



Irish Council for
Civil Liberties

Briefing on Garda Use of Lethal Force

The State's human rights obligations regarding the use of lethal force by Gardaí with reference to the case of George Nkencho

1. Introduction

This briefing sets out the human rights obligations of the state when lethal force has been used by police officers with specific reference to the case of George Nkencho.

The first section sets out the facts of this case as reported in the news media. The second section addresses the scope of the investigative duty created by the right to life under article 2 of the European Convention on Human Rights. In summary, the state is obliged to ensure that there is an independence, effective, thorough, prompt and transparent investigation into Mr Nkencho's death. The third section argues that the investigation should examine whether racial bias played a part in the risk assessment by Gardaí and their responses in the lead up to Mr Nkencho's death. This reflects community concerns and addresses the prohibition of discrimination, which is a legal duty on all Gardaí. The fourth section suggests that a system-wide inquiry should take place that can make recommendations regarding lessons learned. The fifth section addresses the issue of policing and mental health supports. We note previous recommendations including from the Commission on the Future of Policing regarding police access to mental health experts, as part of crisis response and management. The briefing concludes with five recommendations.

2. Facts and Statements in the public domain¹

- George Nkencho, a Black-Irish man, was shot dead by Gardaí on Wednesday 30 December 2020 in front of his home.
- Gardaí say they had followed Mr Nkencho home following an alleged altercation at a shopping centre and Mr Nkencho had been holding a knife.

¹ See eg The Irish Times, 5 January 2021, <https://www.irishtimes.com/news/crime-and-law/george-nkencho-s-sister-says-she-opened-door-to-him-before-he-was-shot-1.4450000>; The Examiner, 6 January 2021- <https://www.irishexaminer.com/news/spotlight/arid-40201541.html> ; The Irish Times, 7 January 2021 <https://www.irishtimes.com/news/crime-and-law/george-nkencho-family-and-lawyer-concerned-at-pace-of-gsoc-investigation-1.4452750>; The Examiner, 8 January 2021 <https://www.irishexaminer.com/news/arid-40203470.html>; The Irish Times, January 9 2021 <https://www.irishtimes.com/news/crime-and-law/george-nkencho-shooting-racial-tensions-in-dublin-s-suburbs-1.4452459>.

- His family stated that he had come to the door of his home and tried to go inside but Gardaí prevented him and prevented his siblings from leaving the house.
- Members of his family were present inside the house at the time of the shooting and family members say at least two shots were fired in the direction of the house.
- Mr Nkencho's family have stated that Mr Nkencho suffered from serious mental health issues and they informed Gardai of this during the incident.
- Gardaí say they followed relevant protocols on the use of force and used pepper spray and tasers prior to the shooting.
- Members of Mr Nkencho's community in West Dublin have expressed serious concerns about the incident, the Garda response following the incident and stressed the need for a proper criminal justice response.
- The Garda Síochána Ombudsman Commission (GSOC) has confirmed that it has opened a criminal investigation.
- GSOC has confirmed that it has appointed a Family Liaison Officer who has been in touch with the Nkencho family and their lawyer.
- A state autopsy confirmed that Mr Nkencho died from bullet wounds following six shots to his body.
- An independent autopsy has taken place with reports that some findings may differ from the state autopsy.

3. *Human Rights Obligations of the State in the case of loss of life at the hands of state agents*

The right to life is protected by the Irish Constitution in Article 40.3.2 and under Article 2 of the European Convention on Human Rights (ECHR). Under the ECHR Act 2003, and s.42 of the Irish Human Rights and Equality Commission Act 2014 all public bodies are obliged to act in compliance with the ECHR and human rights and equality law.

The state is legally obliged to protect life and this obligation extends to all Garda members. The use of force is strictly regulated and permitted only in limited circumstances, including where provided for by law, necessary and proportionate to a legitimate aim. The use of firearms is permitted only where there is an imminent risk to life.² Any use of force must be as minimal as possible to preserve life.³

The Garda public order incident command policy⁴ states:

² See for example the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials <https://www.ohchr.org/en/professionalinterest/pages/useofforceandfirearms.aspx>

³ Garda Policy on Use of Force (including Firearms) was set out as an urgent priority area for review by the Garda Human Rights Strategy Document 2020-2022. It is not clear what use of force model is currently used by An Garda Síochána as it does not appear on the Policy Document page of garda.ie: see <https://www.garda.ie/en/about-us/publications/policy-documents/> (accessed 21.1.21)

⁴ <https://www.garda.ie/en/about-us/publications/policy-documents/public-order-incident-command-policy.pdf> p.7

The fundamental principle underpinning this policy is that any action taken must comply with the fundamental principles of legality, necessity (**absolute necessity in terms of lethal force**), proportionality and accountability and is applied in a non-discriminatory manner in accordance with the principles of the European Convention on Human Rights (ECHR). (Emphasis added).

