

# flacNews

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## Social welfare appeals system is Not Fair Enough – FLAC report

**F**LAC's latest report, *Not Fair Enough: making the case for reform of the social welfare appeals system*, was unveiled on 24 October in the Mansion House. Launching the report, Ombudsman Emily O'Reilly congratulated FLAC, saying it provided "a strong and persuasive case for the reform of the social welfare appeals system."

The report sets out the operation of the Social Welfare Appeals Office in the context of the recession, where the Appeals Office's workload has more than doubled since 2007 creating even greater challenges for an already hard-pressed system. FLAC has analysed the appeals system from a human rights perspective using both national and international law. It finds that the appeals process falls below the standards required to ensure that fair procedures are followed and to guarantee an effective remedy. The report contains different perspectives on the appeals system, including the views of the Chief Appeals Officer and of advocates who represent appellants.

FLAC's Noeline Blackwell chaired the launch while Policy and Advocacy Officer Saoirse Brady presented an overview of the report's findings and recommendations. Geraldine Gleeson, the Chief Appeals Officer, welcomed the report and provided a short response to its findings, detailing how the Appeals Office has made further improvements in processing times and is trying to put in place systems which will help make the process more efficient. David Mitchell, a trainee solicitor with the Law Centre NI gave a short presentation on the operation of the social welfare appeals tribunal in Northern Ireland. Finally, FLAC Senior Solicitor Michael Farrell closed the launch with a discussion



At the launch of 'Not Fair Enough' (L-R): Noeline Blackwell, FLAC Director General; Emily O'Reilly, Ombudsman; Michael Farrell, FLAC Senior Solicitor; and Saoirse Brady, FLAC Policy & Advocacy Officer and author of the report

on how a database of published decisions would benefit the appeals system as well as other steps that could be taken to improve procedures.

Although the Appeals Office is a quasi-judicial tribunal, *Not Fair Enough* finds that there is no actual or perceived independence as required under Article 6 of the European Convention on Human Rights. In fact, the office is a section of the Department of Social Protection and its Appeals Officers are appointed by the Minister without any public recruitment process. Officers do not have to be legally qualified, they are not appointed for a fixed term, there are no terms for their removal from office and they can in fact transfer back to another section of the

Department of Social Protection. Following the publication of the report, the Minister stated in the Dáil that while her department and the Appeals Office are examining FLAC's recommendations, there are no plans to put the Appeals Office on an independent statutory footing.

For appellants, there is no equality of arms or balance between the parties as state civil legal aid is not available for representation at any tribunal other than the Refugee Appeals Tribunal. Appellants do not even have all of the information contained in their social welfare file made available to them in advance of a decision

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The views of individual contributors do not necessarily represent the views of FLAC.

# Budget 2013 does not respect human rights of all

**W**hile Budget 2013, announced on 5 December, brought a disappointing if expected cut to Child Benefit, it also housed other measures attracting widespread criticism, such as the cut to the respite care grant and taxation of Maternity Benefit. The Social Welfare Bill 2012 was then introduced to implement these changes. Critically, it was guillotined through without proper and adequate discussion despite opposition calls for a full debate.

With Northside Community Law Centre (NCLC), FLAC issued a submission around section 13 of this Bill, which provides for a more aggressive recovery of welfare over-payments. Our concerns relate to the increase in the amount of deductions the Department of Social Protection can make from a person's weekly social welfare payment to recover over-payments as it may push people into destitution.

Currently, the Department can deduct €2 from a primary weekly payment of €188, as this brings the recipient down to a level equivalent to Supplementary Welfare Allowance. This is the rate that the State itself has set as a basic minimum income. We fear that the Department can now recover up to 15 per cent of a payment without written consent, or even more with written consent, meaning the recipient would have less than the recognised basic minimum to live on.

An over-payment may arise when the Department reviews a claim or when new facts come to light that show a person was not entitled to a payment for a particular period. The over-payment may be due to a mistake by the recipient or an error by the Department. While people cannot appeal the method of recovery, they can appeal the amount of the alleged over-payment, although many may not know where to get information or advice on this. In fact, they may believe they have no choice but to accept the Department's decision. However, it is often useful for a recipient to engage with the Department to come to an agreed arrangement which is fair to all.

