

PILN Bulletin, 12 October 2008

This Bulletin on Public Interest Law is issued by FLAC. If you wish to have an item included please contact piln@flac.ie

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1. **Public Interest Law Job Opportunity at FLAC, closing date for applications 28 November 2008**

FLAC is seeking to recruit a dynamic Project Manager to develop the Public Interest Law Alliance (PILA).

The Project Manager will be committed to human rights and social justice issues and will have a vision for how public interest law should develop in Ireland. S/he will develop a strategy and programme of work for PILA, will have excellent interpersonal and project management skills and will motivate a small team and co-ordinate their activities.

The position will be for 3 years and salary will be commensurate with experience.

Applications to include a CV and covering letter should be forwarded by post to the Director General, FLAC, 13 Lower Dorset Street, Dublin 1 or by e-mail to recruitment@flac.ie on or before Friday 28 November 2008.

All applications will be treated in the strictest of confidence. FLAC is an equal opportunities employer.

More information - a job description and a leaflet on PILA - is available on the [FLAC Jobs section](http://www.flac.ie/about/jobs.html) on our website at <http://www.flac.ie/about/jobs.html>

2. Equality and Rights Alliance update

The Equality and Rights Alliance (ERA) is currently moving forward with its campaign against last month's budget which had major detrimental consequences for a number of Ireland's human rights and equality bodies. As part of the campaign, the ERA will be sending an email on behalf of its members to TDs, Senators and MEPs from November 11 to the date on which the Finance Bill will be presented to the Dáil, November 20. These nine days symbolize the nine grounds of discrimination provided for in Irish equality legislation. A photocall will be held outside the Dáil on November 13 to coincide with the Minister for Justice, Equality and Law Reform's question time.

Attached to this week's *PILN Bulletin* is a petition which can be signed and returned by 20 November to the address below. The petition requests that the government reverses the drastic budget decisions affecting The Equality Authority and the Irish Human Rights Commission so that they can continue to protect our equality and rights. The Alliance would be grateful for your support.

The Equality and Rights is a recently-formed alliance of over forty civil society groups in Ireland seeking to ensure the promotion and enhancement of human rights, equality and social justice. For further information see: www.eracampaign.org.

Completed petitions should be sent to ERA Campaign, c/o National Women's Council of Ireland, 9 Marlborough Court, Marlborough Street, Dublin 1.

3. High Court holds eviction law incompatible with European Convention on Human Rights

A high court judge has declared a law allowing local authorities to evict tenants, without first holding an independent inquiry, to be incompatible with the ECHR. This is the second time a judge has made such a declaration on this particular law and only the third such declaration to be made in an Irish court. The first was given in the FLAC-supported case of *Foy v An t-Ard Chlaraitheoir*, where a transgendered woman is seeking recognition from the Registrar General.

Mr Justice Iarflaith O'Neill handed down the judgment on Tuesday 11 November 2008, declaring that a provision of our Housing Acts which allows possession orders for council houses when there is a genuine dispute as to the underlying reason is incompatible with Article 8 of the ECHR.

The relevant law is Section 62 of the Housing Act 1966, as amended by Section 13 of the Housing Act 1970. This provides that the District Court, when satisfied the demand is duly made, can grant a local authority a warrant for possession in circumstances including where the tenancy has been terminated by notice to quit. However procedural safeguards had not been put in place, according to Mr Justice O'Neill, and people should not have to take High Court judicial review proceedings to obtain them. The failure to devise such procedures meant the High Court had to conclude Section 62 violates the plaintiff's rights under Article 8 of the ECHR. This was particularly negative given the identical findings in the earlier *Donegan* case heard by Ms Justice Mary Laffoy just a few months previous.

Read more online on the *Evening Herald* website at <http://www.herald.ie/national-news/courts/eviction-against-tenants-human-rights-1535209.html>.

4. New Criminal Law Online Service available

A new Criminal Law Service has been established in order to provide practitioners with up-to-date information on case law and criminal law. New material will be added to the Service (which is CPD accredited) as soon as it becomes available, which is expected to be on an almost daily basis. Subscribers will receive this material weekly by email and each month a newsletter with articles and analysis by leading practitioners and academics will be circulated. All criminal cases with headnotes will be provided with links to the full text in the database. New legislation will be annotated. The editors of this new venture are Shane Kilcommins, Lecturer in law, UCC; Michael J. Staines, Solicitor; Sean Gillane, BL as well as members of the Law Faculty, UCC and the Centre for Criminal Justice and Human Rights.

The *Criminal Law Online Service* will contain Road Traffic coverage, a searchable online archive of material containing relevant Criminal Law Acts, case law from the Superior Courts, Circuit Court coverage where possible, a weekly update emailed containing the previous 3 days' criminal law material loaded onto site with links to the full text and links to video recorded presentation of selected articles published.