As part of the right to life protected by article 2 of the ECHR the State is obliged to conduct an independent, effective, prompt, thorough, transparent and victim (including next of kin) centred investigation into any death that occurs at the hands of police.

This procedural aspect of the right to life places a duty on the State to carry out an independent effective investigation in order to ensure that the right to life is meaningful, to examine whether the use of lethal force was justified and to ensure accountability where there has been wrongdoing.⁵

Such an investigation must ensure so far as possible that the full facts are brought to light; that culpable and discreditable conduct is exposed, brought to public notice, and responded to appropriately; that suspicion of deliberate wrongdoing (if unjustified) is allayed; that dangerous practices and procedures are rectified; and that those who have lost their relative may at least have the satisfaction of knowing that lessons learned from his death may save the lives of others.⁶

The European Court of Human Rights has outlined specific requirements for investigations into police killings.⁷ These requirements are outlined below.⁸

- **Independence:** The investigation must be carried out by a body with both institutional and practical independence from those implicated in the events. It is vital that GSOC does not engage in the practice of 'leasing back' any aspect of the investigation into George Nkencho's death to An Garda Síochána, which the Commission on the Future of Policing has identified as a practice that must end, in any event.
- **Effectiveness:** An effective investigation is vital to ensure there is no impunity for criminal conduct by state actors. The investigation should not be reliant solely on evidence or information from the source being investigated. It should have full investigatory powers to compel witnesses and it should be capable of securing evidence.⁹ This means GSOC *must seek evidence* from all those

⁵ *McCann & Others v UK, European Court of Human Rights* (1995), *Kaya v Turkey*, European Court of Human Rights (1998),

⁶ See UK report into fatal shooting of Anthony Grainger for important lessons learned: <https://www.inquest.org.uk/calls-for-corporate-manslaughter-charges-as-conclusion-of-public-inquiry-into-fatal-police-shooting-of-anthony-grainger-is-published>

⁷ See in particular *McKerr v. the United Kingdom*, no. 28883/95, ECHR 2001-III; *Kelly and Others v. the United Kingdom*, no. 30054/96; *Shanaghan v. the United Kingdom*, no. 37715/97; and *Hugh Jordan v. the United Kingdom*, no. 24746/94, ECHR 2001

⁸ For a recent examination of how an investigatory body may meet its ECHR article 2 obligations see Alyson Kilpatrick's assessment of Operation Kenova here: <https://www.kenova.co.uk/review-of-operation-kenova-published>

⁹ See for example *Khan v. United Kingdom* (2001) EHRR 1016.

who may have witnessed or participated in the events on 30 December surrounding Mr Nkencho's death.¹⁰

Some of the primary questions investigators must ask include the following: Was the use of lethal force necessary and proportionate to an imminent risk to life? Did all members of AGS involved in the incident act at all times to minimise the risk to life of all concerned? Was open fire necessary taking account of all the circumstances? Could Mr. Nkencho's life have been saved if AGS had acted in a human rights compliant manner?¹¹

- **Promptness and reasonable expedition:** The investigation should be undertaken in a prompt and timely fashion in order to maintain public confidence.¹²

The EctHR has underlined the importance of a prompt investigation in such circumstances in order to maintain the confidence of the community affected, and of the wider public, in the rule of law. It is also crucial in preventing any appearance of "collusion in or tolerance of unlawful acts".¹³

The lawyer for Mr Nkencho's family has already expressed disquiet at the delay by GSOC in gathering witness statements from eye-witnesses.¹⁴ It must take all possible steps to ensure that confidence in its investigation can be restored.

- **Thoroughness:** the authorities must always make a serious attempt to find out what happened and should not rely on hasty or ill-founded conclusions to close their investigation or to use as the basis of their decisions.¹⁵

Investigators must take all reasonable steps available to them to secure the evidence concerning the incident, including, inter alia, eyewitness testimony and forensic evidence.¹⁶ Any deficiency in the investigation which undermines its ability to establish the cause of death or the identity of the persons responsible will risk falling foul of this standard.¹⁷

It is important that the circumstances after the shooting are also investigated including the de-briefing process. This would include whether AGS members

¹⁰ See for example *Keenan v. United Kingdom* (2001) 33 EHRR 913.