There was general discussion in the Dáil about the measure, but no specific debate on either the section itself or amendments proposed by the opposition. Joan Burton

TD, Minister for Social Protection, stressed that the measure was intended to recover money which had been paid out fraudulently and said there would be some "leeway" in cases where the over-payment was the Department's fault. However, the Bill does not actually differentiate between fraudulent over-payments and innocent mistakes, so it is difficult to see how this will apply in practice. While this provision was guillotined, it will not come into force until the Minister makes a commencement order in the new year so FLAC hopes there will still be time for further debate and reflection on it.

The Budget cuts followed calls by NGOs at the 2013 Pre-Budget Forum in October to protect Ireland's most vulnerable groups. Here FLAC emphasised the durability of Ireland's human rights duties and reminded the Minister that these provisions are binding legal obligations under international law and not just a matter of poverty, as pointed out by UN Special Rapporteur on Extreme Poverty & Human Rights, Magdalena Sepúlveda.

Specifically, FLAC Policy & Advocacy Officer Saoirse Brady focused on the social welfare appeals process, Mortgage Interest Supplement and Child Benefit. FLAC's also flagged its concerns in relation to the eligibility changes for Mortgage Interest Supplement. Once again, FLAC called on the Government to carry out the necessary Poverty Impact Assessments before making any budgetary decisions.

Minister Burton told those present at the Forum, "Looking ahead to the next Budget I will do my best to ensure that the burden of resolving the crisis does not fall disproportionately on those who depend on income supports from my Department". However, it seems the potential impact of all the Bill's measures on the most poor was not adequately considered; in fact, there is no evidence of any impact assessments.

FLAC believes that the regressive changes introduced by the Social Welfare Bill will exacerbate the already difficult situation of people who rely on social welfare. They fall short of human rights standards and norms which must be respected even in times of recession – not just in prosperity.

See FLAC submission on Budget 2013: [bit.ly/prebudget2013](http://bit.ly/prebudget2013)

Joint FLAC/NCLC submission on Bill: [bit.ly/swbill2012](http://bit.ly/swbill2012)

# Top rights official contacts Minister re delay in Foy case

Europe's top human rights official has written to Social Protection Minister Joan Burton 'strongly encouraging' her to introduce gender recognition legislation without delay.

The Council of Europe's Human Rights Commissioner Nils Muiznieks visited Ireland in October and met FLAC transgender client Lydia Foy, who has still not been able to obtain a birth certificate in her female gender despite a High Court ruling in her favour over five years ago.

Commissioner Muiznieks then wrote to Minister Burton in November expressing his concern that "Ireland does not yet allow for legal recognition of transgender persons" and that there is no timeline as to when "this long outstanding draft legislation" will be introduced.

He said that "five years of non-implementation of the High Court's judgment finding Ireland in breach of the [European Convention on Human Rights] sends a very negative message to society at large". And he added that any new legislation should not require already married transgender persons to divorce as a condition of recognition in their acquired gender.

Minister Burton responded in December and acknowledged that the State now had an obligation to recognise transgender persons. She said legislation on this issue was a priority for her and for the Government but that the timetable depended on the advice of the Attorney General, for which they were still waiting.

Mr Muiznieks' predecessor as Commissioner for Human Rights, Thomas Hammarberg, also spoke about the Foy case when he delivered FLAC's annual Dave Ellis lecture in Dublin in December. He had strongly supported Lydia Foy and transgender rights when he was Commissioner but he said officials in Strasbourg had assumed that gender



Photo by Derek Speirs and with kind permission of the IHRC

President Michael D. Higgins gave a warm welcome to Lydia Foy when he gave the Irish Human Rights Commission's annual Human Rights lecture on International Human Rights Day, 10 December.

recognition legislation would have been in place by now. He said that such legislation "should be natural in a caring society in which human rights for all are a priority".

In the meantime, representatives of Transgender Equality Network Ireland (TENI) appeared before the Oireachtas Joint Committee on Education and Social Protection in early December. They outlined the problems faced by transgender persons in Ireland today and the importance of legal recognition in their true gender. The Committee members were supportive but they are also waiting for draft legislation to be sent to them.

2013 marks the 20th anniversary of Lydia Foy's first application for a new birth certificate showing her female gender. It is unacceptable that she and other transgender persons should have to wait any longer for recognition of their rights. And it is unacceptable that no action should be taken more than five years after the courts issued the first ever declaration that Irish law is incompatible with the European Convention on Human Rights. It now appears that Lydia Foy will have no option but to return to the Courts to seek to enforce the decision made in her favour over five years ago.

## What does FLAC do?

FLAC is an independent legal rights organisation which exists to promote equal access to justice for all. From over 40 years of campaigning, we know that many people cannot afford to access the legal help that they need to manage their affairs. We also know that some areas of law need urgent change to improve access to justice for the most vulnerable groups in society.

