**MCKERR GROUP OF CASES**

**COMMITTEE OF MINISTERS DECISION SEPTEMBER 2020**

From: DGI-Execution <DGI-Execution@coe.int>

Sent: Thursday, September 10, 2020 8:32:00 AM

To: jeffreydudgeon@hotmail.com <jeffreydudgeon@hotmail.com>

Subject: Notes and Decision in the Mc Kerr group of cases at the 1377bis DH meeting

Dear Sir

Following the communications of the Malone House group, published on the Committee of Minister’s Website, please find enclosed, for your information, links to the notes and decisions of the Mc Kerr group of cases as adopted by the Committee of Ministers at their 1377bis DH meeting (1-3 September 2020):

Notes : <https://search.coe.int/cm/pages/result_details.aspx?objectid=09000016809f4c16>

Decision : <https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016809f62ce>

Best regards

On behalf of Clare Ovey

Head of Department for the Execution of Judgments

**EXTRACTS**

**Committee decision on next steps extract from below:** decided to resume examination of these cases at 1390th meeting (December 2020) (DH) and, in the absence of the submission of concrete information on all of the above issues by 22 October 2020, instructed the Secretariat to prepare a draft interim resolution for consideration at that meeting.

**September 2020 Malone House Group mention**: One NGO, the Malone House Group, has a different approach and is opposed to the establishment of the HIU (see DH-DD(2020)500 and DH-DD(2020)705) and further investigations into the past. Critical of the HIU’s proposed investigatory and reporting procedures without provision for support and protection of suspected perpetrators, it welcomes the United Kingdom Government’s apparent move away from the implementation of the Stormont House Agreement. It considers that the Committee should consider closing supervision of this group as the United Kingdom has taken all reasonable and proportionate measures within its resources and that it may be unattainable to meet obligations under Article 2 at this stage.

**Finucane case update by UK**: On 24 June 2019, the United Kingdom authorities submitted information and a detailed history of the Finucane case (see DH-DD(2019)712). They considered that, pending further consideration of the steps that could be taken to respond to the Supreme Court’s judgment, and in particular the extent to which it is feasible to rectify in practice the technical shortcomings found in previous investigations, it was too soon to draw any conclusions for the supervision of the execution of the Finucane case. They committed to undertaking a review to reach a decision on what form of investigation, if any is now feasible, is required.

**CM/Notes/1377bis/H46-44**

 **Decisions**

The Deputies

1. recalled the decisions adopted at their last examinations of these cases at the 1355th and 1369th meetings (September 2019 and March 2020) (DH);

As regards individual measures

2. further recalled that in those decisions it was agreed that the Committee would examine the applicant’s request to reopen its supervision of the individual measures in the Finucane case at the present meeting, in light of concrete information to be submitted by the authorities on how they intended to conduct an Article 2-compliant investigation into Mr Finucane’s death following the findings of the Supreme Court judgment of 27 February 2019;

3. noted the information submitted by the authorities shortly before the meeting providing details about the review underway in that regard, expressed their deep concern that a decision has still not been made on how to react to the Supreme Court judgment and underlined that it is urgent that the authorities take such a decision without further delay;

As regards general measures

4. noted that the information submitted by the authorities indicates that work is continuing to deliver their previous commitment to publish and introduce legislation in the United Kingdom Parliament to implement the Stormont House Agreement to address legacy issues, as set out at the time of New Decade, New Approach; expressed their concern about the lack of detail on the approach set out by the United Kingdom Government in the Written Ministerial Statement of 18 March 2020, and how the current proposals would work in practice and in compliance with the obligation under Article 2 of the Convention;

5. [taken from Secretariat’s notes] recalled that it is of course primarily for the State concerned to choose, subject to supervision by the Committee of Ministers, the means to be used to discharge its obligations under Article 46 of the Convention; underlined however that the measures must be timely, adequate and sufficient and expressed concern that initiating new plans at this stage would appear to risk further delay when the need to avoid any setbacks is paramount;

6. strongly urged the authorities to provide full details to enable a comprehensive assessment to be made in time for the Committee’s next examination, including the proposed legislative timetable, bearing in mind the length of time these judgments have been pending, with the families waiting for answers; strongly urged them to act, within the shortest possible timeframe, on their obligation to put an end to the type of violation identified by the Court in the present cases and to secure compliance with the requirements of Article 2 of the Convention;

7 in the meantime, underlined the vital role played by the inquest system and the Office of the Police Ombudsman for Northern Ireland (OPONI) in investigating cases; noted the detailed plan for conclusion of all the legacy inquests within five years, which has been adversely impacted by the COVID-19 pandemic; noted also with interest the publication of a revised memorandum of understanding regarding the disclosure of information by the Police Service of Northern Ireland to the OPONI; strongly encouraged the authorities to continue to take all necessary measures, including the provision of resources, to ensure that these mechanisms have the capacity to continue their important role effectively and in a timely manner;

8. decided to resume examination of these cases at 1390th meeting (December 2020) (DH) and, in the absence of the submission of concrete information on all of the above issues by 22 October 2020, instructed the Secretariat to prepare a draft interim resolution for consideration at that meeting.

<https://search.coe.int/cm/pages/result_details.aspx?objectid=09000016809f4c16>