**McKerr Group of Cases**

**CM-DH Meeting, Strasbourg, 19-21 September 2017**

**Statement by Ireland**

Ireland remains deeply concerned that the legacy institutions provided for under the Stormont House Agreement of 2014 have still to be established.

The Irish Government will therefore continue to engage with the British Government and the political parties in Northern Ireland to support a way forward so that the Stormont House legacy institutions can be legislated for as required, in both the UK and Ireland, on a basis that will secure the maximum trust and participation of victims and survivors, and the support and confidence of wider society.

Many victims and survivors of the Troubles across all communities in Northern Ireland continue to wait for effective investigations. The Irish Government shares their deep disappointment and frustration and affirms that the current situation must not continue. The Convention rights of victims and survivors of the Troubles must be urgently provided for through the full and effective implementation of the general and individual measures referred to in the present decision of the Committee of Ministers.

The legacy institutions provided for under the Stormont House Agreement include the Historical Investigations Unit (HIU), an independent body with police powers that will be structured to conduct Article 2 compliant investigations into outstanding criminal cases from the Troubles. One of the issues that has delayed agreement on the establishment of the HIU has been the question of balancing the right of families to access information with the national security considerations sought by the British Government.

In the most recent discussions at Stormont Castle, the Irish Government has underlined to the British Government and all political parties the urgent need for compromise so that there can be a collective move forward on the few outstanding issues, to establish an Article 2-compliant HIU and the other legacy bodies. Ireland believes that encouraging progress was made in the Stormont Castle discussions and would acknowledge the considerable efforts made by all participating parties to find a collective way forward.

At present, in the absence of definitive progress with the establishment of the Stormont House legacy bodies, many families of victims have no other avenue but to seek relief from the courts. In one such case, in a judgment given on 28 July last, the High Court in Belfast pointed to the serious shortcomings with the current police investigative system in delivering Article 2 compliant investigations on complex legacy cases. The judge referred to the implications for the UK in complying with the *McKerr* series of cases. The judgment affirms the absolute urgency of moving forward to get an Article 2 compliant HIU established in the immediate future that can start working to give what answers there are to victims and survivors. The Irish Government is also keenly aware that the current system is simply not tooled or resourced to deal with the issues involved and unable to prioritise the needs of victims and survivors. The establishment of the HIU would therefore not only have a positive impact on dealing with the past but also relieve pressure on present day policing in Northern Ireland.

We therefore feel it is necessary and appropriate that the Committee of Ministers should call upon the UK to do all that it can to make progress in these matters in recognition of its obligations under the Convention and the judgments of the European Court of Human Rights in the *McKerr group* of cases.

The Irish Government also remains acutely concerned at the absence of progress with properly resourcing legacy inquests in Northern Ireland so that they can be concluded in a reasonable period of time. Families seeking to finally establish the record of the deaths of their loved ones are at present waiting for decades without answers. Over 18 months ago, the Lord Chief Justice of Northern Ireland proposed the establishment of a Legacy Inquest Unit that could deal in a period of five years with over 50 outstanding legacy inquests that relating to more than 90 deaths. It is welcome that the UK has confirmed its support for the proposals of the Lord Chief Justice and Ireland fully supports the Committee of Ministers in strongly urging the relevant authorities to take as a matter of urgency all necessary measures to enable the legacy inquest system to conclude effective investigations which would meet the Article 2 obligations that rest with the British Government.

In the context of continuing questions in wider political discourse on dealing with legacy issues from the Troubles, the Irish Government has been clear and affirms again today that there are no amnesties from prosecution provided for in the Good Friday Agreement or any subsequent agreement, including the Stormont House Agreement. The Convention requires an effective investigation into a death and this must be upheld in all cases.

The investigation of long-outstanding cases from a bitter conflict that has thankfully ended will be difficult and traumatic for all directly affected. Proceeding in accordance with the human rights standards of the Convention that apply equally for all, is the only fair and consistent approach for victims and survivors, and one that can support broader societal healing and reconciliation.

The Irish Government affirms its readiness to continue work with the British Government and the political parties to see a definitive move forward that will promptly establish the Stormont House legacy framework and ensure an adequately resourced system of legacy inquests. Victims and survivors must not be made to wait any longer. The Irish Government will continue to play its part fully and sincerely in seeking a definitive way forward and believes that - with collective compromise and political leadership by all sides - it is within reach.

*Individual measures:*

In relation to individual measures, regarding the case of the late Pat Finucane, Ireland continues to support the reopening of individual measures in this case, and the request made by the applicant. Ireland believes that had the Committee of Ministers been aware in 2009 of the new and significant information relating to Mr. Finucane’s murder which was revealed following the de Silva review, the Committee may not have agreed to the closure of individual measures. The domestic litigation is continuing in the Finucane case, with the Finucane family in July granted leave to take their appeal to the UK Supreme Court.

In this context, Ireland is prepared to agree to the proposed decision, on the basis that the Committee of Ministers will resume its consideration of reopening of individual measures once the domestic litigation has concluded. We consider this the only action for the Committee to pursue. Ireland would also reiterate to the Committee of Ministers that it remains the firm view of the Irish Government that a satisfactory outcome to the Finucane case can best be achieved through a full public inquiry, and we call again on the British Government to fulfil the commitment it made on this at Weston Park sixteen years ago.