

PILA Bulletin, 19 March 2010

The Bulletin on Public Interest Law is issued by the Public Interest Law Alliance, a project of FLAC.

A new and comprehensive PILA website will be online in the coming months, until then you can find further information about the project at www.pila.ie. For now, the archive of PILA and PILN bulletins can be found at www.flac.ie/publications.

If you wish to have an item included please contact bulletin@pila.ie.

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- 1. Standing notice – Join the PILA lawyers' register!**

One of PILA's objectives is to develop pro bono initiatives to match legal expertise with the legal needs of the NGOs with which PILA will be working. By means of an informal lawyers'

register PILA intends to involve practitioners in public interest law e.g. community legal education, legal research, law reform submissions, case-work.

We would be delighted to hear from practitioners in all areas of work and in particular those with expertise in any of the following areas: charities; corporate governance; employment; equality; family; housing; human rights; immigration and asylum; landlord and tenant; mental health; public law; and social welfare.

If you are interested in the opportunity to apply your legal skills in a new context, please contact PILA's Legal Officer, Jo Kenny, at jo.kenny@flac.ie.

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2. Save the dates! Upcoming PILA events

- In a one-day conference, entitled *Public interest law in action: using law to face current challenges*, PILA will bring together NGOs and lawyers to discuss practical ways to promote the use of law to respond to current challenges such as debt, housing, children's rights, travellers' rights and migrants' rights. These challenges present opportunities: for NGOs to use the law as part of their everyday work and for lawyers to use their legal skills in a new context.

The aim of the conference is to examine the place of and developments in public interest law from an all-island perspective and international speakers from Australia, the UK and the USA will place the discussion in a wider context. Workshops on children's rights, debt, housing and social welfare will provide case studies of public interest law in action in Ireland and a forum to discuss future steps.

Venue: Radisson BLU Royal Hotel, Golden Lane, Dublin 8

Date: Friday, 16 April 2010

Time: Registration: 8.45am, conference: 9.30am – 5pm

There is no charge for this event and CPD points will be available. Lunch and refreshments will be provided. CPD points will be available. Full details on the conference programme and speakers will follow shortly. To reserve your place at the conference or with any queries, please contact us by phone at (01) 8728048 or by email at info@pila.ie.

- On Friday 7 May 2010, PILA will conduct their second seminar titled *Using international law – the European Social Charter and UN treaty body complaints procedures*. Colm O'Cinnéide of the European Committee of Social Rights and Kate Fox of the UNHCR will be speaking on using the European Social Charter and the UN Treaty Body mechanisms respectively.

This seminar will take place at the Distillery Building, Church Street, Dublin 7 from 4 – 5.30pm. This event is free to all attendees and CPD points are available. Contact Jo Kenny at PILA to reserve your place: jo.kenny@flac.ie or telephone (01) 8728048.

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3. UK: Supreme Court determines test to be used when considering extradition of suspect and impact this may have on their right to a family life

The facts of this case involved an attempt on behalf of the US government to extradite a UK citizen to the US to answer charges of obstruction of justice. The Applicant argued that the extradition would represent a breach of his Article 8 right to family life, as guaranteed by the European Convention on Human Rights.

The Supreme Court unanimously dismissed the Appeal and essentially found that any breach of his rights was necessary and proportionate in a democratic society. For the Court, Phillips LJ stated, 'instead of saying that interference with Article 8 rights can only outweigh the importance of extradition in exceptional circumstances it is more accurate and more helpful, to say that the consequences of interference with Article 8 rights must be exceptionally serious before this can outweigh the importance of extradition....' Having regard to the facts of the case, the Court was satisfied to deny the Application as the public interest in detecting and preventing crime outweighed any concerns relating to family life raised by the Applicant. The court concluded that, 'only the gravest effects of interference with family life will be capable of rendering extradition disproportionate to the public interest that it serves.'

