

AMNESTY INTERNATIONAL PUBLIC STATEMENT

AI Index: EUR 29/002/2011

1 June 2011

Ireland: Dáil's imposition of time limits on the Smithwick Tribunal may interfere with the independence of a judicial inquiry

Today, Dáil Éireann (the Dáil, the lower house of Ireland's parliament) passed a motion, following earlier approval by the Cabinet, requiring the Smithwick Tribunal to provide an interim report to the Dáil by 30 June 2011 and to complete its work by 30 November 2011.

The Smithwick Tribunal was established by resolutions of the Dáil and the Seanad Éireann (the Irish Senate) in March 2005, and began its preliminary investigations in 2006. The Tribunal is examining allegations that members of An Garda Síochána (the Irish national police service) or other Irish state agents colluded in the killing of two senior Royal Ulster Constabulary (RUC) police officers by the Provisional Irish Republic Army (PIRA) on 20 March 1989 in Northern Ireland, near the border with Ireland.

The motion of the Dáil amended the March 2005 resolution which established the Tribunal, and added a requirement which stated that "in any event, the Tribunal shall complete its inquiries and submit its final report to the Clerk of the Dáil not later than 30 November 2011."

Amnesty International considers that where an inquiry is established into allegations of serious human rights violations, in this case of the possible collusion of state officials in a killing, any such inquiry must be independent, impartial, prompt and thorough. The arbitrary imposition of time limits and reporting requirements by governments, regardless of whether they respond to public policy considerations such as cost or perceived ongoing delay in the investigation, can be construed or perceived as interference in the independence of the inquiry. Changes by governments to a human rights inquiry's limits on resourcing, reporting or time must be intended to ensure that the inquiry is more effective, and must not be driven solely by extraneous concerns such as cost or delay, at the expense of the rule of law.

Amnesty International notes with regret the motion of Dáil Éireann and the position of the Irish government with regard to the Smithwick Tribunal. Amnesty International is particularly concerned by the apparent change in attitude to the work of the Smithwick Tribunal, given the speed with which the Irish government initially took up the recommendation of the Cory Collusion Inquiry (see background information below) by supporting the establishment of a commission of inquiry into the killings.

Amnesty International Ireland wrote on 27 May 2011 to the Irish Minister for Justice, Equality and Defence seeking further information about the motion, following reports in the press, and calling on the Irish government to ensure that the Smithwick Tribunal continues to have a mandate to carry out a prompt, thorough, independent and impartial investigation of all allegations of serious human rights violations. Amnesty International Ireland has not to date received a response.

Background information

On 20 March 1989, two senior police officers in the RUC, Chief Superintendent Harry Breen and Superintendent Robert Buchanan, were shot and killed by members of the PIRA, while driving back to Northern Ireland from a routine, informal meeting with their Irish counterparts in Dundalk, Ireland. They were killed in Northern Ireland, close to the border with Ireland. It has been alleged, but to date not proven, that information which directly facilitated the killing was leaked from a serving Garda official or employee to the PIRA.

In October 2003, the Cory Collusion Inquiry, led by Justice Peter Cory, a retired Canadian judge, submitted its findings to the Irish government in the Breen and Buchanan cases. Judge Cory had been appointed by the UK and Irish governments in May 2002 to investigate a number of cases involving alleged collusion by UK and Irish state agents in a number of killings, include those of human rights lawyers Patrick Finucane and Rosemary Nelson in 1989 and 1999, respectively; the 1997 sectarian killing of Robert Hamill, a 25-year-old Catholic man; and the 1997 killing of Billy Wright, a leading Loyalist paramilitary, shot dead in the Maze prison. Judge Cory concluded in relation to the killings of Harry Breen and Robert Buchanan that the documentary evidence brought to his attention, including intelligence reports and a statement from a former British military intelligence agent who infiltrated the PIRA, revealed "evidence that, if accepted, could be found to constitute collusion." On this basis, Judge Cory concluded that "there must be a public inquiry".

At the time the Irish government published the Cory Collusion Inquiry's findings in December 2003, it simultaneously announced the establishment of a public inquiry under the Tribunals of Inquiry (Evidence) Act 1921. The Tribunal was formally established in 2005 by the Minister for Justice, Equality and Law Reform following resolutions of both houses of the Oireachtas (Irish Parliament). The Tribunal, led by Judge Peter Smithwick, began its private investigation in 2006, and has stated that it has had to deal with documentation and witnesses outside the jurisdiction of Ireland, including new witnesses not residing in Ireland who have confirmed their willingness to give statements to the Tribunal, and that it cannot begin its preliminary hearings until it "has gathered all available information". The Tribunal will sit in public on 7 June 2011 for the purpose of an Opening Statement, and is expected to commence hearing evidence on 9 June.

Amnesty International publications:

Rights groups call for public inquiries: Joint statement from Amnesty International, British Irish Rights Watch, the Committee on the Administration of Justice, Human Rights First and Human Rights Watch, AI Index: EUR 45/014/2004,
<http://www.amnesty.org/en/library/info/EUR45/014/2004/en>

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