¹¹ See further Briefing by INQUEST on fatal shooting in UK of Azelle Rodney for key questions inquiries must ask in cases of police fatal shootings:

http://inquest.gn.apc.org/pdf/briefings/INQUEST_Briefing_death_of_Azelle_Rodney_August_2012.pdf

¹² See *Gulec v. Turkey* (1999) 28 EHRR 121; *McKerr v United Kingdom* (2002) 34 EHRR 20.

¹³ *Jordan v United Kingdom* (2001) 37 EHRR 52 at para 10

¹⁴ <https://www.irishtimes.com/news/crime-and-law/george-nkencho-family-and-lawyer-concerned-at-pace-of-gsoc-investigation-1.4452750>

¹⁵ *El Masri v Macedonia* (2013) 57 EHRR 25, paras 183-185; See also *Assenov* (1999) 28 E.H.R.R. 652 at [103]; and *Bati v Turkey* (2006) 42 E.H.R.R. 37 at [136], *Mocanu and Others v Romania* (2014),

¹⁶ See *Tanrikulu v Turkey* (2000) 30 E.H.R.R. 950 at [104]; and *Gül v Turkey* (2002) 34 E.H.R.R. 28 at [89].

¹⁷ See *Boicenco v Moldova* (41088/05) 11 July 2006 at [123]

involved in the incident were allowed to consult each other before giving a first account of events.

- **Public Scrutiny:** There must be a sufficient element of public scrutiny of the investigation or its results to secure accountability in practice as well as in theory.¹⁸

The investigation must be transparent. It must be conducted in a way that allows for “a sufficient element of public scrutiny” and must ‘involve the next of kin to an appropriate extent’.¹⁹

Investigators must establish credibility and trust in the process. Trust is vital to secure the cooperation of key witnesses and it is vital to ensure that there is public confidence that justice will be done. Regular updates and a demonstration that all evidence is being considered is vital.

Ensuring such investigations are transparent to the public can assist with ensuring that there is no perception of impunity. This is vital for ongoing relations between the police and the community at large and the specific community affected by the death, in particular in this case the Black-Irish community and the wider community in West Dublin.

- **Involvement of victim:** The victim must be involved to the extent necessary to safeguard their legitimate interests.²⁰ The next of kin must be involved in an Article 2 investigation in order for them to gain meaningful answers to their questions, enable access to the truth and assist with coming to terms with the death.

The rights in the Criminal Justice (Victims of Crime) Act 2017 apply to a family member where a death has been caused by a criminal offence.²¹ Given that GSOC has opened a criminal investigation into the shooting, family members of Mr Nkencho should be afforded all of the rights within that Act, including but not limited to information regarding investigations and criminal proceedings under s.8 and information regarding available support under s.7 of the Act.

GSOC is under a particular duty to keep people with a “sufficient interest” informed of the progress of an investigation under s.103 of the Garda Siochana Act 2005. This clearly includes family members.

Full cooperation from police as well as transparency from investigators is vital in order to ascertain the truth. The importance of ensuring full police openness and cooperation in the investigation, as well as openness by investigators, was underlined by the Director of INQUEST, Deborah Coles, in her statement on the fatal shooting by UK police of Anthony Grainger: “*Openness and*

¹⁸ Boicenco v Moldova (41088/05) 11 July 2006 at [123]

¹⁹ Jordan v United Kingdom (2001) 37 EHRR 52, paras 106-109

²⁰ See for example Güleç v Turkey (1999) 28 EHRR 121; See also El Masri v Macedonia (2013) 57 EHRR 25 para 185

²¹ See <http://www.irishstatutebook.ie/eli/2017/act/28/enacted/en/html>

honesty by the police in relation to Anthony's shooting could have saved time, public money, and significant pain for the family."²²

4. Racial Bias and the prohibition of discrimination

In today's globalised world we cannot ignore the international resonances of a police shooting of a Black man. The disproportionate use of force against Black people by police in the USA, the UK and internationally is well documented and has been the subject of global protest in 2020.