For more information, see *Norris v. Government of the US*

http://www.supremecourt.gov.uk/decided-cases/docs/UKSC_2009_0052_Judgment.pdf

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4. UK: Report of English Advisory Panel on Judicial Diversity recommends positive discrimination against men

According to this year's report of the Advisory Panel on Judicial Diversity in England, women, homosexuals, ethnic minorities and disabled people should be given priority over men for appointment to judicial positions when a male applicants and an applicant from the above group happen to be equally qualified and suitable. The panel ruled out establishing quotas or target numbers on the numbers of females, homosexuals, ethnic minorities or disabled people who should sit on the bench.

The report noted how despite the growing numbers of women who practice law, this has not been reflected in the amount of senior female judges. Interestingly, the panel also provided the broader recommendation of 'there should be a fundamental shift of approach from a focus on individual judicial appointments to the concept of a judicial career. A judicial career should be able to span roles in the courts and tribunals as one unified judiciary.'

The report can be accessed at <http://www.justice.gov.uk/publications/docs/advisory-panel-judicial-diversity-2010.pdf>

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5. European Court of Human Rights: Refusal to index-link pensions of former residents not discriminatory

The European Court of Human Rights (ECtHR) has found in favour of the United Kingdom in a case taken against it by former residents. The Applicants had spent some of their working life in the UK but have now moved to other countries. Their pension rate was not subject to inflation related review in the same fashion as that of resident pensioners' payments. Instead, the pension of the Applicants was frozen at the rate payable when they left the country. The Applicants argued that this practice was discriminatory under Article 14 & Article 1 Protocol 1.

The Court found that the Applicants, who live in countries which are not party to bilateral social security agreements providing for pension up-rating, were not in a "relevantly similar" position to either UK residents or residents of countries party to such bilateral agreements. As they were not comparable, any difference in treatment did not fall to be objectively justified.

For more information on *Carson & Ors v. The UK*, see <http://cmiskp.echr.coe.int/tkp197/view.asp?item=1&portal=hbkm&action=html&highlight=carson&sessionid=49225916&skin=hudoc-en>

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6. European Court of Human Rights finds succession to a tenancy of a property which is denied to a homosexual after his partner's death is discrimination

In a recent case before the European Court of Human Rights, it was found that the Applicant suffered discrimination when he was denied succession to a flat which his homosexual partner rented. The Applicant had been living with his partner in a municipal flat in Szczecin in Poland, which was rented by the latter. After his partner died, the Applicant requested succession to the flat. However, this was refused by the municipal buildings department, claiming that the two had not been living together previous to the deceased's death. The Applicant brought proceedings, arguing that he had lived with his partner previous to his passing and that this relationship amounted to a *de facto* marital cohabitation. This was dismissed on the ground that Polish law recognises *de facto* marriage between a man and a woman only. In finding for the Applicant, the Court noted that the Polish Constitution protected family life based on that between a man and a woman and that this may in principle be a legitimate reason to justify a difference in treatment between heterosexual and homosexual relationships. The Court held that, when balancing the protection of the family with the rights of sexual minorities, States were required to take into account developments in society including the fact that there was more than one way to lead one's personal and private life. The Court rejected the argument that a blanket exclusion of persons living in a homosexual relationship from succession to a tenancy was necessary to

protect the family. It found that a violation of Article 14 (anti-discrimination provision) in conjunction with Article 8 (right to family and private life).

For more information on *Kozack v. Poland*, see <http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=863748&portal=hbk m&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

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7. European Court of Human Rights finds the UK to have breached rights of two Iraqi it transferred to Iraqi authorities

The European Court of Human Rights has found that the UK authorities breached the rights of two Iraqi men transferred by it to Iraqi authority. The two are accused of murdering two captive British soldiers in 2003. The two Applicants have been waging a long running legal campaign against the UK. Having lost their case in the House of Lords, they successfully brought an application to the Court arguing that their transfer to Iraqi authorities put them at risk of an unfair trial and the death penalty. Though the two have been cleared of the charges against them, they are still in prison in Iraq pending an appeal of their case. In finding for the Applicants, the Court said that the two were 'subjected to mental suffering caused by the fear of execution amounting to inhuman treatment.' In a lengthy judgment, the Court stated that the death penalty could be considered inhuman and degrading treatment. As the UK were not given any assurances that the two suspects would not be subject to the death penalty, they had suffered fear of execution once they had been transferred to Iraqi authorities.