While we are no substitute for properly state-funded legal aid and a truly accessible justice system, we try to bridge the gap. FLAC offers independent, confidential legal help to the public with no fees and no means test.

We also prioritise particular areas of law for reform through legal research, analysis and policy work. This also involves campaigning on some priority issues and taking strategic cases to advance law in the public interest.

Basic legal help is available from FLAC in three ways:

- ▶ **By phone:** lo-call 1890 350 250
- ▶ **In person:** one-on-one information & advice from a volunteer lawyer at your local FLAC centre – see a full list at [www.flac.ie/gethelp](http://www.flac.ie/gethelp).
- ▶ **Online:** visit [www.flac.ie/gethelp](http://www.flac.ie/gethelp) for basic legal guides and FLACsheets.

For information to download, see our website at [www.flac.ie/gethelp](http://www.flac.ie/gethelp).

FLAC supports advisors in MABS and Citizens Information Centres on its priority areas of law (consumer debt and credit law, social welfare law and access to civil legal aid).

In addition, FLAC's public interest law project, PILA, works with voluntary organisations and law centres (rather than directly with individuals) to promote the use of law in the public interest - see [www.pila.ie](http://www.pila.ie) for more.

# Seanad motion on reform of welfare appeals system defeated

**H**ot on the heels of our report launch on the social welfare appeals system, a group of Independent Senators put down a motion in the Seanad on 7 November calling for reform of the system. In advance of the Seanad debate, FLAC and Northside Community Law Centre briefed Senators and staff in the AV room of Leinster House on issues relevant to the debate and on the findings and recommendations in both FLAC's *Not Fair Enough* report and NCLC's earlier 2005 study of the appeals system.

On behalf of the Independent group, Senator Katherine Zappone presented a very reasoned motion, seconded by Senator Fiach Mac Conghail. While many on both sides of the House voiced support as well as concerns about the appeals system arising from their own experience, the motion was still voted down by members, although it may have been an opportunity for Minister for Social Protection Joan Burton TD to pursue a reform agenda.

Minister Burton welcomed FLAC's report "as a valuable analysis of the social welfare appeals system through a human rights lens" and said "[i]t is important, particularly in straitened times like this, to stand back, reflect and ensure that the drive for efficiency does not compromise the quality or fairness of the services that are delivered". However, she did not concede any of the issues raised or practical steps based on FLAC's research and analysis.

Instead, the Government put forward a lengthy counter-motion which neither acknowledged the inherent problems in the system nor took account of system defects highlighted by Senators of all persuasions. These included the lack of fair procedures, lengthy delays, absence of actual and perceived independence and that people are being referred to charities or left at risk of destitution.

The Independents' motion called for very practical reforms, which included:

- ▶ furnishing the appellant with a copy of his or her social welfare file,
- ▶ putting an option to request an oral hearing on the appeals form, and



At the Oireachtas briefing on the social welfare appeals system (L-R): Sen. Katherine Zappone, Michael Farrell, Moya de Paor (NCLC) and Saoirse Brady

- ▶ simplifying and making more accessible the application forms.

Senator Zappone called for transparency and independence in line with the fundamental right to fair procedures, while her colleague, Senator MacConghail focused on putting more resources into the initial decision-making process. Other independents, including David Norris and Jillian Van Turnhout, talked passionately about the right of equal access to information and ensuring that people in need were afforded an effective remedy.

What was particularly disappointing about the passing of the Government motion was that the Independents raised this issue not as a stick to beat the government; rather, they expressed a genuine desire to improve the system for administrators and appellants alike. From the informed and fervent speeches of each Senator who spoke on this issue, this is a question that many if not all encounter persistently, and they all wanted improvements of some sort in the system. Senators from across the spectrum commended the Independents on the motion. But it was to no avail, as not only was it defeated, but the Government parties, despite many of their members expressing regret at having to reject the Independents' motion, voted for a counter-motion which expressed confidence in a flawed system.

Why is FLAC so concerned about the social welfare appeals system? **Because the Appeals Office is a quasi-judicial body which issues legally binding**

**decisions that can have an enormous impact on the lives of people.** FLAC and others see this in our everyday work. The Appeals Office is not simply an extension of the Department of Social Protection and shouldn't be considered as such. There are valid reasons why FLAC, as well as Northside Community Law Centre, continues to call for its independence. We base this call on the right to fair procedures enshrined in both our Constitution and the European Convention on Human Rights.

