

**Rule 9 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

October 2025

Introduction

1. 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 in Northern Ireland and beyond.
2. CAJ has regularly made Rule 9 communications to the Committee of Ministers (CM) on the 'McKerr group of cases.' This Rule 9 communication is for consideration at the 1545th meeting (2-4 December 2025) (DH).¹
3. The CAJ 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 submissions also cover the unilateral departure by the UK on the 18 March 2020 from its commitment to implement the SHA, and the consequent *Northern Ireland Troubles (Legacy and Reconciliation) Act 2023* (hereafter 'the Legacy Act').
4. CAJ welcomed the CM Interim Resolution of June 2023 on these cases. The Interim Resolution expressed serious concern regarding the Legacy Act's incompatibility with the ECHR, singling out, in particular, the immunities scheme, the closure of inquests and weaknesses in the powers and independence of the Independent Commission for Reconciliation and Information Recovery (ICRIR) established by the Legacy Act.²
5. In the Decision of September 2023 the CM: raised issues of ICRIR independence; noted support for the ICRIR remaining 'minimal'; deeply regretted the termination of pending inquests; and raised serious concern regarding the immunities scheme.³
6. These cases were last reviewed in June 2024 by the CM. The decision noted the domestic litigation against the Legacy Act (Dillon, then at first instance) and expressed hope that the proceedings would conclude taking full account of the ECHR, including ECtHR case-law and CM Decisions. The CM also noted Ireland's inter-State case against the Legacy Act and decided to resume examination in 2025.⁴
7. In July 2024 there was a change in UK Government, with a new administration elected on a manifesto pledge to 'repeal and replace' the Legacy Act.
8. In September 2024 the Court of Appeal in *Dillon*, found further declarations of ECHR incompatibility relating to the Legacy Act and ICRIR 'review' function.
9. Following UK-Ireland negotiations the two Governments agreed a bilateral Joint Framework document on the Legacy of the Troubles in September 2025.
10. This submission will first summarise key developments since the Ministers' Deputies last examined this group of case and then provide an assessment of the Joint Framework published by the two Governments.

¹ [1545th \(Human Rights\) meeting of the Ministers' Deputies \(2-4 December 2025\) - Committee of Ministers](#)

² [Interim Resolution CM/ResDH\(2023\)148 June 2023](#)

³ [CM/Del/Dec\(2023\)1475/H46-44](#)

⁴ [1501st DH Notes in the Mckerr v. the United Kingdom \(Application No. 28883/95\) group](#)

[1501st DH Decisions in the Mckerr v. the United Kingdom \(Application No. 28883/95\) group](#)

Summary of Key developments

11. The following is a summary of key developments since the June 2024 CM meeting:

12. UK-Ireland Joint Framework of September 2025 (publication)

- The new UK Government was elected in July 2024 with a manifesto commitment to repeal and replace the Legacy Act including reinstating inquests.⁵ There was then a long delay.
- It is welcome that the British and Irish Governments, following negotiations, have now published the Joint Framework on the Legacy of the Troubles on the 19 September 2025.⁶ The headline commitment was set out as follows by the UK:

UK Government to replace failed Legacy Act and replace the ICRIR with a reformed Legacy Commission to find answers for families...⁷

- The Joint Framework alongside the ECHR provides an important benchmark for the forthcoming legislation. Good faith implementation will be essential; particularly in the context of the UK Governments previous track record of backsliding when translating peace process agreements into legislation and trust currently being at rock bottom due to the Legacy Act and ICRIR.
- There are significant positives in the Joint Framework, in particular the commitment to replace the ICRIR with a new Legacy Commission; commitments to discontinue the roles of existing ICRIR Commissioners and provide for fresh leadership; commitments to safeguards against conflicts of interest in legacy investigations; commitments to full criminal investigations and not reviews.
- In terms of areas of concern the ‘national security veto’ provisions still risk granting ministers the power to conceal state involvement in killings; power regarding appointments is still concentrated in the hands of the Secretary of State; not all inquests will be restored and there remains no express provision that Legacy Commission investigations must be ECHR compatible.

13. Shutdown of Package of Measures 1 May 2024

- On the 1 May 2024 the Legacy Act shut down the many hundreds of legacy investigations being undertaken by the ‘Package of Measures.’ This included 38 legacy inquests (some into multiple deaths), 335 Police Ombudsman investigations and hundreds of PSNI (police) investigations.⁸
- The shut down and ban on further investigations by the Package of Measures occurred at a time when they were increasingly popular and delivering for families, strengthening confidence in the rule of law, whilst also identifying specific patterns of human rights violations.⁹
- Official policy papers declassified in the *Dillon* domestic litigation revealed that the motivation for closing the Package of Measures was to curtail investigations into state actors and replace them with more limited ‘reviews’ by the ICRIR.¹⁰ This followed a mobilisation in sections of the British media and political establishment falsely alleging a ‘witch-hunt’ against military

⁵ See [What could substantive ‘root and branch’ reform of the ICRIR look like?](#) (CAJ, 2024), section 1.1.

⁶ [The Legacy of the Troubles: A Joint Framework between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland](#), September 2025.

⁷ <https://www.gov.uk/government/news/uk-and-irish-governments-announce-legacy-framework-to-enable-truth-for-families-of-the-troubles>

⁸ Inquest figures: [The Troubles: 'Legacy Act denies victims like me closure'](#) BBC News and Police Ombudsman figures: [The Ombudsman can still issue Reports in 95 investigations it had previously completed](#).

⁹ See [What could substantive ‘root and branch’ reform of the ICRIR look like?](#) (CAJ, 2024), section 2.2.

¹⁰ See UK Policy Options Paper ‘New Decade New Approach – options for Addressing NI Legacy Issues’ (9 January 2020) cited in Dillon [2024] NIKB 11, [95-107] <https://www.judiciaryni.uk/judicial-decisions/2024-nikb-11> and [What could substantive ‘root and branch’ reform of the ICRIR look like?](#) (CAJ, November 2024), section 2.9.

veterans.¹¹ By contrast in late April 2024 the Report issued by the *International Expert Panel into State Impunity and the Northern Ireland Conflict* concluded following its year-long analysis that the UK had in reality 'operated a widespread, systematic, and systemic practice of impunity'.¹²

- The Legacy Act also shut down and prohibited many hundreds of civil court cases, by 2022 there were 575 civil claims against the UK Ministry of Defence (MoD) alone relating to the NI conflict.¹³ Official papers declassified in the litigation revealed the motivation for the shutdown of civil cases was a concern that the information emerging in such cases was 'undermining' public confidence in the state.¹⁴
- Transitional measures meant that some inquests, Police Ombudsman and independent (call in) police investigations which had concluding their *investigations* before 1 May 2024, were able to release reports after that date.¹⁵ (see further details below in General Measures).

