



NORTHERN
IRELAND
HUMAN
RIGHTS
COMMISSION

PRESS STATEMENT – 11 MARCH 2004 – FOR IMMEDIATE RELEASE

**HUMAN RIGHTS COMMISSION DISAPPOINTED
BY DECISION OF THE HOUSE OF LORDS**

The Northern Ireland Human Rights Commission today expressed its disappointment that the Law Lords have unanimously decided that standards required by the European Convention on Human Rights are not to be applied to investigations into killings occurring before October 2000.

The Commission was reacting to the decision announced today by the House of Lords in a case brought by the son of Gervaise McKerr, who was shot dead by RUC officers at Tullygally Road in Lurgan on 11 November 1982. In May 2001 the son won his case in the European Court of Human Rights, when it was decided unanimously that the United Kingdom authorities had not provided the kind of effective investigation into the killing of his father that was required by Article 2 of the European Convention on Human Rights. Back in Belfast Mr McKerr Jnr persuaded the Court of Appeal in January 2003 that there should now be an Article 2 compliant investigation into his father's death.

On appeal to the House of Lords the Crown has now successfully argued that the standards required by Article 2 are to be applied only to killings occurring after 2 October 2000, the date on which, by virtue of the Human Rights Act 1998, the European Convention became part of the law throughout the UK. The Law Lords felt that they

were not assisted by their own decision in the 2003 English case of *Amin*, where Article 2 was applied retrospectively in a situation where a young man had been killed in prison.

Today's decision is a blow to all those who want the hundreds of unsolved killings which occurred during the troubles in Northern Ireland to be thoroughly investigated. It seems to suggest that some other mechanism may be required – a Truth Commission perhaps – to allow the bereaved to get to the bottom of how their loved ones died.

Speaking on behalf of the Human Rights Commission, Brice Dickson (the Chief Commissioner) said:

“We are extremely disappointed at this decision, especially as it had seemed from an earlier decision on Article 2 that the House of Lords was prepared to apply the European Convention retrospectively. The Commission will be examining the judgments very carefully with a view to considering what alternative mechanisms may need to be put in place to ensure that the families of victims of the troubles can get better access to information about how those deaths occurred.”

Notes for editors:

- 1 The Northern Ireland Human Rights Commission regularly applies to intervene in court cases in order to give the judges the benefit of its perspective on the issues in dispute. It intervened in the *McKerr* case when it was heard by the European Court of Human Rights in 2000. Partly as a result of our intervention, the European Court laid down quite tough standards requiring all killings to be effectively investigated by an independent body in a manner capable of identifying who might have been responsible for the death and ensuring that the next-of-kin and the public in general are kept adequately informed about the progress of the investigation. A report of this decision can be found at www.echr.coe.int/eng/judgments.htm.
- 2 The Commission also successfully applied to intervene in the *McKerr* case, through counsel's written opinion, when it was being heard in the House of Lords last month. We argued strongly that the standards for investigations laid down by the European Convention must be applied even to killings that occurred before the Convention became part of domestic law in October 2000. This seemed to follow from a decision of the House of Lords in October 2003 (*Amin*), in which the Commission also intervened. It was decided in *Amin* that Article 2 standards should be applied to a death in prison even though it occurred prior to October 2000.
- 3 For further comments please contact Brice Dickson on 028 9024 3987 or on 07901 853005.