Senators called for an audit of the Appeals Office to ensure it complies with its human rights obligations, as these should underpin any system seeking to adjudicate on cases affecting some of the most marginalised members of our society. Seeking to be constructive and to contribute to making the appeals system work better, FLAC produced an analysis of the law and a comprehensive breakdown of the indicators and standards which need to be met for use in any audit.

By failing to support the motion, the government is showing it does not accept that resources could be better used and people better treated. While some recommendations may require resources in the short-term, they could reform the system for the better in the longer term and save time, resources and hardship for people who cannot afford to be left waiting for months or even years.

Read the full transcript of Seanad debate: [url.ie/god2](http://url.ie/god2)

# Insolvency Bill: Not just a marathon, but a sprint through Oireachtas

“The planned insolvency legislation is one of four strands of action promised by government in its Action Plan on mortgage debt but our assessment is that each strand contains weaknesses and that the overall action plan is incomplete.”

This was the assessment of FLAC Senior Policy Researcher Paul Joyce on the proposed Personal Insolvency Bill on its introduction to the Seanad on 21 November. Paul Joyce, along with Director General Noeline Blackwell, was making a presentation to Oireachtas members and staff in the Leinster House Audio-Visual room just ahead of the Seanad session. At that time, although the legislation had been considered by the Dail through all stages, including a specially convened Committee hearing in September, there were substantial gaps in the draft law. In addition, flaws identified by FLAC when the Bill was introduced in the summer of 2012 still remained.

The Bill that emerged from the Seanad on 19 December, as the Oireachtas was rising for its Christmas holidays, was much changed. So many amendments were introduced by the government that the Department of Justice and Equality had to issue a revised Explanatory Memorandum for the guidance of the legislature.

Among the amendments proposed and accepted by both houses of the Oireachtas were the inclusion of a

category of ‘excludable’ debts and provisions relating to minimum income. In addition, the amendments provided for eight specialist bankruptcy judges to be appointed, as well as provision for personal insolvency practitioners. While FLAC will be publishing more information on the legislation over the coming months, it is worth focusing a little attention on two aspects that have the capacity to improve how the legislation will work for consumers – excludable debts and minimum income guideline

FLAC has previously pointed out that the more debts that are excluded from any insolvency scheme, the more likely it is to fail. The amendments to debt categorisation will allow those whose debts are excluded and therefore payable in full – such as the Revenue Commissioners or a fine – to opt to allow their debts to be part of the insolvency scheme. This may mean that part of a debt may have to be written off, but pragmatically, that may be the best way to have a further portion of the debt paid.

While it was always clear that the legislation would have to refer to minimum income, FLAC was concerned that the content of such guidelines would rest entirely with the new Insolvency Service. FLAC believed that the Service should be given broad policy parameters before this happened. We are thus pleased to see that such guidelines must take account

of poverty indicators, the wealth of data that exists about household income and expenditure indicators and have regard too to social inclusion and economic inclusion indicators. The Insolvency Service must consult with various Ministers before issuing guidelines and should also consult with other ‘appropriate’ bodies. FLAC believes that such bodies should include the Vincentian Partnership which has done sterling work on developing objective criteria on minimum income and should also consult with FLAC and with the Money Advice and Budgeting Service with the aim of achieving the best possible guidelines.

Despite the poor process, driving through important changes without adequate scrutiny and without any reference to a regulatory impact assessment, we have to be glad that the end of 2012 finally brings Ireland a more modern personal insolvency scheme. It is not certain that it will work. FLAC remains concerned about the effective creditor-focused balance of the bill, the lack of appeal for debtors and the complexity of the scheme. The Minister for Justice has said that he will be watching to see that it works and will amend it if it doesn’t. We’ll seek to hold him to that.

The Personal Insolvency Act 2012, No.44 of 2012, was signed into law by President Michael D. Higgins on 26 December 2012.



FLAC Senior Policy Analyst Paul Joyce presenting FLAC’s assessment of the Personal Insolvency Bill 2012 to Oireachtas staff and representatives

[continued from front page]

# Welfare appeals system ‘not fair enough’

by the Appeals Officer; nor do they have access to previous decisions which may be relevant to their case. One of FLAC’s main concerns is the decline in the number of oral hearings as opposed to decisions based on the written evidence only, as there is a much higher rate of success when an oral hearing is held; in 2011, some 48 per cent of appeals were successful following an oral hearing whereas less than 25 per cent were successful when a decision was made on the documentary evidence only.

