

JUSTICE PRESS RELEASE

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JUSTICE urges Supreme Court to extend human rights protection to UK troops

On Monday morning, the Supreme Court will begin a four day hearing set to determine whether the protection of the European Convention on Human Rights extends to the activities of UK troops overseas.

Families of troops killed in Iraq during operations will ask the Supreme Court to uphold the judgment of the Court of Appeal that they can continue their claim for negligence against the Ministry of Defence. However, they will also ask seven justices to overturn the conclusion of the Court of Appeal that the European Convention on Human Rights did not apply to the relationship between the UK and its forces off-base overseas.

Civilians killed are covered by the Convention by virtue of the activities of the UK and its troops overseas; the troops enjoy the protection of Convention based fair trial standards during courts martial; and the Convention applies on-base. The Ministry of Defence is defending this case on the basis that the Convention ceases to apply when troops step off base.

JUSTICE has intervened in this case to urge the Supreme Court to find that the relationship between the UK and its forces means that they carry the protection of UK law with them overseas, including the human rights protections in the Human Rights Act 1998. The anomalies created by any other conclusion would be extraordinary.

JUSTICE's Director of Human Rights Policy, Angela Patrick, said:

***“UK Armed Forces are ordered around the world, wearing the cloak of UK law with them wherever they go. The Government is asking the Supreme Court to rule that there is a human rights shaped hole in that armour.*”**

The Strasbourg Court has recognised that civilians may bring human rights claims against the UK in connection with the actions of our troops overseas. The logical outcome of the MOD case is that our forces could spread the reach of the UK courts but must remain outside their protection themselves.”

For further comment, please contact Angela Patrick on 020 7762 6415 (direct line) or apatrick@justice.org.uk.

Notes for editors

1. The Supreme Court will hear the case of *Smith & Ors v Ministry of Defence* on 18 – 21 Feb 2013. For full details of the listing, see http://www.supremecourt.gov.uk/current-cases/CCCaseDetails/case_2012_0259.html
2. The summary of facts and issues in the case provided by the Supreme Court is set out below. JUSTICE's intervention is limited to the first issue, on the application of Article 1 ECHR:

Facts

The claims in the first two appeals arise from the deaths of UK soldiers on duty in Iraq when the Snatch Land Rovers in which they were travelling took the impact of an improvised explosive device detonated beside the vehicle. These appellants allege that the respondent was in breach of the obligation to safeguard life protected by Article 2 ECHR by failing to provide suitably armoured vehicles. The second and third appellants also allege that the respondent was negligent in failing to provide suitable equipment and in deciding to put the Snatch Land Rovers back into use after they were withdrawn following the first death.

Issues

Whether on the facts as pleaded in the particulars of claim:

1. British soldiers killed during military operations abroad were, at the time of their deaths, within the jurisdiction of the United Kingdom for the purposes of Article 1 of the ECHR.
 2. the Court is satisfied that the Defendant did not owe a duty to the deceased soldiers at the time of their deaths pursuant to Article 2 ECHR.
 3. the complaints of negligence are covered by the doctrine of combat immunity and/or it would otherwise not be fair, just and reasonable to impose a duty of care on the MOD (Ministry of Defence) in the circumstances of the case.
3. The Court of Appeal judgment in this case can be viewed here: <http://www.bailii.org/ew/cases/EWCA/Civ/2012/1365.html>
 4. JUSTICE was granted permission to intervene in the case during January 2013. JUSTICE is represented pro-bono by Alex Bailin QC (Matrix), Iain Steele (Blackstone Chambers), Eddie Craven (Matrix) and Herbert Smith Freehills. A copy of JUSTICE's submissions in this case are available on request from apatrick@justice.org.uk. The Equality and Human Rights Commission is also intervening in the case.