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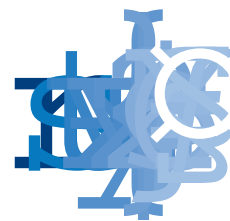
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Fergus D Cochrane
Clerk
Public Petitions Committee
TG.01
The Scottish Parliament
Edinburgh
EH99 1SP

07 January 2011

Dear Mr Cochrane

PUBLIC PETITIONS COMMITTEE: PE1370

Thank you for your letter of 12 November 2010 which asks the Government the following three questions in respect of this petition. I apologise for the delay in replying.

1. Will you open an independent inquiry into the 2001 Kamp van Zeist conviction of Abdelbaset Ali Mohmed al-Megrahi for the bombing of Pan Am flight 103 in December 1988 as called for by the petitioner and for the reasons given in the petition?
2. If not, will you provide a detailed explanation why not, specifying whether there is any legislation which would prevent you from holding such an inquiry, what this legislation is and how it prevents?
3. Who would have the power to undertake an inquiry in the terms proposed in the petition?

The Government's response to these questions is as follows:

1. The Cabinet Secretary for Justice made clear in his response of 16 September to a Parliamentary Question (S3W-35844) from George Foulkes on this issue that the Government have no plans to initiate an inquiry on this issue.
2. The Government does not doubt the safety of the conviction of Mr Al-Megrahi. He was tried and convicted by a Scottish court before three judges and his appeal against conviction, heard by a panel of five judges, was unsuccessful. A second appeal, following a referral from the Scottish Criminal Cases Review Commission, was abandoned by Mr Al-Megrahi. The conduct of his defence during his trial and the appeals, including his decision not to give evidence at trial and the decision to abandon the second appeal, was entirely a matter for Mr Al-Megrahi and his legal advisors.

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The Government's view is that the petition is inviting the Scottish Government to do something which falls properly to the criminal justice system i.e. inquire into whether a miscarriage of justice has taken place. The criminal justice system already provides a mechanism for that to happen. The fact that Mr Al-Megrahi chose to abandon his second appeal rather than pursue it is entirely a matter for him and it would not be appropriate for the Scottish Government to institute an inquiry as a result.

- 3. The Inquiries Act 2005 provides that, to the extent that the matters dealt with are devolved, and criminal justice is devolved, the Scottish Government would have the power to conduct an inquiry. However, the wide ranging and international nature of the issues involved (even if the inquiry is confined to the trial and does not concern itself with wider matters) means that there is every likelihood of issues arising which are not devolved, which would require either a joint inquiry with or a separate inquiry by the UK government.

Separately, the Scottish Government intends to bring forward legislation to allow the SCCRC to publish a statement of reasons in cases such as Mr Al-Megrahi's where an appeal is abandoned, subject of course to legal restrictions applying to the SCCRC such as data protection, the convention rights of individuals and international obligations attaching to information provided by foreign authorities.

Karen Rodger
Committee Liaison Officer