The Service, which was first published on 31 October 2008, costs €295 + VAT for 1 – 5 users, over 5 users on application. There is a discount of €50 for existing First Law online subscribers. To avail of a Free Trial service, contact Simon Gaffney at: simongaffney@firstlaw.ie or (01) 6727162.

5. UK: Britain's only specialist anti-trafficking unit to close

The British Home Office has announced that it will be closing Britain's only specialist police human trafficking unit after only two years of operation. The closure, it said, was due to a lack of funding. The unit had received £1.8million in its first year and this was more than halved to £700,000 in its second.

The eleven-member team, last week, secured the high profile convictions of a gang of six traffickers, brothel keepers and pimps for their role in the ordeal of a Slovakian teenager duped into travelling to the UK and then forced to work as a prostitute. The gang received a total of 53 years imprisonment, a highly successful result for a crime which in the past was notorious for resulting in light sentences. After the sentencing, the Home Office had issue a statement noting that human trafficking was a "key government priority" with some 4,000 women estimated to have been trafficked to the UK for the purposes of sexual exploitation.

While the Serious Organised Crime Agency will remain in operation, trafficked women who report their plight directly to police risk coming before officers who are not trained in handling such cases and who may further aggravate the situation further with inappropriate questioning. Organisations that work with victims of trafficking had positive views of the unit and said that the police officers had shown "sensitivity and expertise" in their work with victims, earning women's trust and encouraging them to tell their stories in court.

6. UK: Removal of foreign national incompatible with European Convention on Human Rights

The House of Lords has ruled that the removal of a foreign national from the United Kingdom was unlawful and incompatible with the UK's obligations under article 8 of the European Convention on Human Rights (ECHR) if the removal would amount to a flagrant breach of her right to respect for her family life so as to completely deny or nullify that right in the destination country.

Article 8 of the ECHR involves the right to privacy and respect for family life. The ECHR has been given domestic effect in UK law through the Human Rights Act 1998. Lord Bingham held that Article 8 could be engaged with regard to the removal of an individual from the UK but it had to be shown that the person would "run a real risk of a flagrant denial of the right to respect for their family life guaranteed to her by those articles if they were to be removed from this country."

The woman involved in this case was a Lebanese Muslim with one child. Under Islamic law, after divorce from the child's father, he would become automatically entitled to custody of the child once the child reached the age of seven. The woman would only be able to request supervised access. When the child was approaching the age in question, the woman fled with him, claiming asylum in the UK. Her application was refused but she then claimed that if she and her son were removed to Lebanon, her article 8 right under the ECHR would be infringed. In this case, which was deemed to be exceptional, on return to the Lebanon, the woman and her son's right to respect for family life would be completely denied and nullified; occasional supervised visits does not amount to family life.

You can read the full judgment in the case of *EM (Lebanon) v Secretary of State for the Home Department (AF and others intervening)* [2008] UKHL 64 at the following address: <http://www.publications.parliament.uk/pa/ld200708/ldjudgmt/jd081022/leban-1.htm>

7. Europe: Court of Human Rights to hear case on whether online victims have the right to identify internet users

The European Court of Human Rights has deemed admissible a case to consider whether victims of online activity may have a right to identify the internet users alleged to be responsible.

The case concerns a person who as a twelve year old boy was the victim of a fake personal advert on the internet. The advert provided his name, phone number, date of birth and a photo, it also claimed that he was looking for a homosexual relationship. The applicant became aware of this on receiving a phone call from an older man. While that man was identified and charged with an offence, the person who placed the advert has not been identified. Although the police sought to discover the name of the subscriber behind the dynamic IP address used to place the advert, they were informed by the service provider that a duty of confidentiality of telecommunications prevent them from revealing the user's details.

The Finnish courts ultimately held that the law provides for this information to be revealed only in respect of specified criminal offences. While defamation is a criminal offence, it does not fall within the scope of the legislation.

The applicant applied to the European Court of Human Rights claiming that his right to a private life under Article 8 had been violated by the fake ad and that since he could not identify the person responsible, he was being denied an effective remedy for that violation under Article 13. The case is pending.

The judgment in *K.U. v Finland* can be accessed at <http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=810565&portal=hbk m&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

8. USA: California votes to ban gay marriage

Against the hype of the US presidential election last week which represented a landmark for minorities in the USA, the state of California voted to ban same-sex marriage. In May of this year, the Californian Supreme Court found that the state of California discriminated against same-sex couples. However, the so-called 'Proposition 8' which was on the ballot for the recent election reverses this decision and was voted in by 52% to 48%. Same-sex civil union is not affected by the vote. But anti-gay activists, aware that California often leads the way for political and cultural change across the US, fought to have the amendment passed. The result of the vote could invalidate the 18,000 marriages which have taken place in California since May as challenges against them are expected. The state attorney general has stated that he believes that the courts will uphold the validity of the marriages. The fight for the ballot was the most expensive in US history with both sides spending \$75million. Anti gay-marriage initiatives were also passed in Arizona and Florida leaving just two US states which allow the measure, Massachusetts and Connecticut.

