

AI INDEX: EUR 29/03/98
1 September 1998

MEDIA ADVISORY

Republic of Ireland: Emergency measures may violate human rights standards

Amnesty International has today released its analysis of the proposals for anti-terrorism legislation put forward by the Irish government in the wake of the bombing at Omagh. The legislation will be debated in the Irish parliament (the Dail) tomorrow (2 September). The analysis was based on public statements about the proposals, since the draft bill had not been made available by Friday 28 August.

In its analysis, the organization said that “history has shown that measures hastily taken in the immediate wake of deliberate and arbitrary killings of civilians are rarely effective in bringing those responsible to justice.”

“Rather than safeguarding respect for human rights, such provisions often are the cause of further human rights abuses and loss of confidence in the respect for the rule of law.”

The organization’s specific concerns are:

1. Membership of banned organizations and the right to silence

Amnesty International is concerned at the proposal that the opinion of a senior police officer on its own will be considered enough to charge an individual with membership of a banned organization. As well, the organization is dismayed at the proposal to allow courts to draw negative conclusions when a suspect doesn’t answer questions from the authorities. Essentially, staying silent under these laws will be interpreted as corroborating evidence of guilt.

This violates the fundamental right to silence, the right to be presumed innocent until proven guilty, and the right not to be compelled to incriminate oneself. These two proposals represent an unacceptable shifting of the burden of proof from the prosecution onto the accused and could likely lead to miscarriages of justice.

2. Detention without charge

The organization is concerned about reports that the government is proposing to extend the length of time that a person may be detained without being charged with an offence. The concern is compounded by the fact that existing practice denies people in detention for “offences against the state” of access to a lawyer during questioning.

The right to be told without delay of any charges against an individual, and the related right to be promptly brought before a judge, are aimed at preventing ill-treatment, arbitrary detention and prolonged detention without trial.

“We find the government’s proposals perplexing because, just a month ago, they joined with more than 100 other states to create an international criminal court (ICC) which would try people accused of the most heinous crimes known to the world – genocide, war crimes and crimes against humanity,” the organization said.

“The Irish government supported the right to silence, the right to be informed without delay of charges, and the right to have a lawyer present during interrogation in the ICC, yet will be denying its own citizens of these same rights if these proposals become law.”

3. Directing terrorism/confiscation of property

The organization is concerned about reports that the government may propose laws to create a new offence of directing terrorism and to allow for property to be confiscated. In the absence of more detailed proposals, the organization expressed its concern that these provisions may be broad and vaguely defined.

The organization urged legislators to consider whether the text on directing terrorism clearly defines an identifiable criminal offence and whether the acts which would constitute “terrorism” and “directing” are clearly defined.

As well, the organization asked legislators to consider whether the proposed provision on confiscation of property as a penal sanction is truly a punishment of an individual for criminal conduct or rather a collective punishment, which is prohibited by international law and standards.
...\ ENDS