Ireland is not immune to the phenomenon of the over policing of minority communities.²³ The pain and anger in the Black community in Ireland has been palpable since the killing of George Nkencho. Members of the Black community have made clear that they have been subjected to discriminatory policing by members of An Garda Síochána in the past and concerns.²⁴

The UN Committee on the Elimination of Racial Discrimination (CERD) in its report on Ireland in 2019 has expressed its concerns "about the reportedly high incidence of racial profiling by the Irish police (Garda) targeted at people of African descent"²⁵ (para 15).

In its report to the CERD, the Irish Human Rights and Equality Commission (IHREC) noted that during its consultation with young people from minority ethnic communities, a number of young people noted that they felt discriminated against by police, including experiencing higher rates of stop and search. It notes: "Overall, the young people expressed their mistrust in the justice system and their reluctance to report discrimination and other offences."²⁶

The sensitivity between Gardaí and minority ethnic communities is recognised by Gardaí in its new Diversity and Integration Strategy 2019–2021.²⁷ This includes a commitment to foster minority communities' trust. This can be considered an explicit recognition by the Gardaí that there is a need to take additional steps to ensure such trust where it may be lacking. It is obvious that the shooting of Mr Nkencho has negatively affected trust in the Gardaí. ICCL notes the phenomenon of unconscious racial bias which may have played a part in individual Garda responses and risk assessments.

It is therefore vital that the investigation into the shooting of George Nkencho addresses the issue of potential racial bias or discriminatory policing in both the risk assessment and response of Gardaí at every stage of the incident and a

²² <https://www.inquest.org.uk/calls-for-corporate-manslaughter-charges-as-conclusion-of-public-inquiry-into-fatal-police-shooting-of-anthony-grainger-is-published>

²³ See eg the Irish Network against Racism's work on racism and policing: <https://inar.ie/our-work/policy-and-advocacy/racism-and-policing/>

²⁴ <https://www.irishexaminer.com/news/spotlight/arid-40201541.html>

²⁵ CERD Concluding Observations on Ireland, December 2019, para 15.

https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/IRL/INT_CERD_COC_IRL_40806_E.pdf

²⁶ IHREC Submission to CERD, October 2019, p.137

https://www.ihrec.ie/app/uploads/2019/11/IHREC_CERD_UN_Submission_Oct_19.pdf

²⁷ <https://www.garda.ie/en/crime-prevention/community-engagement/community-engagement-offices/garda-national-diversity-integration-unit/diversity-and-integration-strategy-2019-2021-english-v1-1.pdf>

wider inquiry into the extent to which racial profiling plays a part in Irish policing should be considered.²⁸

GSOC's obligation to address discrimination in its investigation

GSOC has duties under S.42 of the Irish Human Rights and Equality Commission Act 2014 to ensure that it conducts its work in a human rights compliant manner.²⁹

We consider that this is not limited to ensuring the procedural requirements of article 2 of ECHR are met. GSOC must also consider whether at any point in the events leading up to Mr Nkencho's death, racial bias informed the risk assessment or response by the Gardaí that culminated in the fatal shooting. This is necessary given the clear duty on the Gardaí to treat everyone equally and without discrimination and the need to assess the conduct of individual garda members involved in the incident against all relevant legal standards.

Prohibition of Discrimination- law and Garda policy

The prohibition of discrimination emanates from the right to be treated equally under the Irish Constitution in article 40.1 and article 14 of the ECHR. Article 14 enshrines the right not to be discriminated against in "the enjoyment of the rights and freedoms set out in the Convention". This means no one must be discriminated against in the enjoyment of their right to life protected by article 2.

S.42 of the Irish Human Rights and Equality Act imposes a clear positive duty on Garda members to ensure equality and non-discrimination in performing its work. S.42(1) states "A public body shall, in the performance of its functions, have regard to the need to— (a) eliminate discrimination."

This positive duty is underlined by the Garda Code of Ethics and the Garda Decision Making Model.

The Garda Code of Ethics³⁰ requires non-discrimination by Gardaí. It states that members will "recognise and respect the dignity and equal human rights of all people and "will treat everyone with fairness at all times, and not discriminate wrongfully."

²⁸ See INQUEST's call for a public inquiry into a police killing of a Black man in Scotland including a review of institutional racism in the police force here: <https://www.inquest.org.uk/sheku-bayoh-crown-review>.

