

P.A.

8

**FROM: Heather Stevens
Human Rights Unit**

DATE: 12 December 2000

**PS/Mr Haughey
PS/Mr Nesbitt**

copy distribution below

**COURT DECISION ON POWERS OF NORTHERN IRELAND
HUMAN RIGHTS COMMISSION**

Summary

Issue: A ruling by the Lord Chief Justice on the power of the Northern Ireland Human Rights Commission to intervene and make submissions to the courts.

Timing: Routine.

Recommendation: That Ministers note the decision of the Lord Chief Justice that the Commission cannot intervene to make submissions as it does not have the statutory power to do so.

BACKGROUND

1. The Northern Ireland Human Rights Commission sought judicial review of a decision by HM Coroner for Greater Belfast that the Commission did not have power to make submissions to him, during the inquest into the Omagh bombing.

2. Although the Commission had been permitted to intervene in three previous court cases in Northern Ireland, the issue as whether the Commission in fact had such a power had never been considered.

ADVICE

3. In his judgment of 8 December, the Lord Chief Justice held that although the coroner had an inherent power to allow a person or body to intervene in the proceedings, or to request the assistance of an *amicus curiae* (an objective provider of assistance in the resolution of legal disputes), the Commission itself had not the power either to seek to intervene or to act as *amicus curiae* if invited to do so. He held that whilst section 69 of the Northern Ireland Act gave the Commission power to bring proceedings in its own right, it did not contain an express statutory power to make submissions to the court in proceedings brought by others. Further, such a power could not be implied as the Commission had not been given "any overall function such as advancing the observance of human rights".
4. The Commission has expressed its deep disappointment at the decision, which it believes severely impairs its ability to promote human rights in the courts. In the Republic, the Human Rights Commission has been given an express statutory *amicus curiae* role.
5. A copy of the judgment is attached at the Annex for information.

H A STEVENS (Mrs)
Ext 23118