

Judicial Communications Office

23 July 2021

COURT DIRECTS ARTICLE 2 COMPLIANT INVESTIGATION INTO CIRCUMSTANCES LEADING UP TO THE OMAGH BOMB

Mr Justice Horner today delivered his conclusion in an application for judicial review brought by Michael Gallagher against the Secretary of State's refusal to hold a public inquiry (or any inquiry that complied with Article 2 of the European Convention on Human Rights into whether there had been a failure to investigate whether the Omagh bomb could have been prevented.

The judge received and analysed a significant amount of evidence including closed material. Mr Justice Horner has prepared an open judgment and a closed judgment, both of which are currently subject to security checking to ensure that no sensitive material is inadvertently released. The open judgment will be published when the check has been completed.

Mr Justice Horner concluded:

"G. CONCLUSION

[311] I am satisfied that certain grounds when considered separately or together give rise to plausible allegations that there was a real prospect of preventing the Omagh bombing. These Grounds involve, inter alia, the consideration of terrorist activity on both sides of the border by prominent dissident terrorist republicans leading up to the Omagh bomb. I am therefore satisfied that the threshold under Article 2 ECHR to require the investigation of those allegations has been reached. Any investigation will necessarily involve the scrutiny of both OPEN and CLOSED material obtained on both sides of the border. It is not within my power to order any type of investigation to take place in the Republic of Ireland but there is a real advantage in an Article 2 compliant investigation proceeding in the Republic of Ireland simultaneously with one in Northern Ireland. Any investigation will have to look specifically at the issue of whether a more proactive campaign of disruption, especially if co ordinated north and south of the border, had a real prospect of preventing the Omagh bombing, and whether, without the benefit of hindsight, the potential advantages of taking a much more aggressive approach towards the suspected terrorists outweighed the potential disadvantages inherent in such an approach.

[312] I am not going to order a public inquiry to look at the arguable grounds of preventability. I do not intend to be prescriptive. However, it is for the government(s) to hold an investigation that is Article 2 compliant and which can receive both OPEN and CLOSED materials [on the grounds as will be set out in the judgment]".

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NOTES TO EDITORS

1. This summary should be read together with the judgment and should not be read in isolation. Nothing said in this summary adds to or amends the judgment. The full judgment will be available on the Judiciary NI website (<https://judiciaryni.uk>).

ENDS

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