



Gay-marriage-cake case declared inadmissible

In its decision in the case of [Lee v. the United Kingdom](#) (application no. 18860/19) the European Court of Human Rights has, by a majority, declared the application inadmissible. The decision is final.

The case concerned the refusal by a Christian-run bakery to make a cake with the words “Support Gay Marriage” and the QueerSpace logo on it which the applicant had ordered and the proceedings that had followed.

Principal facts

The applicant, Gareth Lee, is a British national who was born in 1969 and lives in Belfast (United Kingdom). He is associated with QueerSpace, an organisation for the lesbian, gay, bisexual and transgender community in Northern Ireland.

Although same-sex marriage had been enacted in the rest of the UK in 2014, it was made legal in Northern Ireland only in 2020.

In 2014, Mr Lee ordered a cake for a gay activist event set to take place not long after the Northern Irish Assembly had narrowly rejected legalising same-sex marriage for the third time. He ordered it from Asher’s bakery. The cake was to have an image of Bert and Ernie (popular children’s television characters), the logo of QueerSpace, and the slogan “Support Gay Marriage”. He paid in advance.

The following day the bakery called him to say it would not fulfil his order because it was a “Christian business”. The bakery apologised and refunded his money.

Mr Lee brought an action for breach of statutory duty in and about the provision of goods, facilities and services against the bakery and its owners. In response, the bakery and its owners invoked their rights under Articles 9 (freedom of thought conscience and religion) and 10 (freedom of expression) of the Convention. The County Court found that the failure to fulfil the order had been direct discrimination on the grounds of the applicant’s sexual orientation and his religious beliefs or political opinions in breach of the Fair Employment and Treatment (Northern Ireland) Order 1998 and the Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006. The County Court accepted that the bakery owners’ Article 9 rights were engaged but held that they were not entitled to manifest their religious beliefs in the commercial sphere if this would be contrary to the rights of others. It considered that Article 10 was not engaged because the bakery had not been required to support, promote or endorse Mr Lee’s view. The Court of Appeal upheld that decision, noting the possibility for arbitrary abuse if businesses were free to choose what services to provide to the gay community on the basis of religious belief.

The Supreme Court overturned the decision. It held that there had been no less favourable treatment on the grounds of religious belief because the bakery owners had not refused to serve the applicant because he was gay, but rather because they objected to being required to promote a message that they profoundly disagreed with. Even if there had been discrimination on grounds of political opinion, it held that the 1998 Order should not be read in a way which required the bakery owners to express a message with which they profoundly disagreed.

Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 3 April 2019.

Relying on Article 8 (right to respect for private life), Article 9 (freedom of thought conscience and religion) and Article 10 (freedom of expression), both alone and in conjunction with Article 14 (prohibition of discrimination) of the Convention, the applicant complained that his rights had been interfered with by a public authority – the Supreme Court – by its decision to dismiss his claim for breach of statutory duty, and that the interference had not been proportionate.

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

Yonko **Grozev** (Bulgaria), *President*,
Tim **Eicke** (the United Kingdom),
Faris **Vehabović** (Bosnia and Herzegovina),
Iulia Antoanella **Motoc** (Romania),
Armen **Harutyunyan** (Armenia),
Pere **Pastor Vilanova** (Andorra),
Jolien **Schukking** (the Netherlands),

and also Andrea **Tamietti**, *Section Registrar*.

Decision of the Court

The Court reiterated that in order for a complaint to be admissible, the Convention arguments must be raised explicitly or in substance before the domestic authorities.

The applicant had not invoked his Convention rights at any point in the domestic proceedings. By relying solely on domestic law, the applicant had deprived the domestic courts of the opportunity to address any Convention issues raised, instead asking the Court to usurp the role of the domestic courts. Because he had failed to exhaust domestic remedies, the application was inadmissible.

The decision is available only in English.

This press release is a document produced by the Registry. It does not bind the Court. Decisions, judgments and further information about the Court can be found on www.echr.coe.int. To receive the Court's press releases, please subscribe here: www.echr.coe.int/RSS/en or follow us on Twitter [@ECHR_CEDH](https://twitter.com/ECHR_CEDH).

Press contacts

echrp@echr.coe.int | tel: +33 3 90 21 42 08

Neil Connolly (tel : + 33 3 90 21 48 05)

Tracey Turner-Tretz (tel : + 33 3 88 41 35 30)

Denis Lambert (tel : + 33 3 90 21 41 09)

Inci Ertekin (tel : + 33 3 90 21 55 30)

Jane Swift (tel : + 33 3 88 41 29 04)

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.