²⁹ Irish Human Rights and Equality Act 2014 S 42 (1) A public body shall, in the performance of its functions, have regard to the need to— (a) eliminate discrimination, (b) promote equality of opportunity and treatment of its staff and the persons to whom it provides services, and (c) protect the human rights of its members, staff and the persons to whom it provides services.

³⁰ <https://www.garda.ie/en/about-us/publications/policy-documents/code-of-ethics-2020.pdf> Code of ethics

The Garda Decision Making Model³¹ (GDMM) requires human rights to inform all decision making. Compliance with the policy is mandatory for all Garda personnel.

It states that:

“The presence of Constitutional and Human Rights and ethical standards at the heart of the GDMM emphasise that they require primary consideration to inform decision making. The GDMM requires that each individual brings these to the forefront of their mind almost automatically, as soon as they are involved in an incident or are considering what to do in a situation.”

Among the many questions the GDMM requires that a garda member must ask themselves when making a decision, the following would appear most relevant to an analysis of compliance in the case of Mr Nkencho.

A garda member must ask themselves:

- Is my decision necessary, legal, reasonable, proportionate, transparent, non-discriminatory and accountable?
- Is my action necessary? Do I need to intervene? Are there other options available to me? Is my action a proportionate response? I am ready to be fully accountable for my decision?
- What would any victims (s), the affected community and the wider public expect of me in this situation?
- Can I explain my actions or decision in public?
- Ensure accurate note taking/ record keeping
- Identify stakeholder and community needs and requirements
- Take personal responsibility for option chosen
- Does my decision meet with the ethical standards and commitments of the organisation?
- Have I made the right decision for the right reason?
- What are the specific needs of the stakeholder/community in this situation?
- What is the impact (if any) of my action on the stakeholder/community in this particular situation?

ICCL considers GSOC must use both the Code of Ethics and the Garda Decision Making Model in its analysis of the Garda response.

5. Wider inquiry into incident as a whole, as informed by Garda practice

GSOC may recommend to the Minister for Justice that a system-wide investigation needs to take place under s. 106 of the Garda Síochána Act 2005.³² We encourage

³¹ <https://www.garda.ie/en/about-us/our-policing-principles/garda-decision-making-model.pdf>

³² Garda Síochána Act s.106.—(1) For the purpose of preventing complaints arising in relation to a practice, policy or procedure of the Garda Síochána or of reducing the incidence of such complaints, the Minister may request the Ombudsman Commission to— (a) examine the practice, policy or procedure, (b) report to the Minister within such period as he or she may specify on the results of the examination, and (c) include in the report the

GSOC to make such a recommendation in order to make general recommendations on lessons learned regarding use of force and other issues that may arise, including potential racial bias. Such a report may identify the extent to which the policies, procedures and training in place reflect best international practice to preserve life in the course of policing duties. The 2019 CERD Committee recommendations may be of relevance, which include the following.

- (a) Introduce legislation prohibiting racial profiling;
- (b) Put in place an independent complaints mechanism to handle racial profiling;
- (c) Review the policy, practices and training of the police, in collaboration with the communities most affected by racial profiling;
- (d) Incorporate racial profiling issues into the training curriculum of police officers;
- (e) Fully implement the Garda Diversity and Integration Strategy 2019–2021;
- (f) Collect disaggregated data on racial profiling, publish it regularly and provide the data in its next periodic report.

ICCL made significant recommendations³³ in its first submission to the Commission on the Future of Policing on use of force, training, planning and reporting. We reiterate those recommendations here:

- The Garda Síochána should, with the assistance of human rights legal experts, develop and publish an overarching policy on the use of force to include expressly the relevant human rights standards and their practical application.
- That policy should include: the training required for gardaí prior to deployment; provision for the planning of any operation in which force might be used; preventative measures to avoid recourse to the use of force; the authorisation regime for the use of force; the legal tests for the various weapons deployed; the provision for medical assistance; the requirement for post-operative briefings in any case where force is used; and, the requirement to report the use to the relevant oversight bodies.
- All deployments of weapons and all uses of force should be recorded together with a brief explanation of the circumstances surrounding the use, the location of the use, the outcome and the identity of the gardaí who used force. That information should be collated and shared with the Policing Authority. Statistics should thereafter be produced and published on an annual basis on

Commission's recommendations for achieving that purpose. (2) The Minister may make a request under subsection (1) on his or her own initiative or following a recommendation by the Ombudsman Commission that the practice, policy or procedure be examined.

