral citation

[2023] UKSC 14

Watch Judgment summary

19 April 2023 [Judgment summary](#)