14. Advent of ICRIR 1 May 2024

- Support for the ICRIR remained minimal at the time of its opening, with freedom of information request revealing the ICRIR only had a caseload of five cases in its first six months of operation.¹⁶
- The ICRIR case load had risen only to 50 in the most recent ICRIR accountability update in March 2025.¹⁷ (Misleadingly the ICRIR tends to highlight a higher figure for the number of 'enquiries' it has received, rather than cases.) Since this time there have been calls by a prominent activist for (British) loyalists and unionists to 'flood' the ICRIR with cases relating to deaths at the hands of (Irish) republican armed groups, to refocus legacy investigations away from state actor cases.¹⁸
- In relation to practical independence requirements of the ECHR the ICRIR did not follow the practice of Package of Measures mechanisms (the Police Ombudsman and Operation Kenova in precluding former members of the security forces from legacy investigations.) By contrast there are a high number of former RUC (police) officers in the ICRIR, with recent figures confirming 27 ex-RUC and up to 9 former soldiers within the ICRIR.¹⁹ The ICRIR Commissioner for Investigations post is itself held by a former senior RUC/PSNI officer. The practical independence issues this raises have been consistently highlighted by the NHRI, the Northern Ireland Human Rights

¹¹ For a detailed narrative including ministerial statements from the past government [What could substantive 'root and branch' reform of the ICRIR look like?](#) (CAJ, 2024), section 2.4.

¹² 'Bitter Legacy', *The Report of the International Expert Panel into State Impunity and the Northern Ireland Conflict* (CAJ, PFC, April 2024). <https://www.jus.uio.no/smr/english/about/id/law/nipanel.html> See summaries in media including the [Irish Times](#) and [Guardian](#))

¹³ <https://www.theyworkforyou.com/wrans/?id=2022-05-19.HL374.h>

¹⁴ Dillon [2024] NICA 59 [245] The official paper stated: "Legacy Civil cases place a considerable strain on UKG [Government] and continue to undermine public confidence in the state (as well as affecting public perception of the police and armed forces)."

¹⁵ The most recent transitional Regulations allow until 31 October 2025 for findings to be released [The Northern Ireland Troubles \(Legacy and Reconciliation\) Act 2023 \(Commencement No. 2 and Transitional Provisions\) \(Amendment\) Regulations 2025](#);

¹⁶ ICRIR FOI response to CAJ FOI/2024/014, 4 November 2024, covering figures for the 31 August 2024, clarifying that the ICRIR at that point was handling 2-4 cases. An earlier figure of eight cases turned out to have presented requests from different persons in relation to the same incident as separate cases. By November 2024 five live investigations were listed on the ICRIR website, on the basis of 14 individual requests.

¹⁷ [ICRIR Accountability Update 1 Sept 2024 - 31 March 2025 - Independent Commission for Reconciliation & Information Recovery](#)

¹⁸ [Jamie Bryson: Loyalists should flood the legacy commission with demands for investigations into killings by the IRA, just as nationalists have done with regard to killings by the state and loyalists](#)

¹⁹ ICRIR FOI-2025-19, figures for August 2025.

Commission in line with ECHR caselaw.²⁰ In response the ICRIR has sought to undermine the NHRI rather than address the concerns.²¹

- The Legacy Act grants the ICRIR broad discretion into how it will conduct its case ‘reviews’. There were initial concerns regarding the ICRIR taking forward lighter-touch reviews, rather than proper criminal and ECHR compliant investigations.²² Whilst it appears there has subsequently been some change in practices, figures obtained recently confirm the ICRIR is yet to use police powers during any ICRIR review.²³
- The Labour UK Government elected in July 2024 made an initial unilateral decision to retain the ICRIR but the Secretary of State conditioned its future on the ICRIR being able to ‘gain the confidence of victims and survivors in its work’.²⁴ The Irish Government called for substantive ‘root and branch’ reform of the ICRIR to make it ECHR compliant.²⁵

15. Court of Appeal Ruling (Dillon)

- In September 2024 the Court of Appeal gave its ruling in the Legacy Act appeals, which led to additional findings of EHCR incompatibility.²⁶ The Court findings included:
 - The ban on civil cases was incompatible with the ECHR.
 - The ban on legacy inquests was incompatible with the ECHR.
 - The ICRIR was incapable of conducting ECHR compliant investigations to the standard of inquests, and the ICRIR lacked the independence to provide findings to the next of kin in the context of the ministerial ‘national security veto’ provisions of the Legacy Act.
- It should be noted that the issues of practical independence in ICRIR investigations have not been dealt with in the *Dillon* litigation against the Legacy Act, as the High Court held a specific case would be required to test ECHR compliance (as had been the case in other proceedings).²⁷
- The new Labour Government announced it would not appeal findings into the ECHR compatibility of the ban on civil proceedings, nor the earlier high Court finding on the conditional immunities scheme. A draft Remedial Order under the Human Rights Act was tabled

²⁰ [Publication - Northern Ireland Human Rights Commission Legacy Note | Northern Ireland Human Rights Commission](#)

²¹ See ICRIR statement in response to NIHRC position on practical independence [Human rights chief’s unprecedented criticism of British government’s key legacy body – The Irish News](#)

²² [What could substantive ‘root and branch’ reform of the ICRIR look like?](#) (CAJ, 2024), p49-51

²³ ICRIR FOI 2025-19, which confirmed the number of times police powers and s14 powers of compulsion had been used by the ICRIR as follows: a) Powers of arrest – 0 b) Other police powers – 1 instance c) Powers under s14 of the Legacy Act – 0 d) Requests for information provided voluntarily as part of the process before exercising s14 powers – 0. The 1 use of other police powers related to a referral from the SOSNI and not an ICRIR review.

