

Submission to the Committee of Ministers from the Committee on the Administration of
Justice (CAJ) in relation to the supervision of the cases concerning the actions of the
security forces in Northern Ireland

Jordan v the United Kingdom, judgment final on 4 August 2001
Kelly and Ors v the United Kingdom, judgment final on 4 August 2001
McKerr v the United Kingdom, judgment final on 4 August 2001
Shanaghan v the United Kingdom, judgment final on 4 August 2001
McShane v the United Kingdom, judgment final on 28 August 2002
Finucane v the United Kingdom, judgment final on 1 October 2003

and

Hemsworth v UK, judgment final on 16 October 2013
McCaughey & Others v UK, judgment final on 16 October 2013

February 2021

The Committee on the Administration of Justice (CAJ) was established in 1981 and is an independent non-governmental organisation affiliated to the International Federation of Human Rights (FIDH). Its membership is drawn from across the community.

This Rule 9 communication is for consideration at the 1398th meeting (March 2021) (DH) of the Ministers' Deputies. CAJ has regularly made Rule 9 communications to the Committee of Ministers on the 'McKerr group of cases' concerning the actions of the security forces in the 1980s and 1990s in Northern Ireland. These submissions have charted the evolution of the 'package of measures' agreed to by the UK further to the above judgments, and their proposed replacement with measures agreed by the UK and Ireland, and political parties in the Northern Ireland Executive, under the December 2014 Stormont House Agreement (SHA).

The Committee issued an Interim Resolution in December 2020 that:¹

NOTED the information provided very shortly before the meeting setting out the response of the United Kingdom Government to the Supreme Court judgment of 27 February 2019 related to the investigation in the *Finucane* case; instructed the Secretariat to provide an assessment of this information for the Committee's next examination, with a view to considering whether to reopen the individual measures;

RECALLED WITH PROFOUND REGRET that the inquests and investigations in the cases of *McKerr*, *Shanaghan*, and *Kelly and Others* have still not been completed, underlining the need to make progress with the required general measures on which their progress depends, without further delay;

NOTED WITH INTEREST the detailed plan for the conclusion of all legacy inquests within five years which has been adversely impacted by the COVID-19 pandemic; strongly encouraged the authorities to pursue all of their efforts to put in place a recovery plan as soon as is possible so that legacy inquests can continue in a timely manner;

NOTED the information submitted about protection of the OPONI's budget; reiterating the vital role played by the OPONI in investigating historical cases and giving answers to families, strongly encouraged the authorities to continue to take all necessary measures to ensure that it has the capacity to conduct its work in an effective and timely manner;

EXPRESSED PROFOUND CONCERN nevertheless that the authorities have not provided any details in response to the Committee's request for information on the approach to legacy investigations set out by the government in the Written Ministerial Statement of 18 March 2020, in particular how the current proposals would work in practice and in compliance with the obligation under Article 2 of the Convention and the proposed legislative timetable for those proposals;

CALLED UPON the authorities to follow up on their previous commitments to publish and introduce legislation in the United Kingdom Parliament to implement the Stormont House Agreement to address legacy issues, as set out in the *New Decade, New Approach* publication of January 2020;

DECIDED to resume examination of these cases, and all relevant developments, at the 1398th meeting (March 2021) (DH) and invited the authorities to submit detailed information on all of the above issues by 25 January 2021.

¹ CM/ResDH(2020)367 https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=0900001680a097b6

