

## **PILN Bulletin, 17 September 2008**

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### **1. Opposition to proposed government merger of certain State-funded agencies**

Approximately forty-five civil society groups, including FLAC, have joined together to form the Equality and Rights Alliance with the aim of opposing a government proposal to merge a number of important State-funded agencies. These agencies are the Irish Human Rights Commission, the Equality Authority, the Equality Tribunal, the Data Protection Commissioner and the National Disability Authority.

According to the government, the merger is a cost-cutting exercise, with the aim of saving €20 million. The Department of Finance nominated these specific bodies for the merger though, as the agencies point out, their combined funding amounts to only €18million.

The Equality and Rights Alliance issued a press release on 4 September 2008, stating their position that – particularly in the current economic climate – less advantaged or marginalised groups should not be the first to suffer as a result of cutbacks. “We can’t afford cutbacks in the protection of the rights of the most vulnerable in society”, the group stressed. You can read about the campaign at the dedicated website:  
<http://www.eracampaign.org/>

Media reports over the weekend suggest that the government may have changed its mind about abolishing the agencies. There have been a number of related articles in recent days, including one by Carol Coulter in the *Irish Times* on the Equality Authority:  
<http://www.irishtimes.com/newspaper/ireland/2008/0915/1221257218754.html>

by Senator Ivana Bacik in the Irish Independent:  
<http://www.independent.ie/opinion/analysis/quiet-coup-threatens-to-trample-all-over-our-rights-1475407.html>

and an opinion piece by Éamonn Mac Aodha, Chief Executive of the Irish Human Rights Commission, in the Irish Times:  
<http://www.irishtimes.com/newspaper/opinion/2008/0915/1221257217215.html>

See flier attached for more information and details of how to join ERA.

## **2. UK: Dispute over rate of pay for Legal Aid work risks delay in major trials**

Lawyers in England and Wales are boycotting a panel set up to decide pay rates in the most serious court cases. Chair of the Criminal Bar Association, Peter Lodder QC, has stated that the rates of pay for Legal Aid work for preparation work leading up to a trial by the Very High Cost Cases panel (VHCC) ranges from a minimum of £70 for junior barristers to £91 for a QC. Most barristers have refused to sign the contract offered by the VHCC because rates of pay are so low, he said, "It means that in these high-profile, complex and difficult cases they are being paid a much lower rate than has ever been the case before." Mr. Lodder QC reported that at least five trials had already been affected by the dispute and more could be delayed in the coming weeks. The Ministry of Justice said it would not expect any cases to be delayed for "lack of an appropriate advocate".

Outlining the barristers' point of view, Mr Lodder said a barrister would receive only about half the fee, after deductions such as overheads, expenses and tax. He noted that most barristers do not earn the highest fees. Barristers may not have work every day and would therefore earn a fee one day and not the next. Mr Lodder said defendants in serious cases may have to be released on bail because of the row, as they can only be held in custody for a maximum of 112 days between committal and the trial arraignment. The Minister of Justice said, "The establishment of the Very High Cost Cases panel... was part of a balanced package of reforms to put the Legal Aid budget as a whole on a sustainable footing, which was well understood by the Bar."

For further information and a video on the issue see  
[http://news.bbc.co.uk/2/hi/uk\\_news/7610089.stm](http://news.bbc.co.uk/2/hi/uk_news/7610089.stm)

## **3. EU: European Commission asks lawyers to help create a true European area of justice**

On 11 September, the European Commission invited all those in the legal sector to play an active part in creating a true European area of justice. At the Second Congress of EU Civil Law Notaries, European Justice Commissioner Jacques Barrot stated that practitioners and the great European judicial tradition are needed to create legal certainty in the European area. He also noted that the organisation of such a congress establishes that "a European legal culture is developing just as the programme established in The Hague, adopted in

2004, wanted". The Congress took place in Poland last week on the theme "A European area of legal certainty: a value for citizens and families, an opportunity for businesses".

With approximately eight million EU citizens residing in member states' other than their own, the Commissioner noted that legal obstacles to their mobility should not longer exist and he emphasised the principle of mutual recognition of decisions and legal acts, which in his view are central to the development of the European area of justice.