In the state of South Dakota, voters rejected a ballot proposition that would have outlawed abortion except in cases of rape, incest and serious health threat to the mother. If it had passed, the law could have led to a constitutional challenge, which may have resulted in struggle in the US Supreme Court over a woman's right to choose abortion.

9. *The Use of the European Convention on Human Rights Act in the Courts to Assist the Vulnerable and Disadvantaged: Conference Paper by Michael Farrell, Senior Solicitor at FLAC*

Attached to this week's *PILN Bulletin* is a copy of the paper presented recently by FLAC Senior Solicitor, Michael Farrell at the conference hosted by the Irish Human Rights Commission and the Law Society of Ireland *The European Convention on Human Rights: Five Years On*. The paper examines recent interpretation of relevant provisions of the European Convention on Human Rights (ECHR) to the rights of the disadvantaged and focuses on how the 2003 ECHR Act, in the short time since its enactment, has been used in the courts in Ireland to pave the way for furthering the rights of vulnerable and marginalised people.

10. Mary Robinson to speak at event co-hosted by the IIEA Young Professionals' Network and Suas Educational Development Alumni Network, 17 November 2008

The Institute of International and European Affairs Young Professionals' Network and Suas Educational Department Alumni Network will host "An Evening with Mary Robinson" on 17

November at 5.15pm sharp. The event will take place at the offices of the Institute of International and European Affairs, 8 North Great George's Street, Dublin 1.

Dr Mary Robinson is a barrister, academic and leading international campaigner on global issues such as gender equality, sexual equality, intolerance, human rights and ethics. Her address will be entitled "The role of the EU in promoting equality and human rights." It will be followed by a reception.

To attend, please follow this link: <http://actevarsvp.com/acteva/jsp/RegistrationProcess.jsp>
Seats will be reserved on a first come, first served basis.

11. Human Rights documentary-maker to show film highlighting plight of Roma in UN camps in Kosovo, 19 November 2008

American human rights activist and documentary-maker Paul Polansky will travel to Ireland to highlight the situation of Roma living in Kosovo UN camps. He will be showing his documentary "Gypsy Blood" and will speak on the Roma families' situation. He is calling for the immediate evacuation of the families from the camps and that they can receive adequate medical treatment. The event will take place on Wednesday 19 November 2008 at 6.30pm in Pavee Point Travellers' Centre, 46 North Great Charles Street, Dublin 1. He will also make a presentation to the Joint Foreign Affairs Sub Committee on Human Rights and will show his short film in NUI Galway on 18 November.

Please Contact Valerie Huges for further information on Valeriehughes2000@hotmail.com or 087 6544908

12. IHRC 3rd Annual Human Rights Lecture to be given by President of Ireland, Mary McAleese, Tuesday 25 November 2008

The Irish Human Rights Commission (IHRC) will welcome the President of Ireland, Mary McAleese to speak at the IHRC's 3rd Annual Human Rights Lecture. The public lecture takes place at the National Gallery of Ireland, Merrion Square, at 6.00pm on Tuesday 25 November 2008.

To register for the Annual Lecture please contact Karine Petrasuc by phone at 01 8589601 by email at kpetrasuc@ihrc.ie

13. World Aids Day Event in aid of Dublin Aids Alliance, 30 November 2008

Senator David Norris will explore the works of James Joyce at a World Aids Day Event in aid of the Dublin Aids Alliance on November 30. The event will take place in the O'Reilly Theatre, Belvedere College, 6 Great Denmark Street, Dublin 1 at 8pm, doors will be open from 7.30pm. Tickets cost €30 and are available from the Central Ticket Bureau at www.ctb.ie.

14. ACLU Legal Director Mr. Steven Shapiro to speak at 2nd Annual Dave Ellis Memorial Lecture

FLAC is delighted to announce that our Second Annual Dave Ellis Memorial Lecture will take place on Monday 1 December 2008, kicking off at 6.30pm sharp. The event will take place in the Morrison Hotel, Lower Ormond Quay, Dublin 1. Our speaker is the Legal Director of the American Civil Liberties Union, Mr. Steven Shapiro. The registration starts at 6.00 p.m. There will be a reception with wine and canapés following the lecture.

The late Dave Ellis was a community activist who dedicated his career to working with community groups on a areas including welfare rights, legal aid, legal education and legal entitlements generally. Dave was Community Law Officer at Coolock Community Law Centre (now Northside CLC – www.nclc.ie) for more than 20 years. He subsequently established Community Legal Resource to provide information, training and support for the not-for-profit and community sector.

If you would like to attend the evening, please e-mail us at piln@flac.ie or phone us at 01-8745690.

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Free Legal Advice Centres Ltd is a company limited by guarantee not having a share capital, registered in Dublin, Ireland. Company registration number 49413. Directors: Don Crewe, Iseult O'Malley, Peter Ward, Paul O'Connell, Róisín Webb

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