General Measures: key developments

1. Our previous submissions chart the unilateral abandonment by the UK of commitments to implement the Stormont House Agreement (SHA), and its replacement with unclear proposals on information recovery set out in a Written Ministerial Statement (WMS) in March 2020. They also chart the lack of any further elaboration as to the UK's intentions since March 2020.
2. The UK issued a response to the Committee on the 25 January 2021 deadline.² Whilst unclear this appears to recommit the UK to legislating for the SHA.³ This would be welcome but has not otherwise been stated. No further detail or timeframe is provided. **The Ministers Deputies may wish to seek clarification if this is now the UK's intention.**
3. As set out in previous communications the UK Government breached parliamentary convention in declining to submit written information or appear before a UK Parliamentary Inquiry into the WMS. The Committee issued a damning Interim Report on the 26 October 2020.⁴ The UK Government on 13 January 2021 ultimately submitted a brief written response to this report. This continues to focus on promoting 'information recovery' (as per WMS) and not Article 2 compliant investigations (as envisaged under the SHA.) It repeats highly discredited claims that there has already been a 'cycle of investigations' into the military and reiterates UK commitments to military veterans who served in NI.⁵ It should be noted that whilst the UK submission to CM attributes delays in taking forward legacy policy to a desire for further engagement with key stakeholders, the parliamentary inquiry was highly critical over a lack of engagement since the WMS, despite commitments to do so.
4. The *Overseas Operations (Service Personnel and Veterans) Bill* has continued its passage through the upper chamber of the UK Parliament (House of Lords).⁶
5. The Northern Ireland Human Rights Commission (NIHRC) is the UN-accredited NHRI for NI set up further to the 1998 Good Friday Agreement. The NIHRC consists of one Chief Commissioner and six Commissioners, its composition, in accordance with the UN Paris Principles (on which its UN status as an NHRI depends) must ensure "pluralist representation of the social forces (of civilian society) involved in the protection and

² [DH-DD\(2021\)101 Communication from the UK, 25 January 2021](#)

³ "In 2018, the **United Kingdom Government's public consultation Addressing the Legacy of Northern Ireland's Past sought views on draft legislation seeking to implement proposals set out in the Stormont House Agreement.** The Government received over 17,000 written responses, and in July 2019 the Government published an analysis of the consultation responses, which can be found on the website gov.uk. It was clear from this feedback that further work was needed to address the legitimate concerns of those who responded to the consultation. **It remains the intention of the United Kingdom Government to introduce this legislation as soon as possible** but, as noted by the Committee, it is clear that further engagement with key stakeholders including victims groups needs to take place before progress can be made." [DH-DD\(2021\)101 Communication from the UK, 25 January 2021](#) (emphasis added)

⁴ HC 329 Northern Ireland Affairs Committee [Addressing the Legacy of Northern Ireland's Past: the Government's New Proposals \(Interim Report\)](#) Published on 26 October 2020. For further analysis see CAJ submission to Committee of Ministers, [October 2020](#).

⁵ Addressing the Legacy of Northern Ireland's past: the Government's New Proposals: [Government Response to the Committee's Third Report of Session 2019–21](#) HC 1153, 13 January 2021.

⁶ The WMS was made on the same day as this Bill was introduced committing to 'equal treatment' for military veterans who served in NI as those who served overseas. The Bill would prevent proceedings for past war crimes overseas, including torture and extrajudicial killings, the Joint Committee on Human Rights (JCHR) of the UK Parliament has found that the Bill "breaches the UK's international legal obligations under international humanitarian law, human rights law and international criminal law." JCHR [Legislative Scrutiny: Overseas Operations \(Service Personnel and Veterans\) Bill](#) 29 October 2020.

promotion of human rights.”⁷ Shortly after the WMS the NIHRC wrote to the Secretary of State for NI, Brandon Lewis MP, “expressing concerns that this new approach by the UK Government is not human rights compliant, particularly regarding Article 2 ECHR”.⁸ Following this, in September 2020 the Secretary of State appointed six new human rights commissioners, half of whom were from an NI policing background, despite a broader pool of approved candidates having been presented to him for selection. The Equality Coalition, a network of around 100 NGOs and trade unions led by CAJ and the public sector trade union UNISON, have (without questioning the integrity of any individual commissioner) lodged a formal complaint that the appointments do not meet the diversity and pluralism requirements of the UN Paris Principles.⁹ There is a particular concern that this change of composition has occurred at a time when the NIHRC is to advise on the NI legacy bill.

