

PRESS RELEASE

BREXIT COURT CHALLENGE IN NORTHERN IRELAND

A court challenge by an Applicant living in a border area in Northern Ireland is listed for hearing by the High Court in Belfast tomorrow morning Friday 6th September 2019. The case is one of three cases due for a “rolled up” hearing (judicial review leave application and substantive hearing) involving Brexit challenges. The Applicant was granted anonymity by the Court on Tuesday of this week, 3rd September 2019.

The Applicant’s lawyers have been writing to the Westminster Government from January 2019 seeking concrete information and assurances from 2 successive Tory Prime Ministers on a number of legal issues specific to Northern Ireland. The Applicant lodged proceedings in the High Court on the 15th August 2019 seeking Declarations from the High Court by way of judicial review on the following issues;

1. That the Westminster Government’s current Brexit policy is in breach of s.10 of the Withdrawal Act 2018. Section 10 of this Act requires the Government to have due regard for the impact of their policies on Northern Ireland. The Applicant argues that the current government Brexit policy has been and continues to be implemented without due regard to the impact and consequences on Northern Ireland. The Applicant also argues that the on-going breach of s.10 of the Withdrawal Act 2018 contravenes the Good Friday Agreement.
2. The Applicant also seeks a Declaration from the High Court that the imposition of a border of any sort, whether technology based or manned, between Northern Ireland and the Republic of Ireland, will breach human rights which are currently protected by the European Convention of Human Rights as enshrined in the Human Rights Act 1998.

The European Convention of Human Rights is a separate body of law from European Union legislation. The rights protected by the Convention became domestic law in Northern Ireland in October 2000. As a separate body of law, Convention rights, which are regulated by the European Court of Human Rights at Strasbourg, will survive as domestic law in Northern Ireland even in the event of a withdrawal from the European Union.

Specifically, the Applicant alleges that the following international human rights will be breached – Article 2 the right to life, Article 3 prohibition on torture and inhuman degrading treatment, Article 8 right to respect for private and family life, and Article 14 freedom from discrimination. The Applicant argues that the practical consequences of the imposition of any manner of border will be detrimental to Northern Ireland.

The court has this week set out a timetable for the hearing and a possible Court of Appeal Hearing in Northern Ireland which will tie in with a Supreme Court hearing involving other Brexit challenges from Scotland and London. The Supreme Court date is currently fixed for the 17th September 2019.

Patricia Coyle solicitor of Harte Coyle Collins, Solicitors & Advocates Belfast representing the Applicant said on behalf of the client today;

“Our client welcomes the opportunity provided by the Court to debate and decide upon the alleged contravention of both S.10 of the Withdrawal Act 2018 and the fundamental rights enshrined in the European Convention of Human Rights.

Our client instructs that whatever the public assurances given by the current government and daily changes in Westminster politics, including the potential for a general election, these legal issues specific to Northern Ireland fall to be adjudicated by our Courts.

Our client’s instructs that Brexit is not just about a withdrawal from a trade agreement. For Northern Ireland it is so much more. This is not just a simple matter of re-introducing border checks. We are dealing with a complex and fragile situation in Northern Ireland with invisible nuances and tangible consequences which is not necessarily understood by those who do not live here.

Our client lives in a border area and instructs that the imposition of any manner of border represents a retrograde step of seismic proportions for Northern Ireland. Our client argues that the economic, social, policing and justice and political consequences of such a retrograde step will breach international human rights and undermine the political progress and relative peace of the past 20 years.

Our client believes that the breach of those domestically enforceable rights protected by Articles 2, 3, 8 and 14 of the European Convention of Human Rights, will represent a return to the past in Northern Ireland and result in long term adverse consequences for Northern Ireland, some of which are not foreseeable.”

The Applicant is represented in the action by Patricia Coyle and Nichola Harte of Harte Coyle Collins, Solicitors & Advocates, Mr Barry MacDonald QC, SC and Mr Malachy McGowan BL.

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Belfast, 5th September 2019