

OpenVoiceNews

Transparent. Unbiased. Yours.

UK Judge Challenges Supreme Court Ruling in Europe

August 18, 2025

— *Categories: Human Rights*

A retired judge is challenging the UK Supreme Court's decision on the legal definition of sex, taking her case to the European Court of Human Rights.

Victoria McCloud, formerly a master in the High Court and recognised as the UK's first transgender judge, has lodged an application arguing that her rights to a fair trial were breached when the Supreme Court declined to hear evidence from her or other individuals affected. McCloud is now a litigation strategist at W-Legal and is supported in the action by Trans Legal Clinic.

The dispute stems from an April ruling in which the Supreme Court determined that the term "woman" in the Equality Act 2010 does not include transgender women, even if they hold a gender recognition certificate (GRC). The Equality and Human Rights Commission (EHRC) subsequently issued guidance that has been interpreted as restricting trans individuals from accessing certain single-sex spaces, such as toilets and changing facilities.

McCloud previously sought to intervene in the case, but her request was denied. In her European court application, she argues the Supreme Court's refusal to hear representation undermined the rights of those with GRCs under Articles 6, 8 and 14 of the European Convention on Human Rights, covering fair trial, respect for private life, and protection from discrimination.

The original case was brought by For Women Scotland, a gender-critical organisation, against the Scottish Government. The group has since launched further legal proceedings, claiming the government has failed to fully implement the court's judgment, particularly

regarding school and prison policies. Other organisations, including Sex Matters and the LGB Alliance, also intervened in the case.

The Scottish Government has said it is awaiting an updated statutory code of practice from the EHRC before finalising its response. The revised code is expected to be delivered to Equalities Minister Bridget Phillipson this week, after which it will be laid before Parliament for a 40-day scrutiny period.

In the meantime, campaign groups have accused the government of delaying compliance with the ruling, while service providers and public bodies have expressed concern over the short consultation period used by the EHRC in developing its new guidance.

Earlier this month, EHRC chief executive John Kirkpatrick defended the watchdog's approach, stating that the use of artificial intelligence alongside legal expertise was a "responsible and widely used method" to process consultation responses efficiently.

The outcome of McCloud's case in Strasbourg could have implications for how UK equality law is applied in practice, while the pending statutory code is expected to clarify obligations for schools, prisons, businesses, and other public bodies.