6. The Court of Appeal in London in January 2021 heard the appeal in the ‘Third Direction’ case taken by four NGOs including CAJ and the Pat Finucane Centre (PFC).¹⁰ This case challenges the ECHR compatibility of a hitherto secret policy within the UK Security Service MI5 ‘permitting’ the authorisation of informants to commit crimes. During the oral hearing counsel for the UK **Government lawyers stated in open court that the policy did allow MI5 to authorise an informer to commit murder.** It was argued that the power to do so was derived from the Security Service Act 1989 and prior to that power from the ‘royal prerogative’ had governed the agency.¹¹ **The CM may wish to note the UK Government’s position that its security agency had the power to authorise informants to commit murders at the time of the *Finucane* and other collusion cases in the McKerr group;**
7. The *Covert Human Intelligence Sources (Criminal Conduct) Bill* is at its final stage in the UK Parliament.¹² The Bill would legislate to allow police, security and other bodies to authorise crimes by informants, and for such authorised offences to be ‘lawful for all purposes’, reversing the independence of the DPP in NI resultant from General Measures in the current group of cases.¹³ The upper chamber (House of Lords) amended the Bill to place express limits on the criminal conduct that could be authorised to preclude conduct breaching ECHR rights (killings, torture, sexual violence, kidnap, false imprisonment). However, the Government won a reversal vote in the House of Commons to remove this amendment (and another to prevent the security services using child informants to commit crimes). The Bill remains in the contestation phase between the two Houses.
8. The Good Friday Agreement also led to a mandatory statutory duty on NI public authorities to assess the equality impacts of new or amended policies across a range of protected characteristics. This is particularly relevant to the new legacy policy set out under the WMS given the intention to cease almost all legacy investigations (as well as offending ECHR compliance) engages equality law through risking discriminatory detriments for victims’

⁷ The UN Paris Principles, including provisions on “composition and guarantees of independence and pluralism” are available here: <https://nhri.ohchr.org/EN/AboutUs/Pages/ParisPrinciples.aspx>

⁸ Letter from NI Human Rights Commission to Secretary of State for NI, Brandon Lewis MP, 1 April 2020, cited in [NIHRC submission to Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence](#), January 2021, page 3.

⁹ For details see: <https://www.theguardian.com/uk-news/2021/jan/11/high-status-of-northern-ireland-human-rights-body-being-put-at-risk> and <https://caj.org.uk/2020/11/04/just-news-november-2020/>

¹⁰ Along with Reprieve and Privacy International, for background see: <https://privacyinternational.org/legal-action/third-direction-challenge> judgment further to the hearing has been reserved.

¹¹ See ‘[Government lawyer tells court MI5 officers could authorise murder](#)’ The Guardian 27 January 2021

¹² <https://services.parliament.uk/Bills/2019-21/coverthumanintelligencesourcescriminalconduct.html>

¹³ For further information, see the joint briefing to Parliament by the Third Direction applicants. <https://caj.org.uk/2020/10/01/briefing-for-second-reading-of-the-covert-human-intelligence-sources-criminal-conduct-bill/>

families. This is particularly likely in ‘state involvement’ cases where families have not previously had an Article 2 compliant investigations. Whilst the NIO stated it had undertaken an initial equality impact exercise on the new legacy policy it declined to release same to CAJ. Further to a complaint by CAJ and PFC, the Equality Commission for NI (the national equality body) confirmed they would use their statutory enforcement powers to launch a formal investigation into the matter.¹⁴ At the time of writing the NIO has appealed that decision.

UK response to CM over manners in which it can meet its obligations

9. The UK response to the CM highlights “that it is 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.”¹⁵
10. It is possible to read this as a suggestion from the UK that it can meet its ECHR obligations from some other means than implementing its SHA commitments. However, the UK has not put forward any alternative proposals to do so. There have already been assessments that proposals set out under the WMS will not be ECHR compatible.¹⁶
11. It is somewhat unlikely the UK would seek to argue that the existing residual measures in NI meet its ECHR obligations, not least as the UK itself has repeatedly stated, in the words of the recent UK response to the Parliamentary inquiry report, that they are “not working” and are “failing to obtain answers for a majority of victims and families.”¹⁷
12. Whilst some residual mechanisms in NI are capable of delivering degrees of Article 2 compliance there remain significant gaps, and areas of regression. In summary this includes the following issues:
 - **Police Ombudsman:** this institution is the best example of the structure of an independent body capable of delivering Article 2 complaint investigations within its remit, including meeting the independence requirements in ‘state involvement cases’. At present the Ombudsman is highly constrained however through being starved of resources, with its legacy investigations consequently proceeding at a snails pace. By its nature the Ombudsman is also limited to investigating legacy deaths where there is alleged police involvement. It does not have powers to investigate the military or security services, in a context where the operations were often joint. It also has no powers to interview police informants even in collusion cases involving the police, having to rely on the police to do so. The Ombudsman is also largely precluded by law from investigating around 50 fatal legacy police shootings. There are also many other gaps in the Ombudsman’s powers that have been long identified by successive office holders in a statutory reviews but for which remedial legislation has not been progressed due to political opposition from unionist parties, with no intervention