²⁴ <https://questions-statements.parliament.uk/written-statements/detail/2024-07-29/hcws30>

²⁵ <https://www.gov.ie/en/speech/6119c-tanaistes-remarks-at-the-british-irish-association-conference/>

²⁶ Dillon [2024] NICA 59

²⁷ See [What could substantive ‘root and branch’ reform of the ICRIR look like?](#) (CAJ, 2024), p55-56. See also the [Publication - Northern Ireland Human Rights Commission Legacy Note | Northern Ireland Human Rights Commission](#) stating “The issue of practical independence (which is a specific criterion in Article 2, European Convention on Human Rights cases), has not been subject to a full consideration by the courts. The High Court stressed that it was not dealing with a “specific case” when it concluded that the proposed statutory arrangements, taken together with policy documents published by the ICRIR inject the necessary and structural independence. The Court of Appeal did not overturn this conclusion, but did go on to observe that no amount of policy documents or non-statutory procedures could cure a deficiency in the legislation.”

to repeal the amnesty scheme and ban on civil proceedings, although the final order is awaited.²⁸

- The new Government did however appeal the findings regarding the unlawfulness of the Legacy Act ban on inquests; the ICRIR pseudo-inquest model and national security veto.²⁹

16. **Brown and Thompson Inquests and the national security veto**

- In relation to General Measures two of the Inquests impacted by the Legacy Act were the *Sean Brown* and *Thompson* cases (both sectarian murders by loyalist paramilitaries with suspected state collusion).
- CAJ has long held concerns that the central purpose of the ‘national security veto’ over ICRIR reports is to allow ministers to conceal state involvement in killings.
- In both *Brown* and *Thompson* the SOSNI litigated to ask the courts to ‘read in’ a similar ministerial national security veto over disclosure by Coronial judges in inquests.
- In *Thompson* (where CAJ represented the next-of-kin) the SOSNI judicially reviewed the Coroner to block her from releasing a summary (‘gist’) of relevant intelligence information. This was shortly after the Coroner in the *Sean Brown* inquest in a ‘gist’ had revealed that agents of the state were linked to the murder, leading ultimately to a retrospective legal challenge from the SOSNI. Disclosure in *Thompson* revealed a position had been taken by the UK Home Secretary that the ‘fact that agents were involved at all’ in an incident should not be disclosed.³⁰
- In *Thompson*, the High Court and Court of Appeal in Northern Ireland rejected the legal challenges by the SOSNI who appealed to the UK Supreme Court whose ruling is awaited.³¹ The Chief Constable of the Police Service of Northern Ireland (PSNI), along with the Coroner was also a respondent in this case supporting the disclosure of the Gist in contrast to UK Ministers.³²
- Separately the High Court and Court of Appeal in Northern Ireland held in a separate judicial review taken by the widow of *Sean Brown* that the SOSNI should open a public inquiry into the murder. Such an order was unprecedented but was made in the context that the court held the ICRIR would be incapable of conducting an ECHR-compliant investigation into the case and all other possible mechanisms had been closed down by the Legacy Act. The SOSNI has however appealed the finding to the UK Supreme Court.³³

17. **Assessment of Joint Framework (Summary)**

- It is welcome the Joint Framework commits to ‘fundamental reform’ of the ICRIR to transform it into a new Legacy Commission and provide a ‘fresh start’.
- The new Commission will conduct proper criminal investigations, although there is no express commitment they will follow ECHR standards.

²⁸ <https://www.gov.uk/government/publications/a-proposal-for-a-remedial-order-to-amend-the-northern-ireland-troubles-legacy-and-reconciliation-act-2023> for analysis see JCHR Written Evidence Written Evidence submitted by the Committee on the Administration of Justice (NIL0002) committees.parliament.uk/writtenEvidence/134544/default/

²⁹ [In the matter of an application by Martina Dillon, John McEvoy, Brigid Hughes and Lynda McManus for Judicial Review \(Respondents\) - UK Supreme Court](https://www.supremecourt.uk/cases/uksc-2024-0083)

³⁰ [‘Sensitive’ British government document suggests role of state agents should be concealed](https://www.irishnews.com/news/northern-ireland/2024/07/25/sensitive-british-government-document-suggests-role-of-state-agents-should-be-concealed/) Irish News, 24 July 25.

³¹ The UK Supreme Court heard *Thompson* in June 2025. <https://supremecourt.uk/cases/uksc-2024-0083>

³² For details see: [John Ware: The PSNI chief constable has challenged the securocrats and they don’t like it one bit](https://www.irishnews.com/news/northern-ireland/2025/06/13/ware-psni-chief-constable-challenges-securocrats-don-t-like-it-one-bit/) Irish News 13 June 2025.

³³ [In the matter of an application by Bridie Brown for Judicial Review - UK Supreme Court](https://www.supremecourt.uk/cases/uksc-2024-0083)

- The Joint Framework discontinues the roles of the current ICRIR Commissioners, providing for fresh leadership. The Joint Framework provides for new Legacy Commission structures with an Oversight Board, two Co-Directors for Investigations, and statutory 'Victims and Survivors Advisory Group' representing 'the voices of all those affected'.
- New appointments will still be made by the Secretary of State, with 'advice' from a panel of (as yet unnamed) persons. Effective, credible leadership will be crucial to confidence in the new Legacy Commission.
- The Joint Framework recognises the ICRIR Commissioner for Investigations model does not address conflict of interest concerns at a senior level. In general, there are commitments to 'robust' and 'extensive' conflict of interest duties on a statutory footing, including consultation with families.
- The Framework commits the UK, through a Remedial Order under the Human Rights Act, to repealing the ban on civil court proceedings in legacy cases and repealing the amnesty scheme. In its submission to the CM the UK states that the Remedial Order will be progressed alongside the primary legislation.³⁴
- The Stormont House cross-border Independent Commission for Information Retrieval (ICIR) is to be established under the new Framework, initially on a three year pilot basis.
- The main area of concern is the retention of a national security veto whereby the Secretary of State will still be able, with no merits-based appeal, to remove 'sensitive' information out of Legacy Commission reports to families.
- UK legislation will remove the ban on legacy inquests but will not automatically reinstate all outstanding inquests. Instead, the legislation will also establish a new 'Inquisitorial Mechanism' within the new Legacy Commission to substitute inquests (the ICRIR's model having been found to be incompatible with the ECHR). The rationale for this relates to 'sensitive' information, the potential for closed proceedings and the retention of a national security veto. The UK Solicitor General will take decisions as to whether outstanding inquests are dealt with as inquests or within the Inquisitorial Mechanism.