³³ <https://www.iccl.ie/wp-content/uploads/2018/01/RIGHTS-BASED-POLICING-ICCL-submission-to-CFP-2.pdf>

the use of force broken down according to the force used and the circumstances in which force was used.

- The Garda Síochána should produce and publish Standard Operating procedures for the deployment of armed units, including those on close protection duties. The Garda Síochána should keep under review the availability of less lethal and non-lethal technology.

6. *Mental Health and Policing*

The family of George Nkencho has emphasised that he was suffering from serious mental health issues. They have stated that one member of the family informed Gardaí of this before Mr Nkencho was shot.³⁴ A s.106 inquiry into this incident should take into account how Gardaí have been equipped to deal with people suffering from mental health issues, including through training and available support from expert professionals.

We note that the Commission on the Future of Policing made clear recommendations on this issue in their final report, published in December 2018.³⁵ This built on a joint report by the Mental Health Commission and An Garda Síochána in 2009, which recommended the establishment of Crisis Intervention Teams.³⁶ The Commission noted that “CITs combine police with health and social workers who are on duty outside normal working hours and able to respond at any time. It is regrettable that, nine years on, the recommendation has still not been implemented.” It is now 11 years on from this recommendation and it is yet to be implemented.³⁷

The Commission stated that “Police need to be equipped with the necessary special response techniques required in incidents involving vulnerable individuals who may not react well to typical police interventions. Front line police need to know how to communicate and respond appropriately in such situations.” The Commission also recommended: “enhanced training in mental health and substance misuse awareness, at least part of it jointly with members of the relevant expert services.”³⁸

The public needs to know what progress is being made on these recommendations and an assessment of a failure to fully implement such recommendations should form part of the inquiry into Mr Nkencho’s death.

³⁴ See eg <https://www.irishexaminer.com/news/arid-40199400.html>

³⁵

[http://policereform.ie/en/POLREF/The%20Future%20of%20Policing%20in%20Ireland\(web\).pdf/Files/The%20Future%20of%20Policing%20in%20Ireland\(web\).pdf](http://policereform.ie/en/POLREF/The%20Future%20of%20Policing%20in%20Ireland(web).pdf/Files/The%20Future%20of%20Policing%20in%20Ireland(web).pdf)

³⁶ Mental Health Commission and An Garda Síochána Report of Joint Working Group on Mental Health Services and the Police (2009).

³⁷ <https://www.independent.ie/irish-news/shortfall-in-mental-health-experts-to-assist-garda-during-crisis-stand-offs-39949076.html>

³⁸

[Http://policereform.ie/en/POLREF/The%20Future%20of%20Policing%20in%20Ireland\(web\).pdf/Files/The%20Future%20of%20Policing%20in%20Ireland\(web\).pdf](http://policereform.ie/en/POLREF/The%20Future%20of%20Policing%20in%20Ireland(web).pdf/Files/The%20Future%20of%20Policing%20in%20Ireland(web).pdf)

The inquiry should also address the extent to which recommendations made by the Coroner following police shootings in the past have been implemented, in particular those made following the Mark Hennessy Inquest published last year.³⁹

Recommendations:

- 1. The government must ensure that there is an independent, effective, prompt, thorough, transparent, victim-centred investigation into George Nkencho's death.**
- 2. If GSOC is to fulfil the requirements of such an investigation it must:**
 - a. Immediately gather all relevant evidence, including statements from eye-witnesses including family members and all relevant forensic evidence.**
 - b. Regularly update family members on the progress of the investigation.**
 - c. Provide public updates on the progress of the investigation, in so far as possible, to ensure the confidence of the public in the investigation and in the rule of law.**
 - d. Assess the garda members involved in the incident against all of their human rights obligations, including the prohibition of discrimination.**
- 3. If GSOC is unable to fulfil the requirements of article 2 ECHR to conduct an effective investigation, the state must consider an alternative inquiry into the shooting of Mr Nkencho.**
- 4. A system-wide inquiry that can make recommendations on lessons learned should be initiated under s.106 of the Garda Síochána Act 2005. This inquiry should examine garda policy on the use of force, whether discrimination in any form plays a part in Irish policing and garda training on both use of force and conscious or unconscious racial bias.**
- 5. An urgent review of recommendations made by the Commission on the Future of Policing into providing mental health expert support to Garda members in crisis response situations should be carried out.**

³⁹ <https://www.irishexaminer.com/news/arid-30977362.html>