¹⁴ See <https://www.bbc.co.uk/news/uk-northern-ireland-55304934>

¹⁵ [DH-DD\(2021\)101 Communication from the UK, 25 January 2021](#)

¹⁶ See comments by the NHRI in [NIHRC submission to Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence](#), the academic assessment with CAJ in K. McEvoy, D. Holder, L. Mallinder, A. Bryson, B. Gormally & G. McKeown “[Prosecutions, Imprisonment and the Stormont House Agreement: A Critical Analysis of Proposals on Dealing with the Past in Northern Ireland](#)” April 2020, see also the assessment by the Joint Committee on Human Rights “[Legislative Scrutiny: Overseas Operations \(Service Personnel and Veterans\) Bill](#)” 29 October 2020, of the overseas bill given the WMS is expressly to provide an equivalence to its provisions.

¹⁷ Addressing the Legacy of Northern Ireland’s past: the Government’s New Proposals: [Government Response to the Committee’s Third Report of Session 2019–21](#) HC 1153, 13 January 2021.

from the UK Government to meet international obligations. Despite its powers, the Ombudsman has also had regular problems with receiving disclosure.

- **Police Service of Northern Ireland Legacy Investigations Branch:** the PSNI LIB, superseded the Historical Enquiries Team (HET), from which some families have received a measure of resolution though the CM acknowledged it would be not be carrying out Article 2 ECHR compliant investigations.¹⁸ While the CM closed its examination of the HET, noting that it had the ‘the structure and capacities to allow it to finalise its work’, subsequent research findings, including by HMIC noted its lack of independence and failure to comply with Article 2 ECHR in its approach to state involvement cases. In particular, HMIC noted that the CM in 2008 had given a qualified endorsement of the limited role HET could play, but it transpired that, to an extent at least, this was based on misleading information.¹⁹

A core limitation of the LIB is that it does not meet the Article 2 independence requirements to investigate state involvement cases. In cases that involve alleged police collusion the PSNI remains legally liable for the actions of its predecessor force, the RUC. The RUC also worked closely with the military and security service as part of the overall security forces. The first instance and now the Court of Appeal in NI in *McQuillan*²⁰, *McKenna*²¹ and *McGuigan*²² have found that the PSNI LIB of the PSNI lacks requisite independence to carry out investigations into state involvement cases. The PSNI have appealed this ruling to the UK Supreme Court.

- **PSNI ‘Call in’:** the PSNI can ‘call in’ another police force to investigate particular crimes in which the PSNI may have a conflict of interest. There are examples of both best and poor practice in the exercise of this function.

The most high profile ongoing call in is ‘Operation Kenova’, into the role of security force informant within the IRA, under the leadership of former Chief Constable of an English police force, Jon Butcher, whose independent team is also leading several other ‘called in’ inquiries (Operation Mizzenmast, into the murder of a civilian potentially by an undercover military unit; Operation Turma, into the murder of three RUC officers; and the Barnard Review into a court-ordered overarching report into collusion in the Glenanne Gang killings).²³ This ‘call in’ has sought to maximise Article 2 ECHR compliance and produced a framework and oversight mechanisms to this end.²⁴ It also commissioned an independent barrister to examine the Article 2 ECHR compliance of Operation Kenova).²⁵

A contrary example of a poor use of this mechanism is found in PSNI decision to call in Durham Constabulary to investigate two arrested journalists, whose homes and media premises were then searched, following them revealing evidence, in the form of leaked official documents, of legacy human rights violations in the Loughinisland massacre (including the involvement of a police informant). In this instance the PSNI ‘call in’ was on the basis of the alleged ‘theft’ of the documents from the Ombudsman’s office when the Ombudsman had in fact not reported any

¹⁸ CM/Inf/DH(2008)2 revised, 19 November 2008, paragraph 47.