FLAC welcomes the Chief Appeals Officer’s comments that the percentage of decisions made by oral hearing has increased in 2012, but would reiterate that appellants should actively be told about their option for an oral hearing and encouraged to request one to increase their chances of success. The Ombudsman emphasised the importance of oral hearings as she feels “very strongly that a move away from oral hearings to summary decision-making is not a move toward greater fairness in the appeal system.”

Current delays in the appeals process mean that it does not provide an effective or efficient remedy. While the Chief Appeals Officer has stated that there has been a reduction in processing times, people may still have to wait the greater part of a year on average to have an oral hearing in their case. This is much too long when a person is seeking to assert his or her right to a social welfare payment. Given that almost half of all appeals are successful, FLAC believes this high success rate points to flaws within the initial decision-making process and has called for the system to be frontloaded and the process simplified. The possibility of receiving arrears in the future is not acceptable for people who may go into debt or who need to rely on charity to keep afloat in the meantime.

FLAC’s proposals are meant to offer a framework against which the Appeals Office might assess whether or not it complies with its human rights obligations. FLAC’s critique is constructive and in no way takes away from the work of the Appeals Office which has had to cope with a record number of appeals.



Fianna Fail spokesperson on Social Protection Willie O’Dea TD (L) & Press Officer Eoin Weldon

© Photo by Derek Speirs



L-R: Dan Kavanagh, Dep. Chief Appeals Officer, Geraldine Gleeson, Chief Appeals Officer; Saoirse Brady, FLAC Policy & Advocacy Officer; and Michael Farrell, FLAC Senior Solicitor



Aengus O Snodaigh, Sinn Fein spokesperson on Social Protection



David Mitchell, Law Centre NI

While welcome, the commitment by Fine Gael and Labour in the Programme for Government “to clear the social welfare appeals backlog” is not enough unless accompanied by a range of reforms to improve the system for the benefit of both



**Download ‘Not Fair Enough’ at flac.ie**  
 You can get a print copy from FLAC but you will have to cover postage costs.

# Rule of Law International Project: Improving access to justice in Malawi

by Eithne Lynch, solicitor, and Ruth Dowling BL, IRLI, reporting from Malawi

Irish Rule of Law International is a project-orientated, non-profit charity established by the Law Society and the Bar Council. It has set up projects in Ethiopia, Kenya, Kosovo, Vietnam, South Africa, Zambia and Malawi. Part-funded by Irish Aid, our Malawi project aims to increase access to justice for those held within the heavily congested criminal justice system in Malawi through capacity building, training of police officers and Magistrates (lay judiciary), involvement in a prosecution-led diversion programme, running of bail clinics.

A pilot project was launched out of Lilongwe, which is in the administrative central region, in August 2011. Two programme lawyers are on the ground in Lilongwe. Ruth Dowling BL is based in the Department of Legal Aid with ongoing outreach clinic work within the local prisons. Lilongwe has two prisons in its immediate vicinity, Maula adult prison and Kachere, a juvenile facility. Solicitor Eithne Lynch is based in the Director of Public Prosecution's office, with an ongoing placement in Lilongwe Police Station.

The prosecution aspect of the project seeks to implement a restorative justice programme, assist with the progression of cases and act as a prosecution liaison with juvenile justice cases. By positioning ourselves in this manner the project is best placed to increase access to justice within the criminal system in Malawi. While we work on individual cases, we recognise the overwhelming need for systemic, sustainable interventions when it comes to confronting overcrowding. For this reason we are also focusing on these innovative approaches to restorative justice and diversion which can provide long term solutions to the problem.

With no representation defendants are often held in custody for years, often far longer than the maximum sentence allowed for the offences they are alleged to have committed, until a trial court acquits or sentences them. Warrants are regularly misplaced with prisoners becoming lost in the system, unsure of what they are in fact charged with or how long they will be there. Ninety per cent of



Ruth Dowling BL (above right) with Michael Irvine, IRLI Director, at Kachere Juvenile Prison

all detainees in Malawi will never have access to any legal representation, advice or assistance. The vast majority of those are persons who have allegedly committed minor offences.

The programme lawyers work hand in hand with the police officers to implement a diversion programme in the police station. Diversion can be defined as the channelling of *prima facie* cases away from the criminal justice system, with or without conditions. Conditions range from a simple caution or referral to the welfare system, to participation in reformatory programmes and/or reparation or restitution. Diversion can take place prior to arrest, charge, plea, trial or sentencing. In the second half of the pilot year, a total of 45 people were diverted from police custody at Lilongwe Police Station, most of whom were minors and particularly vulnerable people.

