

Edinburgh High Court hearings re second Lockerbie appeal.

The High Court has stated that there will be a hearing in this case at 10am at the High Court in Edinburgh on Wednesday 15th October 2008. This is scheduled to start at 10 AM.

I hope to be there.

The purpose of the hearing is for the Court to issue its decision on the **Scope of the appeal**. Discussion of the issue took place in June, so this hearing might amount simply to a statement by the Court as to what it has decided that the scope is to be. The decision will inevitably be of huge import for the range of evidential material to be used in the appeal.

Readers may remember that **the defence requested that the scope be extended well beyond the remit of the SCCRC**, in terms of both old and new evidence, citing precedents from Scots law. The Crown opposed the request.

They should also be aware that the Court has already decided that the 'document from a foreign power' (the subject of the Foreign Office's PII certificate, despite the Crown and Scottish police having been in full possession of it for some years) shall only be revealed to the defence through a 'special defence advocate', to be chosen and paid for by Westminster.

Prof Koechler, for the UN feels that this 'special defender' negates a fair appeal, since (s)he would be an appointee of the F&CO with the power to redact the document as shown to the defence; it certainly makes it harder to accept that the playing field will be level between prosecution and defence, unless **zero redaction** takes place. I suppose the latter is a possibility when the special advocate has examined the F&CO's reasons for imposing the PII certificate, and the document's content.

The Court had of course to act responsibly in terms of United Kingdom provisions for terrorism related cases, but has now established a precedent in **Scots law**. In the Lockerbie case, much will depend on the defence's reaction to the role played by this individual. The decision to use such special advocates arose in **English law** in response to Irish terrorism related cases. Never has it previously been agreed in Scotland.

One sure-fire effect of these hearings is further delay to the timing of the appeal.

Best wishes to all,

Jim S.