As an example of a workshop already underway which illustrates the formation of the European legal area, Mr. Barrot announced his intention to present a legislative proposal relating to marital property. 2.5million properties in the EU are owned by spouses living in member states other than that of which they are nationals. On the breakdown of a marriage, division of this property is very difficult. He said that rather than being a matter of the harmonization of the law, it was a matter of harmonizing the rules of a conflict in law.

#### **4. EU: Further steps taken toward codifying European asylum regime**

At a meeting in Paris on 10 September 2008, European Ministers with responsibility for Immigration and Asylum moved closer to the establishment of an asylum regime common to all members of the European Union. The support office, under the European Immigration and Asylum Pact, is to be put in place in the first three months of 2009, rather than the end of this year as originally planned. He said that the support office, which will operate in conjunction with the UN High Commission for Refugees (UNHCR), would be responsible for gathering information on the countries of origin of asylum seekers, assisting member states in crisis situations and joint training. Sweden's Immigration Minister announced that texts required for the common regime would be set up and adopted before the end of 2009 and said that he aimed to increased solidarity with member states on the frontline such as Greece, Italy, Cyprus and Malta.

#### **5. Australia: Indigenous group lodges complaint against Australia to the UN**

An independent, community-controlled Aboriginal group has lodged an complaint to the UN High Commissioner for Human Rights, Ms Pillay, regarding the treatment of Australia's Indigenous people. The Aboriginal Legal Rights Movement (ALRM) claims that racist government policies are denying justice to indigenous Australians.

In a letter to the UN, the ALRM outlines breaches by both federal and state governments of the Convention for the Rights of Indigenous People. The group is based in South Australia and provides legal aid services to Aboriginals. The organisation receives \$3.5 million annually from the Commonwealth Attorney General's Department, funding which has been static since 1996. It claims that, in real terms, this level of funding has meant a fall in 40% over the years it has not been received, while mainstream legal aid has increased by 120% over the same period. As a result, the group argues that Aboriginal people have been denied access to justice and felt this drastic step was their only route, having repeatedly highlighted their plight at both Commonwealth and State Government levels.

Read more at

<http://www.abc.net.au/news/stories/2008/09/16/2366190.htm?section=australia>

#### **6. Law Society launches booklet on Civil Legal Aid**

As noted in the *PILN Bulletin* of 20 August 2008, the Legal Aid Taskforce of the Law Society launched a booklet entitled *Civil Legal Aid in Ireland: Information for the Profession* on Friday 5 September. Officiating at the event was Minister for Social and Family Affairs, Mary Hanafin TD. The booklet outlines the various schemes available and makes recommendations around improving access to justice in Ireland. It was produced by the Law Society's Civil Legal Aid Taskforce and can be downloaded at:  
<http://www.lawsociety.ie/documents/pdfs/Civil%20Legal%20Aid%20Booklet.pdf>

### **7. Death of Eileen Flynn, 9 September 2008**

Eileen Roche-Flynn, whose case came to symbolise the separation between the Catholic Church and the State in the 1980s, died on 9 September. She was dismissed from her job as a history and English teacher at a Catholic school in New Ross, Co. Wexford in 1982. She was unmarried at the time of her dismissal; she had a baby and was living with the child's father who was separated, Richie Roche.

After she had given birth, the school manager sent Ms. Flynn a letter informing her that since she had decided not to resign from the school, her position was being terminated. The letter noted the "scandal" her position already caused and mentioned complaints from parents about Ms. Flynn's lifestyle and of her disregard of the "norms of behaviour" and the school's ideals.

Seeking to be reinstated in her position, Ms. Flynn brought an unfair dismissal case to the Employment Appeals Tribunal and the Circuit Court but was unsuccessful. She subsequently lost her appeal to the High Court in 1985. During a decade which saw referenda on divorce and abortion, reaction to Ms. Flynn's case reflected diverging attitudes in Ireland. She went on to marry Mr. Roche and together they had four more children.

### **8. Civil Rights Commemoration Concert, 18 September 2008;**

A Northern Ireland Civil Rights Commemoration Concert will take place on 18 September at 7.30pm in Liberty Hall in Dublin. Musicians at the event will include: Karen Casey, Andy Irvine, Len Graham, Niamh Parsons, Fintan Vallely, Eugene McEldowney, Tomy Sands and Family and special guests.