18. Individual measures

- *Finucane*: The new Secretary of State Hillary Benn in September 2024 announced that there would now be a public inquiry into the murder of human rights lawyer Pat Finucane. The UK committed to such a public inquiry in the 2001 UK-Ireland Weston Park Agreement but previous UK Governments had not honoured the commitment. A chairperson, the Rt Hon Sir Gary Hickinbottom, was appointed in June 2025 and two Assessors, Baroness Nuala O'Loan and Francesca Del Mese were also appointed. The inquiry which is developing its terms of reference.³⁵ The Finucane family are presently engaged in this process.
- *McKerr and Kelly and others*: The *McKerr and Kelly and Others* inquests were among nine inquests curtailed on the 1 May 2024 by the ban on further legacy inquests in the Legacy Act. The Joint Framework provides that these inquests will now resume once primary legislation repeals the ban. The UK submission to the CM states that if the coroners in these inquests determine they cannot proceed with the inquest due to the exclusion of 'sensitive' information,

³⁴ [https://hudoc.exec.coe.int/eng#\[%22execidentifier%22:\[%22DH-DD\(2025\)1140E%22\]\]](https://hudoc.exec.coe.int/eng#[%22execidentifier%22:[%22DH-DD(2025)1140E%22]]) "The measures outlined in the Framework will be implemented in legislation, which the UK Government will introduce in the near future. This will be progressed alongside a Remedial Order under the UK Human Rights Act 1998 to remove from legislation both the previous government's immunity scheme and bar on civil proceedings."

³⁵ [https://hudoc.exec.coe.int/eng#\[%22execidentifier%22:\[%22DH-DD\(2025\)1140E%22\]\]](https://hudoc.exec.coe.int/eng#[%22execidentifier%22:[%22DH-DD(2025)1140E%22]])

the inquests will instead be referred to the new Legacy Commission's Inquisitorial Mechanism.³⁶ This issue is further dealt with below.

19. General Measures: Police Ombudsman

➤ The Ombudsman was able to issue a number of public statements on investigations for which the investigative activity had concluded before the Legacy Act ban on further Ombudsman Legacy Investigations:

- [Police Ombudsman concludes RUC investigation into the fatal shooting of Colum Marks 'lacked independence and rigour'](#)
- [Police Ombudsman confirms PPS decision to prosecute former RUC Officer in major legacy investigation](#)
- [Could Not Be Established That RUC Special Branch Officers Heard Admission of Eoin Morley's Murder](#)
- [RUC investigation into 1989 murder of John Devine 'seriously defective'](#)
- [Police investigation of the murder of Peter Gallagher was "wholly inadequate"](#)
- [Investigative failings in RUC Kingsmill investigation which had 'wholly insufficient resources'](#)
- [RUC murder investigation was ineffective and therefore incapable of bringing perpetrators to justice](#)
- [Failure to link correct rifle to murders 'deprived RUC' of investigative opportunities](#)
- ['No credible evidence' to verify allegations about RUC Officer in fatal shooting of Michael Tighe](#)
- ['Earnest endeavour' in RUC investigation of La Mon bombing compromised by acquittal of accused](#)

20. In addition, the Police Ombudsman faced and appealed fresh litigation by a group of retired RUC officers arguing that the Ombudsman had no powers to issue findings regarding collusive actions of RUC officers.³⁷ The litigation tested the powers on a technicality rather than on the substance of the factual findings. Another case taken by a family also successfully challenged the Ombudsman's office over investigative delays.³⁸

21. The findings in a number of further Legacy Inquests were also issued:

- [Clonoe Inquest](#)
- [Francis Bradley Inquest](#)
- [Patrick Crawford Inquest](#)

22. In relation to the Clonoe inquest, which found the use of lethal force was not justified, the UK Government has sought to judicially review the inquest decision.³⁹

³⁶ [https://hudoc.exec.coe.int/eng#\[%22execidentifier%22:\[%22DH-DD\(2025\)1140E%22\]\]](https://hudoc.exec.coe.int/eng#[%22execidentifier%22:[%22DH-DD(2025)1140E%22]])

³⁷ <https://www.policeombudsman.org/news/police-ombudsman-to-appeal-judgment-by-justice-scoffield>

³⁸ <https://m.belfasttelegraph.co.uk/news/courts/police-ombudsman-unlawfully-failed-to-investigate-ruc-allegations-over-ira-killings-court-ruling/a599573999.html>

³⁹ [Government to challenge Clonoe ruling | The Independent](https://www.independent.ie/news/uk-politics/government-to-challenge-clonoe-ruling-3834414.html)

23. A soldier was also convicted of contempt of court for refusing to testify at another inquest (the Coagh inquest).⁴⁰
24. A former RUC officer was jailed following a criminal trial for perverting the course of justice in relation to the sectarian murder of Robert Hamill in 1997.⁴¹
25. Call in: the Operation Kenova team published a report into files that MI5 had not disclosed to the investigation prior to its interim report.⁴² Twenty five family reports from the Kenova Investigation were also handed to families.⁴³ The final Operation Kenova report is now due to be published. However, in light of the SOSNI legal challenge in *Thompson*, in which the SOSNI is asking the courts to read in a ministerial national security veto over coroners, the report has been held up as the Kenova team intend to officially identify the state agent now known as Stakeknife in the final report. This is despite the name of the (now deceased) state agent assumed to be Stakeknife being well known and common currency in the media.⁴⁴

The Joint Framework: The ICRIR and new Legacy Commission

26. The 2024 CAJ Report on whether ICRIR reform was viable concluded:

Only a substantive and meaningful ‘root and branch’ reform process to produce an entirely distinct institution to the ICRIR, with a different name, legal framework and leadership unrecognisable to what is presently in place could render reformed legacy institution viable, in the context of both human rights compliance and building sufficient confidence.⁴⁵
27. In CAJ’s view if implemented in a human rights compliant manner the Joint Framework has the potential to achieve this goal, but significant detail is awaited.
28. The Joint Framework commits to ‘fundamentally reform’ the ICRIR, including its renaming and changes to roles and structures ‘to reflect a new start’. Specifically, there will be ‘new governance structures and independent oversight arrangements’.⁴⁶
29. The Joint Framework discontinues the roles of the ICRIR Commissioners. It appears to provide that the current ICRIR CEO role will cease to be a commissioner but continue as CEO (and in public authority terms an ‘accounting officer’) in the new structure.
30. The internal governance of the Legacy Commission will be undertaken by a statutory ‘Oversight Board’ with a Chair and other members.
31. The role of ICRIR Chief Commissioner and the other ICRIR Commissioners is discontinued.
32. There will also be a statutory (i.e. provided for in the legislation) ‘Victims and Survivors’ Advisory Group’ representing ‘the voices of all those affected’.
33. There will be two functions within the Legacy Commission:
 - The first will be an investigations function, led by two ‘Co-Directors for Investigations of equal standing’, to conduct police-type investigations.

⁴⁰ A Scottish court initially sentenced a former member of the UK Special Forces to six months in prison but later reduced it to a fine. [SAS man's Coagh inquest jail sentence quashed and replaced with £5,000 fine](#) Irish News 1 May 2024

⁴¹ [Retired RUC officer jailed for perverting course of justice in Robert Hamill murder](#) ITV News 14 June 2024.

