



Case concerning UK ban on assisted suicide and voluntary euthanasia declared inadmissible

In its decision in the case of [Nicklinson and Lamb v. the United Kingdom](#) (application nos. 2478/15 and 1787/15) the European Court of Human Rights has unanimously declared the applications inadmissible. The decision is final.

The case concerned the ban under UK law on assisted suicide and voluntary euthanasia. Assisted suicide is prohibited by section 2(1) of the Suicide Act 1961 and voluntary euthanasia is considered to be murder under UK law.

Mrs Nicklinson, the wife of Tony Nicklinson (now deceased) who was suffering from locked-in syndrome and wished to end his life, complained that the domestic courts had failed to determine the compatibility of the law in the UK on assisted suicide with her and her husband's right to respect for private and family life. The ECtHR declared this application inadmissible as manifestly ill-founded, finding that Article 8 did not impose procedural obligations which required the domestic courts to examine the merits of a challenge brought in respect of primary legislation as in the present case. In any event, it was of the view that the majority of the Supreme Court had examined the substance of Mrs Nicklinson's complaint.

Mr Lamb, who is paralysed and also wishes to end his life, brought a complaint about the failure to provide him with the opportunity to obtain court permission to allow a volunteer to administer lethal drugs to him with his consent. The ECtHR declared his application inadmissible for non-exhaustion of domestic remedies.

The case **Nicklinson and Lamb** concerns the compatibility of the ban on assisted suicide and voluntary euthanasia with Article 8 (right to respect for private and family life) of the European Convention on Human Rights and not with the stopping of treatment of a tetraplegic in a state of complete dependency under Article 2 (right to life) of the Convention, as was recently examined by the Court's Grand Chamber in the case **Lambert v. France**.

Principal facts

The first applicant is Jane Nicklinson, a British national who was born in 1955 and lives in Melksham (England). She is the wife of Tony Nicklinson, now deceased, who suffered locked-in syndrome following a stroke. The second applicant is Paul Lamb, a British national, who was born in 1955 and was paralysed following a car accident. His condition is irreversible.

Both men wish/ed to end their lives but are/were unable to commit suicide without assistance. Mr Nicklinson commenced proceedings in the High Court in November 2011 challenging the statutory ban on assisted suicide and the law on murder, which did not recognise voluntary euthanasia as a defence, on the ground that they were in breach of his rights under the European Convention on Human Rights. His claim was dismissed in August 2012. As regards the law on murder, the court said that it would be wrong to find that Article 8 required voluntary euthanasia to afford a possible defence to murder since this went far beyond anything which the ECtHR had said and would be to usurp the proper role of Parliament. In respect of the ban on assisted suicide, the court found that the matter had already been determined in the ECtHR judgment [Pretty v. the United Kingdom](#) (application no. 2346/02) of 2002, that Contracting States had a lot of room for manoeuvre ("wide margin of appreciation") in deciding on such matters as assisted suicide, and that, in the United Kingdom, this was a matter for Parliament to decide. Following this judgment, Mr

Nicklinson refused nutrition, fluids and medical treatment and died of pneumonia on 22 August 2012.

After Mr Nicklinson's death, Mr Lamb was joined to the legal proceedings before the Court of Appeal. Mr Nicklinson's wife was also granted the right to pursue the proceedings in her own name and on behalf of her husband.

Before the Court of Appeal, the applicants argued that the High Court was wrong in respect of both issues. The Court of Appeal dismissed their appeal in July 2013.

The applicants were granted leave to appeal to the Supreme Court. They chose not to pursue their argument that the offence of murder was incompatible with Article 8 rights. The appeal focused exclusively on the compatibility of the ban on assisted suicide with Article 8 of the Convention. In June 2014 the Supreme Court dismissed the appeal. It found that such a sensitive issue was for Parliament to resolve.

Complaints, procedure and composition of the Court

The applications were lodged with the European Court of Human Rights on 19 December 2014 and 24 December 2014, respectively.

Mrs Nicklinson complained under Article 8 (right to respect for private and family life) that the domestic courts had failed to determine the compatibility of the law in the UK on assisted suicide with her and her husband's right to respect for private and family life; and Mr Lamb complained that his rights under Articles 6 (right to a fair hearing /access to court), 8, 13 (right to an effective remedy) and 14 (prohibition of discrimination) had been infringed by the failure to provide him with the opportunity to obtain court permission to allow a volunteer to administer lethal drugs to him with his consent.

The decision was given by a Chamber of seven, composed as follows:

Guido **Raimondi** (Italy), *President*,
George **Nicolaou** (Cyprus),
Ledi **Bianku** (Albania),
Nona **Tsotsoria** (Georgia),
Paul **Mahoney** (the United Kingdom),
Faris **Vehabović** (Bosnia and Herzegovina),
Yonko **Grozev** (Bulgaria), *Judges*,

and also Fatoş **Aracı**, *Deputy Section Registrar*.

Decision of the Court

[Mrs Nicklinson's complaint](#)

The ECtHR did not accept that Article 8 imposes procedural obligations which require the domestic courts to examine the merits of a challenge brought in respect of primary legislation as in the present case. It explained that States are generally free to determine which of the three branches of government should be responsible for taking policy and legislative decisions which fall within their margin of appreciation. In the United Kingdom, the assessment as to the risk and likely incidence of abuse if the prohibition on assisted suicide were to be relaxed was made by Parliament in enacting section 2(1) of the 1961 Act, a provision that has been reconsidered several times by Parliament in recent years. Requiring courts to give a judgment on the merits of a complaint about the prohibition could have the effect of forcing upon them an institutional role not envisaged by the domestic constitutional order. It would also be odd to deny domestic courts charged with examining the

compatibility of primary legislation with the Convention the possibility of concluding, like the Strasbourg Court, that Parliament is best placed to take a decision on the issue in question in light of the sensitive ethical, philosophical and social issues which arise.

In any case, the ECtHR found that the majority of the Supreme Court judges had dealt with the substance of Ms Nicklinson's claim by concluding that she had failed to show that there had been any relevant developments since the judgment in *Pretty v. the United Kingdom*. The fact that in making their assessment they attached considerable weight to the views of Parliament did not mean that they failed to carry out any balancing exercise. They were entitled to conclude that in light of the sensitive issue at stake and the absence of any consensus among Contracting States the views of Parliament weighed heavily in the balance.

The ECtHR therefore concluded that Ms Nicklinson's application was manifestly ill-founded and declared it inadmissible.

Mr Lamb's complaint

The ECtHR noted that before the Court of Appeal, challenges had been made to both the prohibition on assisted suicide and law on murder, which made no exception for voluntary euthanasia. However, before the Supreme Court Mr Lamb had only pursued his complaint about the ban on assisted suicide and not his argument that there should be a judicial procedure to authorise voluntary euthanasia in certain circumstances. It could not be assumed that the Supreme Court would have disposed of the argument concerning voluntary euthanasia in the same way as it disposed of the claim in respect of the prohibition of assisted suicide. Recalling that those who wish to complain to the ECtHR against a State first have to use remedies provided for by the national legal system, the ECtHR dismissed Mr Lamb's application as inadmissible for non-exhaustion of domestic remedies.

The decision is available only in English.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.