¹⁹ HMIC ‘*Inspection of the Police Service of Northern Ireland Historical Enquiries Team*’ 2013, p28.

²⁰ UKSC 2020/0028, UKSC 2020/0029, UKSC 2020/0030

²¹ UKSC 2020/0019, UKSC 2020/0026, <https://www.judiciaryni.uk/judicial-decisions/summary-judgment-court-delivers-hooded-men-judgment-re-mcguigan-and-mckenna> (CAJ represents Mary McKenna)

²² UKSC 2020/0020, UKSC 2020/0027, UKSC 2020/0100

²³ <https://www.kenova.co.uk/investigations>

²⁴ <https://www.kenova.co.uk/about-kenova>

²⁵ <https://www.kenova.co.uk/second-review-report-published>

theft, and the lines of demarcation between the PSNI and the called in force were blurred. Ultimately, in an important ECHR Article 10 media freedom case, the NI High Court found the PSNI actions to be unlawful.²⁶

Even with best practice the broader weakness of ‘call in’ relates to the lack of a legislative underpinning for the independence of a call-in operation. In this sense the overall compliance of ‘call in’ is dependent on it not being interfered with by the PSNI or other state agencies, for example by curtailing (or threatening to) its resources. Given the previous experiences of the Stalker and Stevens investigations other forms of interference could include removing the team’s leadership, withholding publication of its investigative reports, or even tipping of paramilitary suspects they are to be arrested and burning down the offices of the inquiry (within a police compound).²⁷ A further consideration lies in that it is for the PSNI to decide which cases are subject to ‘call in’ and resource them, albeit this may be prompted by a court order.

- **Public Prosecution Service (PPS)** continues to make prosecutorial decisions independent of investigators on legacy cases, on the basis of published statutory criteria, with potential for judicial oversight, further to the progression of General Measures. Government to date has also resisted calls to reinstate a role for an Attorney General to veto prosecutorial decisions, in the context of past interference of the process. Decisions not to prosecute state actors remain however highly contested and controversial, as was the case with recent PPS decision not to prosecute three MI5 officers and a former PPS prosecutor for perjury and misconduct in public office in relation to cases arising from Operation Kenova.²⁸ Highly concerning, and a reversal of the general measures reforms is however the implications of the Covert Human Intelligence Sources (Criminal Conduct) Bill which will render crimes committed by informants authorised by handlers ‘lawful for all purposes’ and hence not criminal offences at all. As such the present system whereby the PPS will decide if it is in the ‘public interest’ to prosecute an informer for a crime, will be bypassed with no role at all for an independent prosecutor. Whilst the provisions of the bill are not retrospective, they in practice unravel the impact of the General Measure in ensuring non-recurrence of past practice.
- **Inquests:** Inquests can play an important role in ensuring effective investigations. As previous submissions have charted there have been significant delays into establishing and holding legacy inquests under the Lord Chief Justice’s plan, including the unlawful blocking of resources sought for same. Following the CM pressure and a judicial review, resources have been released for the Legacy Inquest work, which is now proceeding (with some Covid-19-related delay), funding will be required to complete each year and the long running issue of failures to cooperate with inquests by the various branches of the security forces, in particular in relation

²⁶ See CAJ [July 2019](#), Rule 9 submission and [Council of Europe Media Freedom Alert](#) and [NI High Court ruling](#).

²⁷ See ‘[Stevens Enquiry: Overview and Recommendations, 17 April 2003, Sir John Stevens QPM, DL Commissioner of the Metropolitan Police Service](#)’: paragraph 3.4 “There was a clear breach of security before the planned arrest of Nelson and other senior loyalists. Information was leaked to the loyalist paramilitaries and the press. This resulted in the operation being aborted. Nelson was advised by his FRU handlers to leave home the night before. A new date was set for the operation on account of the leak. The night before the new operation my Incident room was destroyed by fire. This incident, in my opinion, has never been adequately investigated and I believe it was a deliberate act of arson.”

²⁸ See <https://www.ppsni.gov.uk/news-centre/pps-issues-four-decisions-connection-operation-kenova-files> and <https://krw-law.ie/pps-decision-kenova/>

to disclosure, remains. Nevertheless, it is welcome that this mechanism has seen significant progress for the cases within its remit.