⁴² [Report into undisclosed MI5 files published | Operation Kenova](#)

⁴³ [Stakeknife: 25 family reports handed over by Operation Kenova](#) July 2025

⁴⁴ [Freddie Scappaticci: Government still undecided on whether to allow naming of Stakeknife in Operation Kenova final report | BelfastTelegraph.co.uk](#)

⁴⁵ [What could substantive ‘root and branch’ reform of the ICRIR look like?](#) (CAJ, 2024)

⁴⁶ Joint Framework, p3.

- The second will be a judge-led Inquisitorial Mechanism to emulate inquests.

34. The details of these two functions are further elaborated on below.

Legacy Commission: Appointments

35. The credibility and success or otherwise of the Legacy Commission will depend in large part on the effectiveness of new leadership and its staffing. The making of appointments to the new Commission will therefore be a crucial element of reform. This is particularly in the context whereby well qualified and experienced experts, domestically and internationally, who would be an asset to a legacy body, would not have applied to work in the ICRIR given the agenda behind it. Appointments of ICRIR Commissioners were made by the SOSNI in the previous UK Government.

36. The Joint Framework provides that it will still be the SOSNI who will appoint the members of the Oversight Board, Victims and Survivors Advisory Group' along with the new 'Co-Directors for Investigations' posts, and a judicial panel. In making these appointments the SOSNI will be under a duty to take *advice* from a 'panel of relevant person/s' and to publish that advice.⁴⁷ It is not specified in the Joint Framework who the relevant person/s will be.

37. In the 2018 official draft implementation legislation for Stormont House the appointment of Director of the Historical Investigations Unit (HIU) would be made by the Northern Ireland Minister of Justice on the *recommendation* of an Appointments Panel consisting of a number of office holders.⁴⁸

38. The CM had previously raised concerns regarding the concentration of powers in the SOSNI. Whilst the current SOSNI may give assurances he will follow the 'advice' of an independent panel on appointments there is no guarantee within the present framework that a future SOSNI will do so.

The Legacy Commission and Conflicts of Interest

39. Under ECHR Articles 2 & 3 there are requirements for 'practical' as well as institutional independence in legacy investigations. As set out in ECtHR guidance this:

...means that persons responsible for and carrying out an investigation must be independent from those implicated in the events. This means not only a lack of hierarchical or institutional connection but also a practical independence.⁴⁹

40. Whilst of broader application this question has tended to arise in NI legacy investigations in relation to the involvement of former RUC officers.⁵⁰ This is not to question the integrity of individual former RUC officers but rather raises issues of practical independence requirements and conflicts of interest, given as legacy investigations will inevitably involve probing the role of the RUC and the broader security forces in legacy cases. This includes examination of previous RUC investigations and the actions of agents of the state run by the RUC and other agencies in legacy cases.

41. In this context previous Package of Measures legacy investigations by Operation Kenova and the Police Ombudsman precluded the involvement of former RUC and military officers. This was not the case with the PSNI Historical Enquiries Team (HET) which was consequently

⁴⁷ Joint Framework, paragraph 2.

⁴⁸ Namely: Attorney General for NI; NI Victims Commissioner; Head of NI Civil Service; an experienced investigator appointed by NI Minister of Justice. Panel to follow Code of Practice issued by NI Commissioner for Public Appointments.

⁴⁹ ECtHR [Guide on Article 2 of the European Convention on Human Rights Right to life Updated on 31 August 2023](#) para 158.

⁵⁰ The Royal Ulster Constabulary, the police force in Northern Ireland before the Good Friday Agreement.

closed down following a damning report from Her Majesty's Inspectorate of Constabulary (HMIC) which found the HET approach incompatible with the ECHR, in particular due to the involvement of former RUC officers. The HMIC held that 'the independence necessary to satisfy Article 2 can only be guaranteed if former RUC officers are not involved in investigating state involvement cases.'⁵¹

42. The ICRIR departed from the practices of Kenova and the Ombudsman and presently employs 27 former RUC officers, and up to 9 former military officers.⁵² The current ICRIR Commissioner for Investigations is a former senior RUC/PSNI officer, who presided over the C3 Special Branch.
43. The human rights law framework for practical independence, as well as broader UK practice, was recently detailed in a paper by the Northern Ireland Human Rights Commission (NIHRC). Reflecting its long-held position on practical independence requirements the NIHRC has from the outset been critical of the arrangements in the ICRIR, including specifically in relation to the conflicts with the ICRIR role of Commissioner for Investigations.⁵³
44. The practical independence issues regarding the ICRIR Commissioner for Investigations role are recognised by both the British and Irish Governments in the Joint Framework which states:

...the ICRIR model of a single Commissioner for Investigations does not provide scope to fully address conflict of interest concerns at the most senior level.⁵⁴
45. As a consequence the Joint Framework discontinues the ICRIR Commissioner for Investigations role and states 'the Legacy Commission will instead have two Co-Directors for Investigations.'⁵⁵ The Joint Framework provides that 'one Co-Director will have experience of conducting criminal investigations in Northern Ireland, and one will not have that experience but will have experience of conducting criminal investigations outside Northern Ireland.' The former category does not require co-directors (or investigators) to be former RUC/PSNI officers as former Police Ombudsman and Kenova investigators would meet that requirement.
46. As regards conflicts of interest safeguards among investigators in general the Joint Framework, commits to legally binding 'robust' and 'extensive' conflicts of interest duties within the legislation.⁵⁶ The duties will be overseen by the CEO rather than Investigations Directors and the Commission will be under a duty to consult with families 'allowing them to raise an objection if they have concerns about conflicts of interest relating to officers involved in their case.'⁵⁷
47. The criteria for conflict of interest are not set out in the Joint Framework, although the SOSNI recently told a Committee of the UK Parliament that they would be 'based on the Stormont House Agreement'.⁵⁸
48. The SHA had two relevant provisions. First the SHA Historical Investigations Unit had to adopt a 'statement' setting out how its investigations would ensure compliance with ECHR Article 2

⁵¹ HMIC 'Inspection of the Police Service of Northern Ireland Historical Enquiries Team' 2013, p92

⁵² ICRIR FOI-2025-19, figures for August 2025.

⁵³ [Publication - Northern Ireland Human Rights Commission Legacy Note | Northern Ireland Human Rights Commission](#)

⁵⁴ Joint Framework, paragraph 6

⁵⁵ Joint Framework, paragraph 6.

⁵⁶ Joint Framework, page 4 and paragraph 7.

