

Northern Ireland: High Court overturns ban on Sinn Fein ministers attending cross-border talks

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2 February 2001

The Belfast High Court ruled Tuesday that Northern Ireland's First Minister David Trimble acted unlawfully last October when he barred Sinn Fein ministers from participating in official cross-border forums. These meetings, involving ministers from the North and their counterparts in the Irish republic, are integral to the Good Friday Agreement, aimed at establishing a more stable basis for international trade and investment throughout the island.

In November last year, Sinn Fein ministers Martin McGuinness and Bairbre De Brun sought a judicial review of Trimble's ban on them attending the cross-border meetings. Explaining their reason for going to court, Bairbre De Brun said Trimble's action was a "breach of his pledge of office, the ministerial code and the Good Friday Agreement".

In his ruling, Justice Brian Kerr said that the First Minister's exclusion order was aimed at pressurising Sinn Fein "to follow a particular course," and that in using his powers for political purposes, Trimble had acted unlawfully. "In consequence, the First Minister will be required to perform his obligations under legislation."

At the time, Trimble, who also heads the Ulster Unionist Party (UUP), had said that he was barring Sinn Fein ministers unless the party "significantly engaged" with the arms decommissioning body. The pro-British UUP have insisted that the price of Sinn Fein's admission into the power-sharing bodies must be the hand over of all IRA weapons.

The First Minister's insistence on this has more to do with placating opponents of the Good Friday Agreement within Unionist ranks, than the actual letter of the Agreement itself. Trimble's hardline stance

regarding Sinn Fein enabled him to narrowly survive a further leadership challenge by anti-Agreement forces in the UUP's ruling council in October last year.

For its part, Sinn Fein insists that the IRA has kept to the Agreement by maintaining its ceasefire. They also argue that republican decommissioning is dependent upon a satisfactory resolution to other items outstanding in the Agreement—such as reform of the overwhelmingly Protestant Royal Ulster Constabulary (RUC).

Whilst upholding Sinn Fein's complaint, Justice Kerr did find in favour of Trimble, that the First Minister has discretion on deciding the nominations to the cross-border bodies. Trimble could send someone else to the meetings, as long as he chose candidates based on "suitability rather than any political objectives," the judge ruled.

Sinn Fein and the Social Democratic Labour Party (SDLP) welcomed the ruling, with Sinn Fein Education Minister Martin McGuinness claiming victory, and demanding all-Ireland meetings must "take place as soon as possible." But Trimble said he also welcomed many of the legal points made by the court. The Judge had upheld his claim, "that the First Minister and Deputy First Minister have a discretion as to which ministers represent the Executive at the North-South Ministerial Council", Trimble said. He said he would still appeal the decision however, as he rejected the Judge's conclusion that it was outside his discretion to nominate Sinn Fein ministers in order to force the decommissioning issue. "This is too narrow an interpretation and I am appealing. The action I have taken is necessary to uphold the integrity of the Belfast Agreement," Trimble said.

The judge's ruling had been expected in late November but was delayed while the British, Irish and US governments made a concerted attempt to keep the Good Friday Agreement on course.

Whilst the UUP insisted on IRA decommissioning before any further progress could be made, Sinn Fein and the SDLP had condemned British plans weakening RUC reform as a betrayal of the Agreement. Proposals made by the Patten Commission, set up to investigate and make recommendations on policing reform, had been "gutted" by the British parliament to satisfy the UUP, the republican parties complained. British legislation establishing the new police force had not agreed that its symbols and emblems would be non-partisan, or that the new Police Board would be able to order retrospective inquiries into previous complaints against the RUC, both proposals made by the Patten Commission. Consequently, Sinn Fein and the SDLP had ignored a December 11 deadline for making their nominations to the Police Board.

In the last fortnight intense efforts have been underway by all parties to find a compromise that will enable the power-sharing structures to continue. The "shadow" Police Board was meant to be functioning by the end of January and Trimble had earlier pledged to the UUP ruling council that a deal on decommissioning would be forthcoming by February.

With no such deal in sight, some British commentators have expressed concern that last week's unexpected resignation of Northern Ireland Secretary Peter Mandelson would complicate matters still further. Mandelson was forced to resign following his admission that he had lied over his involvement in a UK passport application by billionaire businessman Srichand Hunduja, who currently faces a criminal investigation in India. Mandelson's replacement, former Secretary of State for Scotland John Reid, is considered too inexperienced to deal with the complex negotiations.

In the event, Mandelson's departure appears to have had little effect. The former Northern Ireland Secretary was bitterly resented by the republican parties, who regarded him as actively pro-UUP, and the Irish government had also voiced complaints about him. As a pro-Unionist Catholic, Reid's appointment seems to have been accepted by all the pro-Agreement parties.

On Monday, Irish Prime Minister Bertie Ahern met a

US Congressional delegation led by Republican Congressman Bill Gilman. During the talks Gilman, who is chairman of the House International Relations Committee, passed on a letter from former President Clinton, in which he is said to have stressed the importance of policing reforms for the Agreement. The *Irish Times* reported that in a separate letter to Ahern, the delegation had severely criticised the British government's handling of the policing issue. Gilman wrote that the British government's actions had "unwisely brought politics back into the northern policing question", and continued pointedly, "This is unfortunate, and will hopefully soon be rectified."

Just what role such admonishments may have played in subsequent events is not clear, but the negotiations have since moved on more speedily. Just as Justice Kerr delivered his ruling, speculation increased that a breakthrough on the outstanding issues may be imminent. On Wednesday Ahern flew to London for talks with Blair. By Thursday morning, Trimble and his deputy, Seamus Mallon (SDLP), had announced they were cutting short, or cancelling separate trips overseas in order to meet with Prime Minister Tony Blair at Downing Street.

Early reports indicate Britain has made concessions regarding the SDLP's demand for retrospective inquiries into the RUC, and to Sinn Fein on strengthening the accountability powers of the Police Board. However, the government maintains these should not involve any amendments to the current legislation establishing the new police force.



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