

Public Statement

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United Kingdom: Landmark judgments on killings in Northern Ireland

The European Court of Human Rights today concluded that the United Kingdom (UK) had violated the right to life in Northern Ireland. The unanimous rulings were made in four cases brought by the families of 11 people killed by security forces and one person killed by an armed Protestant group with the alleged collusion of the security forces.

These landmark judgments require the UK Government to change the procedures by which it investigates killings in disputed circumstances. These judgments will have major repercussions not only for the families of the 12 victims of killings in disputed circumstances which the Court examined, but will also have an impact on many other cases in Northern Ireland, as well as procedures in the rest of the UK and other countries in Europe.

There are over a dozen inquests into disputed killings pending in Northern Ireland, using the same procedures which the court has found violates the European Convention on Human Rights. The families of some people, who were killed by the security forces or by paramilitary groups in alleged collusion with members of the security forces, have waited many years for an inquest.

*In the words of the European Court of Human Rights published today in *Jordan v United Kingdom*, "a prompt response by the authorities in investigating a use of lethal force may generally be regarded as essential in maintaining public confidence in their adherence*

to the rule of law and in preventing any appearance of collusion in or tolerance of unlawful acts."

Although Amnesty International welcomes the UK government's recent announcement of a two-year review of the inquest procedure, this will not alleviate the pressing need for families to have the full circumstances of their loved ones' killings examined and publicly scrutinized in the near future. Therefore Amnesty International urges the government to initiate immediate, totally independent, impartial and thorough inquiries into each of the disputed killings which have yet to be resolved.

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.

Consistent with the concerns expressed by Amnesty International, the European Court found in all four cases that the procedures for investigating the use of lethal force by police officers failed to meet the requirements of the European Convention for Human Rights. It criticised the lack of independence of the investigating police officers from the officers implicated; the lack of public scrutiny and the lack of information provided to the victims' families by the prosecution authorities about decisions not to bring prosecutions. The Court criticised the fact that the inquest procedure in Northern Ireland does not allow any verdict or any finding which could play an effective role in securing a prosecution of

any criminal offence and that people suspected of causing the death cannot be compelled to give evidence at an inquest. The court considered that the non-disclosure of witness statements to the victim's family prior to the witness appearing at the inquest prejudiced the families' participation in the inquest. It also was critical of delays in each case.

The European Court of Human Rights considered that these "shortcomings in transparency and effectivenessrun counter to the purpose identified by the domestic courts of allaying suspicions and rumours. Proper procedures for ensuring the accountability of agents of the State are indispensable in maintaining public confidence and meeting the legitimate concerns that might arise from the use of lethal force."

Amnesty International urges the UK government to take immediate action to make changes to the procedures for investigating killings in disputed circumstances, in accordance with the judgments of the European Court of Human Rights. Such changes will help to ensure that justice is done in the cases that remain pending and respect for the right to life.

Background

The cases examined by the Court are:

Hugh Jordan v. the United Kingdom (no. 24746/94)

Pearse Jordan, an unarmed IRA member was shot dead in November 1992 by the RUC, (the Royal Ulster Constabulary, the police in Northern Ireland), in disputed circumstances. Witnesses claimed that the car he was driving was forced off the road and boxed in by police driving unmarked cars and that police shot him in the back, without warning, as he attempted to cross the road. It is also alleged that prior to his killing, Pearse Jordan had been threatened on several occasions by police and soldiers.

McKerr v. the United Kingdom (no. 28883/95)

According to the police, a car, driven by Gervaise McKerr, passed through a checkpoint and the police fired as they gave chase in November 1982. About 109 bullets were fired at the car and all three people in the car, who were unarmed, were killed. The police alleged that the two passengers in the car, Sean Burns and Eugene Toman, were suspects in the killing of three RUC officers a fortnight earlier and had been under police surveillance. This case was the first of a series of controversial shootings involving possible "shoot to kill" incidents. In September 1994 the coroner abandoned the inquest after the High Court set aside the subpoena he had served on the RUC for the report of the internal police inquiry into the killings by Deputy Chief Constable John Stalker. The report has never been made public.

Kelly and others v. the United Kingdom (no. 30054/96)

In another possible case of "shoot to kill", in May 1987, during a planned ambush, the SAS shot and killed a group of 8 IRA members- Patrick Joseph Kelly, Declan John Arthurs, Seamus Donnelly, Michael Anthony Gormley, Eugene Kelly, James Lynagh, Patrick Oliver McKearney and Gerard O'Callaghan- who were about to attack an RUC barracks in Loughgall, county Armagh. A ninth man, Anthony Hughes, was killed by the SAS after he was allowed to drive his car into the area of the attack.

Shanaghan v. the United Kingdom (no. 37715/97)

On 12 August, 1991, Patrick Shanaghan was shot, while driving his car to work, by a lone gunman near Castlederg, county Tyrone. The Ulster Freedom Fighters, an armed Protestant group, claimed responsibility. There is evidence that the RUC turned away both a doctor and priest from the scene even though Patrick Shanaghan was not yet dead, claiming they needed to preserve the crime scene. It is reported that Patrick Shanaghan had been harassed repeatedly by the

RUC prior to his death. At the inquest, the coroner agreed to admit evidence that police officers had threatened Patrick Shanaghan's life while he was under arrest and that they had threatened to leak his name to a paramilitary group. On the Chief Constable's application, the High Court quashed the coroner's rulings.

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