⁵⁷ Joint Framework, paragraph 7.

⁵⁸ Oral evidence: [The Government's new approach to addressing the legacy of the past in Northern Ireland](#), HC 586, Wednesday 3 September 2025, Q202.

and other human rights obligations (which would include provisions on practical independence). Second the SHA bill had a broader definition of conflict of interest as:

...any matter which might reasonably be expected to—

- (a) give rise to a conflict of interest, or
- (b) otherwise affect the person's ability to carry out his or her duties fairly and impartially.⁵⁹

49. The unofficial SHA Model Bill advocated a statutory duty codifying ECHR independence requirements.⁶⁰

Legacy Commission – Criminal Investigations function

50. The Legacy Act provided that ICRIR conduct 'reviews' into cases and vested significant discretion in the Commissioner for Investigations as to what steps such 'reviews' would take.

51. The Joint Framework sets out that the new Legacy Commission will be tasked with conducting investigations 'exploring all investigative leads.' A two stage process is set out whereby an initial 'case review' takes place 'in line with standard UK practice' and where there are evidential leads a full criminal investigation will take place in line with UK investigative standards.⁶¹ This two stage process appears similar to that envisaged under the SHA.

52. There is no express commitment requiring the investigation to meet ECHR standards. The official SHA bill contained such a commitment as a key safeguard to ensure proper investigations would be undertaken.⁶² In opposition Labour, through former SOSNI Lord Peter Hain, also sought unsuccessfully to amend the Legacy Bill to require ICRIR investigations to be compliant with the investigative duties under the ECHR.⁶³

53. As with the ICRIR and SHA the new Legacy Commission's investigations can lead to prosecutions.

54. Where there are no evidential leads a fact-finding investigation will produce a family report, which it states with findings on the 'balance of probability' threshold. The Joint Framework also commits to maximum permissible disclosure to families ('as much information as possible') in all cases (which implies, there will be family reports in criminal investigations too). The findings in reports will be produced by judges drawn from a panel (see Inquisitorial

⁵⁹ Draft Northern Ireland (Stormont House Agreement) Bill, (2018) clauses 6(4)-(60, 11 regarding the Statement on ECHR compatibility etc, and clause 10 on conflicts of interest.

⁶⁰ Namely that persons '*carrying out or involved in an investigation have no connection with persons whose behaviour is being investigated or might require to be investigated. Including (a) present and past connections; and (b) both actual connections and connections that might reasonably be perceived or suspected;*'

⁶¹ Joint Framework, paragraph 3.

⁶² The Draft Northern Ireland (Stormont House Agreement) Bill published for consultation in 2019 had provisions in clause 6 where by the SHA Historical Investigations Unit (HIU) Director was to set out in a formal statement how HIU investigations would comply with the requirements of the ECHR and other human rights obligations: *(3) The Director must issue a statement which sets out the manner in which the HIU is to exercise its investigatory function. (4) The statement must include statements of the manner in which the HIU is to exercise its investigatory function so as to secure— (a) that its Article 2 obligations are complied with; (b) that its other human rights obligations are complied with; (c) that the order in which deaths are investigated is in accordance with section 8. (5) The statements required by subsection (4) must (in particular) deal with compliance with the HIU's Article 2 obligations, and other human rights obligations, in connection with the investigation of deaths in accordance with the conflict of interest protections.* Clause 11 then placed the Director under a 'have regard' duty regarding the statement.

⁶³ HL Hansard Volume 827: 24 January 2023 Column 155-6 Amendment 72

mechanism below).⁶⁴ The family reports will however be subject to the national security veto (see below).

55. There are no express measures stated in strengthening the duties to make disclosures to the Legacy Commission. The Joint Framework does not expressly state if the Legacy Commission will deal with Article 3 (torture etc) as well Article 2 (deaths) cases. The ICRIR remit goes beyond deaths to cover serious injuries, (the SOSNI can also ask the ICRIR to investigate other Troubles-related offences which are not 'serious.') In the absence of indication to the contrary it appears the new Commission will have a remit beyond deaths.
56. The Joint Framework will extend the number of bodies who can refer cases to the Legacy Commission, to include the PSNI, Police Ombudsman and DPP.⁶⁵

Oversight & police misconduct

57. The ICRIR was only largely accountable to the SOSNI. The Joint Framework provides that the new Legacy Commission will be accountable in the use of police powers to its own Oversight Board, but that also legislation will provide for an independent reviewer to be appointed, and accountability to existing 'UK police conduct bodies'.⁶⁶
58. The Joint Framework also states that the Legacy Commission should refer evidence of 'potential criminality relating to police officers' where it falls outside its remit to the Police Ombudsman.⁶⁷ It is not clear if this provision is to deal with the declaration of declaration of incompatibility made by the Court of Appeal Order in *Dillon* relating to provisions of Section 45 of the Legacy Act which preclude complaints of police misconduct being progressed to misconduct or criminal charges.

Legacy Commission: National Security veto

59. The most concerning element of the Joint Framework is that both Legacy Commission investigations and its Inquisitorial Mechanism (and presumably also the reestablished ICIR) will still be subject to a national security veto vested in the SOS.
60. Some changes are committed to by the Joint Framework to the existing national security veto in the Legacy Act which limits ICRIR disclosure to families. This veto was found to be incompatible with the ECHR in the Court of Appeal in *Dillon*. A finding appealed to the UK Supreme Court by the SOSNI.
61. The Joint Framework commits to 'tangible changes' to the national security veto over the ICRIR to a provision that 'is consistent with other established mechanisms and facilitates disclosure of the maximum possible amount of information to families consistent with the requirements of national security and to protect life'.⁶⁸ It should be noted that with the exception of the broad ministerial powers of intervention over public inquiries in the Inquiries Act 2005, no other mechanism within the Package of Measures was subject to a ministerial national security veto.
62. The changes envisaged will involve removing the Legacy Act system for the ICRIR whereby information is designated as 'sensitive' due to it originating from the intelligence and security services. The SOSNI will also not be able to issue guidance on how the Legacy Commission

⁶⁴ Joint Framework, paragraph 12.

⁶⁵ Joint Framework, paragraph 8.

⁶⁶ Joint Framework, paragraph 9.

⁶⁷ Joint Framework, paragraph 10.

⁶⁸ Joint Framework, page 4.

should determine what information is ‘sensitive’.⁶⁹ However, there is no envisaged change to narrow the scope of the concept of ‘national security’ in the context of legacy cases.

