

AMNESTY INTERNATIONAL

PUBLIC STATEMENT

United Kingdom/Northern Ireland: Administrative scheme for “on the runs” must not perpetuate impunity

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On 25 February 2014 the Central Criminal Court of England and Wales publicly issued its judgment to halt a criminal case against John Anthony Downey, charged with a 1982 IRA bombing in Hyde Park, London, which killed four soldiers and injured a total of 31 other people. The trial judge ruled that the indictment should be stayed and that the criminal case should not go ahead because the suspect had received clear written assurances in 2007 from the UK government that there was no outstanding direction for his prosecution and that neither police in Northern Ireland nor in the rest of the UK wanted him for arrest, questioning and charge. These assurances were given despite the fact that at the time the assurances were given he was still wanted by the Metropolitan Police Service in relation to the Hyde Park bombing. This and related errors were described repeatedly in the court judgment as a “catastrophic” failure. The trial judge, Justice Sweeney, said that this was a rare case in which the public interest in the defendant [facing trial] was “very significantly outweighed [...] by the overlapping public interests in ensuring that executive misconduct does not undermine public confidence in the criminal justice system and bring it into disrepute, and the public interest in holding officials of the state to promises they have made in full understanding of what is involved in the bargain”.ⁱ

The court judgment revealed that these written assurances, contained in letters signed on behalf of the Attorney General and the Secretary of State for Northern Ireland, had been sent to 187 individuals under an administrative scheme in relation to so-called “on the runs”, in order to advance the peace process in Northern Ireland. “On the runs” refers collectively to a number of people suspected – or who feared they were suspected - of relevant offences prior to the Good Friday/Belfast Agreement, or who had been charged with or convicted of such offences but had escaped. Under the scheme, these letters were only to be sent to individuals where the police and the prosecuting authorities in Northern Ireland were satisfied that there was insufficient evidence to mount a prosecution against them at that time.

Amnesty International is concerned that there may be other cases where similar errors have been made, and where the prosecution of members of armed groups suspected of committing abuses may fail for the same or similar reasons. What has emerged in this case raises concern that the administrative scheme, which was established to provide reassurance to “on the runs” not facing prosecution that they could return to the UK without fear of arrest, has the potential to perpetuate impunity. The Hyde Park bombing case is a stark example of how this can happen, where following fundamental failures by the Police Service of Northern Ireland and the Attorney General assurances were given when it is clear that they ought never to have been. The victims of human rights abuses and violations, and their families, must never be placed in the position where they are let down by the justice system because of such errors.

A positive development is that the Prime Minister David Cameron announced yesterday that there will be a judge-led inquiry to examine the application of the administrative scheme. It is imperative that there is also an examination of all other cases where such written assurances have been provided to ensure that this situation is not repeated. It must also be made unequivocally clear that the assurances contained in these letters cannot be a bar to further investigation or the possibility of bringing fresh prosecutions.

Furthermore, it is imperative that this situation does not set back the progress made during the multi-party talks, chaired by Dr Richard Haass, on dealing with the past. Indeed it shows precisely why a new comprehensive approach to the past – rather than the fragmented, piecemeal approach adopted to date – is needed in order for victims of human rights abuses and violations to secure truth and justice.

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¹ R v John Anthony Downey, para 176