For more information on *Al-Saadoon and Mufdhi v. The UK*, see <http://www.bailii.org/eu/cases/ECHR/2010/282.html>

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8. Prison Law Seminar, *Irish prison law and the ECHR*, 22 March 2010

The fifth in the Prison Law Seminar series will take place on Monday 22 March 2010 at 5pm. The venue for the seminar on the topic *Irish Prison Law and the ECHR* is the Distillery Building, Church St, Dublin 7.

Ms Anna Austin, Registry of the European Court of Human Rights and Mr James MacGuill, Solicitor and former President of the Law Society, will speak at the event. The event is hosted jointly by the Irish Penal Reform Trust, the Irish Criminal Bar Association and the Dublin Solicitors Bar Association. Seminars qualify for Continuing Professional Development (1.5 hours) for both solicitors and barristers.

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9. Launch of Akiwda's new publication, *Am only saying it now*- experiences of women seeking asylum in Ireland, 25 March 2010

Akiwda will be launching its new report on the experiences of women seeking asylum in Ireland, *Am only saying it now*. The reception will be held in the Cheaster Beatty Library in Dublin Castle on 25 March 2010 at 10.30 am.

Please RSVP to info@akidwa.ie or Kelly at (01) 8148582.

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10.Africa Centre, training for trainers, Dublin 1, 14 April – 22 April 10am – 4pm

The Africa Centre is facilitating a four-day course over two weeks that aims to build a group of trained development educators from within the African community to bring an African perspective to development education. This four day course equips participants with the knowledge and the tools to engage groups in education on global development, local and global inequality, and social justice issues in a friendly, informal group environment. During the course development issues are raised, however the focus is on participatory methodologies and how to adapt them to any group setting. It will enable participants to work more effectively and creatively with groups when exploring intercultural and development issues.

This course is open to all Africans with an interest in development education and those who wish to promote the good practice in use of balanced images and messages on Africa and Africans in Ireland. Individuals must also be able to commit to the full five days spread over three weeks.

For more information and for an application form please email Rebecca@afriacentre.ie or telephone (01) 8656951.

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11.DCU to host Inaugural Annual Law and Society Lecture, 21 April 2010

The School of Law and Government at Dublin City University will host its first annual Law and Society Lecture in April this year. The lecture will be delivered by Professor Richard Collier of Newcastle University Law School and will be entitled *Fatherhood, Law and Personal Life: Rethinking Debates about Fathers and Law*. Professor Collier's primary research interests concern questions around law and gender, with a particular focus on issues surrounding men and masculinities, ranging from law, families and social change to legal education, crime and criminology.

The lecture will take place at the Mella Carroll Lecture Theatre, Nursing Building, DCU on Wednesday, April 21st at 6.30pm with a reception to follow.

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12. International conference on equality at UCD, 5-7 May 2010

Registration is now open for an international conference at University College Dublin organised by the UCD Egalitarian World Initiative (EWI). The conference entitled *Equality in a time of crisis* will open on the evening of Wednesday 5th May 2010, and will close at lunchtime on Friday 7th May 2010.

In the wake of the recent economic downturn, the conference aims to inform the debate about equality in a time of crisis through profiling developments in research and practice by renowned scholars on egalitarian and social justice themes internationally. This will be presented through a lively mix of keynote lectures, invited respondents and panel discussions.

The conference will mark the end of the *EWI Marie Curie Transfer of Knowledge Programme*. It will also coincide with and mark the 20th Anniversary of the establishment of the UCD Equality Studies Centre, and the 5th Anniversary of the establishment of the UCD School of Social Justice.

For further information on the conference, including the programme, information on registration and practical information, please go to our conference web page: <http://www.ucd.ie/ewi/mariecurie/conference.html>

For queries please contact Richard O'Leary: richard.oleary@ucd.ie

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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.

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