- **Public Inquiries:** public inquiries can have a significant role in ensuring Article 2 ECHR compliance particularly in identifying broader systemic themes and patterns. However, the present legislation –the Inquiries Act 2005– was rushed through on the back of Mr Justice Cory recommending a number public inquiries, including into *Finucane*, which the UK was bound by an international agreement as part of the peace settlement to hold if so recommended. The Inquiries Act 2005 permits Ministers to interfere at practically every stage of the inquiry. Even with this limitation and the lack of any other Article 2 compliant investigation, as the Committee will be well aware the UK has still refused to discharge its commitment to hold a public inquiry in the Finucane case. (Any public inquiry instead established by the devolved NI legislature would not have the powers to deal with the UK military or security services.)

13. The Ministers Deputies may therefore wish to ask the UK if it is not recommitting to implementing the SHA, what its alternative plan is to meet its obligations.

Individual Measures

14. We echo the CM’s profound regret that the inquests and investigations in McKerr, Shanaghan and Kelly & Ors have still not been completed, resulting in ongoing breaches of Article 2 ECHR. We repeat our call for infringement proceedings under Article 46 (4) ECHR given the demonstrable lack of good faith by the Government since the delivery of these judgments nearly 20 year ago.

Kerr v UK

15. This inquest is being case managed by Mr Justice O’Hara. A preliminary hearing had been provisionally arranged for 15 January, but not confirmed and the date was subsequently vacated. Confirmation of a further hearing has yet to be provided. On 18 November 2020, the next of kin of Mr McKerr, Mr Toman and Burns commenced judicial review proceedings challenging the delay in holding the inquest relying on Article 2 ECHR and domestic law on This matter has not been listed for hearing yet.

Shanaghan v UK

16. The Public Statement by the Police Ombudsman into the death of Patrick Shanaghan is still outstanding. The Office advises that this is at an advanced stage, however, no date has been provided for publication. The delay in this case has been due to a legal challenge taken by retired police officers which has affected the publication of outstanding Public Statements by the Police Ombudsman into legacy cases. This judicial review sought, on a technicality, to quash a Public Statement made by the Police Ombudsman for Northern Ireland in relation to the Loughinisland Massacre on 18 June 1994, asserting that the Police Ombudsman had exceeded his statutory powers and the Appellants were denied procedural fairness protections under the common law. While the Court of Appeal of Northern Ireland formally issued its judgment dismissing the appeal it found that while the Ombudsman did exceed his powers in 3 paragraphs it was appropriate for the Police Ombudsman to ‘acknowledge that the matters uncovered by him were very largely what the families’ claimed constituted collusive behaviour’.²⁹

²⁹ <https://www.judiciaryni.uk/judicial-decisions/2020-nica-33>

McCaughey v UK

17. The related case of *Gribben v UK* was lodged with the ECtHR in June 2018. We understand that on 12 October the UK Government rejected the offer of a friendly settlement and confirmed that it was content to proceed to the contentious phase. The ECtHR granted the Northern Ireland Human Rights Commission permission to intervene and a submission was filed by it on 13 December 2020. The UK Government filed its replying observations on the questions posed by the Court on 6 January 2021 and the Applicants have been directed to respond and submit any claim for just satisfaction by 22 February 2021.

Jordan v UK

18. We understand that a decision is still outstanding from the Public Prosecution Service Northern Ireland on whether two former police officers are to be prosecuted and it is appropriate that this Individual Measure remains under the supervision of the CM.

Kelly & Others v UK

19. A High Court Judge has been appointed to review the case however, like other pending inquests, there has been limited progress in recent months. We understand that the primary cause for delay is due to a failure by the MOD and PSNI to provide disclosure to the inquest, despite having already conducted this exercise in earlier civil proceedings. We understand the legal representatives have filed a Rule 9 submission to assist the CM in its supervision of this Individual Measure.

We call for all of these Individual Measures to remain under the supervision of the CM.

Finucane v UK

20. We note that the Secretariat was instructed to provide an assessment of the information provided by the Government setting out how it intends respond on the UK Supreme Court judgment of 27 February 2019 and we understand that the legal representatives of Finucane will file a Rule 9 submission detailing developments which should assist the CM in its examination of this case.

We repeat our request for the reopening of the supervision of this Individual Measure without further delay.