Tickets cost €15 and bookings can be made at [www.centraleticketbureau.com](http://www.centraleticketbureau.com) or tel. 0818205205

A public meeting on the issue, entitled "Civil Rights Then and Now", organised by the Civil Rights 1968 Commemoration Committee will take place at 8pm in Liberty Hall on 16 October 2008.

### **9. EAPN Ireland Roundtable: 2010 Year against poverty and social exclusion, 8 October 2008**

The European Anti-Poverty Network (EAPN) Ireland branch will host a roundtable in order to prepare for the dedication of the year 2010 to anti-poverty and social exclusion. The EAPN has highlighted objectives for the year to include:

- (a) Recognition of Rights – recognising the fundamental right of people in a situation of poverty and social exclusion to live in dignity and to play a full role in society.
- (b) Shared responsibility and participation – increasing public ownership of social inclusion policies and actions, emphasising both collective and individual responsibility in the fight against poverty and social exclusion, as well as the importance of promoting and supporting voluntary activity.
- (c) Cohesion - Promoting a more cohesive society by raising public awareness of the benefits for all of a society where poverty is eradicated fair distribution is supported and no-one is marginalised.
- (d) Commitment and concrete action - Reiterating the strong political commitment of the EU and the Member States to make a decisive impact on the eradication of poverty and social exclusion and promoting this commitment and actions at all levels of governance.

To discuss these and other issues including a focus on specific themes and activities for year at the conference, please send your name, organisation, contact details and any special requirements to:

EAPN Ireland, 5 Gardiner Row, Dublin 1  
Email: [info@eapn.ie](mailto:info@eapn.ie) , Fax: 01 8781289.

### **10. Law Reform Commission Annual Conference, 14 October 2008**

The Law Reform Commission Annual Conference 2008 is due to take place on 14 October on the theme of *Bioethics: Advance Care Directives*. It will take place in the Main Conference Hall, Dublin Castle, Dublin 2. The Minister of State at the Department of Health and Children, Máire Hocht, T.D. will launch the Commission's consultation paper which lends its name to the theme of the conference. Other speakers at the conference include Professor David Smith, Patricia T. Rickard-Clarke, Dr. Dominic ÓBrannagáin, Dr. Mary Keyes, Mervyn Taylor and Dr. Katherine Froggatt.

Registration Forms can be downloaded at <http://www.lawreform.ie/publications/Conference%20ad%20draft.pdf> and should be returned to [conference@lawreform.ie](mailto:conference@lawreform.ie). For further information see [www.lawreform.ie](http://www.lawreform.ie).

### **11. Speech given by Law Society President James MacGuill at Parchments ceremony, 28 August 2008**

Attached to this week's *PILN Bulletin* is a copy of the speech presented by the Law Society's President, Mr. James MacGuill at the Parchments ceremony at the end of August. His speech outlines the work of the Irish Human Rights Commission and goes on to discuss the independence of the legal profession, expanding on the three core principles of the profession: independence, confidentiality and avoiding conflicts of interest with integrity.

### **12. Proposed new EU anti-discrimination directive**

A new directive is currently under consideration by EU states which will cover the five (European) grounds (other than race) in the areas outside of unemployment, in order to 'level up' European anti-discrimination legislation across all grounds. While this would not significantly impact Ireland which already has broad anti-discrimination provisions, the draft directive, which was well received by Member States at the Council meeting in July, includes

a provision for an equality body on the grounds covered outside of employment. It does not call for a single equality body as this would require changes to both the Race and Equality Directive.

The preamble of the draft directive also includes a reference to the Paris Principles, which is a positive development on earlier legislation. However the European Commission does recognise that this opens the possibility of member states having a body on race (employment and services) with a separate body for the other grounds but only on the areas outside of employment. Hence in its accompanying documentation the EC is encouraging member states to establish bodies dedicated to equality. The text follows the model in the Race Directive which says member states can establish a separate body, or designate a specific function in a larger institution.

It is likely that the French Presidency will confirm the go-ahead for this Directive at the Council meeting on 2 October.

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