63. The problem with this is it has become clear the that the purpose and effect of the national security veto over ‘sensitive’ information is to conceal which killings within the Northern Ireland conflict attributed to non-state actors, were in practice extrajudicial killings due to the involvement of agents of the state. The veto can also be used to conceal the involvement of state agents in torture and other violations.
64. In *Thompson* (where CAJ represented the next-of-kin) the SOSNI judicially reviewed the Coroner to prevent her from releasing a summary (‘gist’) of relevant information. This was shortly after the Coroner in the Sean Brown inquest in a ‘gist’ had revealed that agents of the state were linked to the murder. The SOSNI retrospectively judicially reviewed the Coroner in *Brown*, contending that he should not have revealed that suspects in the murder were state agents. In the proceedings in *Thompson* disclosure was made of a March 2024 policy statement on the ‘Neither Confirm nor Deny’ national security policy doctrine, issued by the Home Secretary shortly after the *Brown* inquest. Revealingly the Home Secretary’s guidance states that ‘the fact that agents were involved at all’ in an incident should not be disclosed.⁷⁰ The SOSNI judicial review in *Thompson* was rejected by the High Court and Court of Appeal in Northern Ireland but appealed to the Supreme Court in June, from which a ruling is awaited.⁷¹
65. Our client Eugene Thompson has since passed away without knowing what is contained in the coroner’s gist. Shortly before his passing the PSNI Chief Constable personally delivered an apology to Mr Thompson on the police failings over the killing. These included failures to arrest and investigate suspects in the murder.⁷² Mr Thompson had long been concerned that state agents were involved in the murder.
66. In essence this ‘national security’ doctrine permits the SOSNI to conceal that those involved in a conflict-related killing or other violation attributed to paramilitaries were in fact agents of the state, in the form of informants within paramilitary organisations. The policy doctrine cited to justify non-disclosure in the inquest context has been that of Neither Confirm Nor Deny (NCND). NIAC has heard evidence from the PSNI Chief Constable that the past approach to the NCND policy had been the astonishing suggestion that *a murder could not be investigated due to the involvement of an informant*, and that NCND was protecting agents involved in murder. Mr Boucher told a UK Parliamentary Committee that:

Saying that you cannot investigate a crime any further because there is an agent involved is poppycock. That is not right... I think there has been an application of NCND in Northern Ireland that has restricted previous Chief Constables and investigators. ... That is why all I am asking is for them to be reviewed and re-codified in the context of the Northern Ireland troubles. Nobody who commits murders should be protected by the policy of NCND. I do not think anybody could disagree with that.⁷³
67. ECHR case law on Article 2 ECHR in relation to extra-judicial killings has established that States are liable for deaths where the deceased was ‘*killed by State agents or with their*

⁶⁹ Joint Framework, paragraph 13.

⁷⁰ [‘Sensitive’ British government document suggests role of state agents should be concealed](#) Irish News 24 July 2025

⁷¹ The UK Supreme Court heard *Thompson* in June 2025. <https://supremecourt.uk/cases/uksc-2024-0083>

⁷² [Murder victim’s brother welcomes apology personally delivered by police chief](#) | The Standard

⁷³ <https://committees.parliament.uk/event/21199/formal-meeting-oral-evidence-session/>

*connivance or acquiescence.'*⁷⁴ The corresponding procedural obligation to ensure an effective official investigation where state agents are involved in deaths must be capable of leading to a (public) determination on matters including the 'use of force' by state agents.⁷⁵ This obligation cannot be complied with if the Legacy Commission or the judiciary cannot disclose the involvement of a state agent 'at all' in a death or other violation to the next of kin or in public. It should be noted that this does not relate to disclosing the *identity* of an agent outside a criminal trial, but rather accountability for the involvement of state agents per se in a murder or other violation.

68. The Joint Framework implies that a relevant 'Secretary of State' will still be the decision maker on withholding material from Legacy Commission reports. There will be a statutory duty on the SOS to conduct a balancing exercise on the public interest, this is to draw on provisions of the Inquiries Act 2005.⁷⁶ This implies that not just the SOSNI will wield a national security veto over Legacy Commission Family Reports but also the SOS for the Home Department and Defence (MoD), who have responsibility for MI5 and military intelligence respectively, whose agents and actions may be the very subject of the legacy investigation.
69. In *Brown* the Court of Appeal held that the weight given to the views of the MoD and MI5 by the SOSNI was a factor in its determination the ministerial decision making had been unlawful. This is in the context of the investigation itself engaging the actions of these agencies. MI5 and the MoD had advocated that an investigation should be taken forward not by a public inquiry but by the ICRIR. The Court of Appeal held:

The advice to the SOSNI as to the mechanism by which the state should fulfil its article 2 obligations ought not to have been tainted or influenced in this manner. That is because there is a risk that such advice will be skewed in order to protect the various interests in play and, therefore, it would not be safe or appropriate for the minister to rely on such advice.

Moreover, the 'preference' of the agencies for the ICRIR has to be set against the consideration that this process is inchoate, not currently fit for purpose and is currently not article 2 compliant.⁷⁷

70. In relation to the Inquiries Act 2005 whilst a workaround has been found for ECHR-compliant inquiries per se the Inquiries Act has itself long been heavily criticised for the high level of undue ministerial control over reports.⁷⁸

⁷⁴ See ECtHR 'Guide on Article 2 of the European Convention on Human Rights: Right to life (updated 28 February 2025), paragraph 127 citing "Avşar v. Turkey, 2001, §§ 413-416; Khashiyev and Akayeva v. Russia, 2005, § 147; Estamirov and Others v. Russia, 2006, § 114; Musayeva and Others v. Russia, 2007, § 155; Amuyeva and Others v. Russia, 2010, §§ 83-84; see also Lapshin v. Azerbaijan, 2021, § 119, where the applicant survived an attempt to his life while in prison and by contrast Denizci and Others v. Cyprus, 2001, § 373; Buldan v. Turkey, 2004, § 81; Nuray Şen v. Turkey (no. 2), 2004, § 173; Seyhan v. Turkey, 2004, § 82 and Carter v. Russia, 2021, §§ 170-172).

⁷⁵ See Eg see (*Armani Da Silva v. the United Kingdom* [GC], 2016, § 233).

⁷⁶ Joint Framework, paragraph 13.

