

AMNESTY INTERNATIONAL

Public Statement

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McShane v the United Kingdom: another landmark judgment

Yesterday, 28 May 2002, the European Court of Human Rights (the Court) unanimously concluded, in the case of *McShane v the United Kingdom* (UK), that the UK had violated Dermot McShane's right to life as a result of its failure to ensure an effective investigation into his death.

Dermot McShane died shortly after being taken to hospital on the night of 12 July 1996 in Londonderry, Co. Londonderry, Northern Ireland. He had been fatally injured in the course of a major public disturbance that night, when a piece of hoarding behind which he had been sheltering had fallen on top of him as an army vehicle, an armoured personnel carrier (APC), had driven over it.

The Court found, *inter alia*, that the investigation into Dermot McShane's death had not been independent; that it had not been conducted expeditiously; that the driver of the APC which had fatally injured Dermot McShane could not be required to testify at the inquest. The Court also found that there were a number of shortcomings in the inquest, including the fact that the inquest was not empowered to render a verdict nor certain other findings.

In addition, the Court unanimously concluded that UK authorities had hindered Mrs. McShane's application to the Court, when the Royal Ulster Constabulary complained to the Law Society of Northern Ireland about her solicitor - this complaint was dismissed. The Court found that this complaint had had a chilling effect on Mrs. McShane's right to petition the European Court of Human Rights in violation of Article 34 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (the European Convention on Human Rights).

Amnesty International calls on the UK government to immediately implement the judgment of the Court. In particular, the organization urges the UK authorities to ensure the expeditious initiation of a thorough, independent and impartial investigation into the death of Dermot McShane as required by Article 2 of the European Convention on Human Rights and to pay the compensation awarded to Mrs. McShane.

In addition, Amnesty International urges the UK government to take a holistic approach to the implementation of yesterday's and four previous judgments (*Jordan, McKerr, Kelly and others, Shanaghan*) in which the Court concluded that investigation procedures in deaths in disputed circumstances in Northern Ireland violated the state's obligations to respect and protect the right to life.

Background

Since the mid-1980s Amnesty International has expressed concern that the government's failure to ensure that disputed killings, including by the security forces or with their alleged collusion, were investigated impartially, independently and thoroughly, violates international human rights. The police investigations have been shown to be flawed in some cases; the prosecution authorities have failed to bring prosecutions in most cases; and inquests in Northern Ireland have failed to provide public scrutiny of the full circumstances of disputed killings and to examine the legality of law enforcement officials' actions.

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