⁷⁷ Bride Brown's application [2025] NICA 16 [121-122]

⁷⁸ In 2009 the NIHRC raised concerns with the UN that the Inquiries Act 2005 could thwart 'truly independent' public inquiries 'by virtue of an unprecedented subordination of the inquiry process to the control of Government ministers at every stage, even though the actions of the executive may, more often than not, be the very subject of investigation.' (NIHRC correspondence to UN Human Rights Committee, 24 August 2009.) In 2015 the UN Human Rights Committee, in its Concluding Observations on 'Accountability for conflict-related violations in Northern Ireland', continued to urge the UK to reconsider the Inquiries Act 2005 in light of its

71. The Joint Framework provides that the relevant SOS may have to give reasons to families for removing material from Legacy Commission reports, but only if the giving of reasons itself does not risk any harm to national security. There will be no merits-based appeal (i.e. whereby a judge could re-take the decision), rather the only appeal option would be akin to judicial review. This was notably one of the elements found to be unlawful by the Court of Appeal in *Dillon*.⁷⁹

Inquests and the new Inquisitorial Mechanism

72. The Legacy Act closed 38 legacy inquests on the 1 May 2024, 14 of which had not reached findings stage and 24 that had not been assigned to a coroner.⁸⁰ 18 of the inquests formed part of the Lord Chief Justices original five year plan for legacy inquests. The remaining 20 had been ordered at the request of families by the Attorney General after the original five year plan. The Legacy Act also prohibited the Attorney General from opening any further legacy inquests.

73. Whilst not within the Legacy Act the ICRIR had argued it could emulate inquests within its framework putting forward an 'Enhanced Inquisitorial Proceedings' model.⁸¹ CAJ and others had considerable scepticism over this model of emulating inquests, not least as there would be no independent judge, no court, families would not have their own lawyers, or rights to receive disclosure and the Executive branch of Government would be able to re-write the 'judgment' through the 'national security veto.' The Court of Appeal in *Dillon* found the ICRIR's model to be incompatible with the ECHR. This was appealed by the SOSNI to the UK Supreme Court.

74. The Joint Framework commits to removing 'the current legislative prohibition on Troubles-related inquests and replace it with new provisions.'⁸²

75. The new provisions however will not allow all inquests to automatically proceed.

76. There are commitments to allow 9 of the inquests which were in progress and halted by the Legacy Act guillotine to proceed (the other 5, including *Brown* and *Thompson*, involved 'sensitive' information.)

77. The other 24 inquests (20 opened by the NI Attorney General, and four from the five year plan) would be subject to an assessment by the UK Solicitor General who would decide whether the inquest would:

- proceed in the inquest system; or
- instead be dealt with by a new 'Inquisitorial Mechanism' within the Legacy Commission.⁸³

78. It is not clear if the powers of the NI Attorney General to open further inquests would be reinstated and if so, would also go through the above procedure.

⁷⁹ 'broad mandate for government ministers to suppress the publication of inquiry reports.' (UN Doc CCPR/C/GBR/CO/7, Human Rights Committee, [Concluding Observations on UK](#), paragraph 8.)

⁸⁰ *Dillon* [2024] NICA 59, [234] 'The SOSNI can prohibit the ICRIR from sharing sensitive information ... There is also no provision for a merits-based appeal (although there is review akin to judicial review); and it appears that the court cannot itself permit disclosure of any sensitive material where the SOSNI's permission has been withheld.'

⁸¹ [The Troubles: 'Legacy Act denies victims like me closure' - BBC News](#)

⁸² [Enhanced Inquisitorial Proceedings: A brief explanation - Independent Commission for Reconciliation & Information Recovery \(icrir.independent-inquiry.uk\)](#)

⁸³ Joint Framework, page 3.

⁸⁴ Joint Framework, page 3 and paragraph 19.

- 79. It is also not clear if other families can request to use the ‘Inquisitorial Mechanism’ in the Legacy Commission outside of the existing cohort of inquests.
- 80. Should coroners determine that an inquest in the system cannot complete due to sensitive information it is also to be referred to the Legacy Commission Inquisitorial Mechanism.⁸⁴
- 81. The Assessments by the Solicitor General should be taken within 18 months of the commencement of the new legislation. It is clear from the Joint Framework that the primary criteria for placing an inquests outside of the inquest system and into the ‘Inquisitorial Mechanism’ is the existence of ‘sensitive’ information.⁸⁵ In essence the rationale behind the Inquisitorial Mechanism is that it, unlike inquests, it will be able to undertake closed proceedings and be subject to a national security veto.
- 82. Unlike the ICRIR’s pseudo-inquest model the new Inquisitorial Mechanism will be established by statute with a legislative framework providing for judge-led public hearings and legal representation for the next of kin. There will be provisions for closed hearings to consider sensitive information and findings subject to a national security veto. The mechanism will be based on the Inquiries Act 2005.⁸⁶ Whilst commitments are made on legal representation the Joint Framework does not reference whether families will have the same rights to receive disclosure as is presently the case in inquests.
- 83. The presiding judges in the Inquisitorial Mechanisms will be drawn from a panel of serving/retired judges. However, in a reversal of the criminal justice reforms further to the Good Friday Agreement (GFA), whereby judges in Northern Ireland are appointed by an independent body – the Northern Ireland Judicial Appointments Commission (NIJAC)⁸⁷ – Legacy Commission Judges will be appointed by the SOSNI. In doing so the SOSNI will take ‘advice’ from a panel including ‘NI and GB judicial advice’.⁸⁸ This panel of judges will also produce the family reports for the broader Legacy Commission.

Independent Commission on Information Retrieval (ICIR)

- 84. The Joint Framework recommits to the establishment of the cross-border ICIR, a mechanism within the Stormont House Agreement, on which the two governments signed a 2015 implementation treaty.⁸⁹ The ICIR will be separate and independent from the Legacy Commission.
- 85. The ICIR will operate with a similar framework to the Independent Commission on the Location of Victims’ Remains in that it will receive information in the form of ‘protected statements’ which cannot be used in civil or criminal proceedings. The two governments will appoint commissioners to the ICIR.⁹⁰
- 86. The provision of protected statements is not an amnesty, and the Joint Framework states it would not impinge on investigations by the Legacy Commission.⁹¹ As was the case with the ICIR within the SHA framework there will likely be further detail and discussion on sequencing and firewalls.

⁸⁴ Joint Framework, para 18.

⁸⁵ Joint Framework, para 19.

⁸⁶ Joint Framework, para. 11.

⁸⁷ [About NIJAC | Northern Ireland Judicial Appointments Commission](#)

⁸⁸ Joint Framework, para 12.

⁸⁹ Joint Framework, para 22.

⁹⁰ Joint Framework, para 26.

⁹¹ Joint Framework, para 24.

87. The Joint Framework provides that the ICIR will operate for a three year pilot in the first instance (including a one year preparatory phase) and will continue subject to an assessment by both Governments.⁹²

CAJ October 2025

⁹² Joint Framework, para 27.