Recognising that young people in particular needed additional care and protection, the project established an aftercare programme to assist young people who had come into conflict with the law. In collaboration with a Scottish NGO, Venture Trust, the project implemented the first ever diversion aftercare programme through the Malawi Police Services. This programme, Mwai Wosinthika (Chance for Change), aims to give young people the chance and opportunity to change their circumstance,

but perhaps more importantly and more empowering, giving them responsibility and therefore a choice about wanting to make a change in their behaviour and therefore how to deal with life's problems. One major consequence will be the reduction in numbers of young people placed in custody so that they can continue to learn in school or become productive members of their community and Malawian society. The pilot project has now been extended into 2013.

The most important success to date is the decision by the High Court to go into the adult prison and deal with the cases of people who have remained in prison since 2005. The programme lawyers have worked tirelessly at bringing numerous bail applications to the High Court on behalf of those who have never been to Court. After 16 months the President of the High Court Ms Esme Chombo has organised that her Court, DPP lawyers and Legal Aid lawyers will attend Maula prison and work through the back log.

More on the project in a future issue of FLAC News.

See [irishruleoflaw.ie](http://irishruleoflaw.ie) for more. To get involved, contact IRLI Co-ordinator Rachel Power at Distillery Building, 145-151 Church Street, Dublin 7 Tel: 01 817 5331 or e-mail: [rpower@irishruleoflaw.ie](mailto:rpower@irishruleoflaw.ie)

# Hammarberg delivers Dave



© Photos by Derek Speirs

**T**he Sixth Annual Dave Ellis Memorial Lecture took place on 13 December in Dublin, with this year's speaker, Thomas Hammarberg, speaking on access to justice generally and in particular on the importance of human rights norms in times of economic austerity.

One of the leading human rights figures in Europe today, Thomas Hammarberg most recently served as Council of Europe's Commissioner for Human Rights from 2006 to 2012. He visited Ireland a number of times during his term of office and his reports spoke strongly about the rights of Travellers, asylum seekers and transgender persons. He also warned about the danger that the current financial crisis and the measures taken to deal with it could impact most severely on the poorest and most vulnerable in society. He is currently Honorary President of the Mental Disability Centre in Budapest.

Mr Hammarberg opened his FLAC lecture with an environmental analogy for the country's recent economic difficulty. While some commentators insist on talking about the recession as being akin to some sort of natural disaster, Mr Hammarberg reminded the audience that the crisis was man-made. He said that crisis was "...the result of a series of decisions taken by human beings, among them prominent bankers, investors - and politicians...".

He was adamant that lessons can, indeed must, be learnt in the aftermath of

recession. What Ireland now required was "...honest, self-critical analysis on why it went wrong and how such a disaster can be avoided in the future...". Mr Hammarberg also highlighted the devastating effects of inadequate state regulation by quoting US President Barack Obama, who said the economic downturn "...combined the breathtaking greed of a few with irresponsibility across the system..." In a wry aside, Mr Hammarberg noted that he had difficulty finding a speech from any European leader on the issue as clear and concise as Mr Obama.

Despite commonly being referred to as 'second generation' rights, said Mr. Hammarberg, economic and social rights are full and indivisible human rights. This is evidenced by 'Freedom from Want' being one of the four freedoms laid down by President Franklin D. Roosevelt. They also feature in the Universal Declaration of Human Rights and in International Labour Organisation conventions. As regards protecting such rights, Mr Hammarberg raised concerns over the future resourcing of human rights bodies. Specifically, he referred to the proposed merger of human rights and equality bodies due to take place in 2013. Referring to socio-economic rights, he said that "...it is not sufficient to pay lip service to the 'social dimension' in the debate about economic policies. The agreed standards on social and economic rights must be given a much more prominent position when crucial decisions are to be taken on



L-R: Anastasia Crickley, UN CERD and NUI Maynooth, and Sarah Flynn, wife of Dave Ellis, with Thomas Hammarberg



L-R: Edel Quinn, Children's Rights Alliance; Jo Kenny, Pensions Board; FLAC volunteer Niamh McEvelly, Gillian Kernan, FLAC; Lianne Murphy & Maeve Regan, PILA



Thomas Hammarberg with Children's Ombudsman Emily Logan (centre) and FLAC Director General Noeline Blackwell



# Ellis Memorial Lecture



L-R: Annmarie O'Connor, MABSnd; Martin Naughton, DFI; Sylva Langford, CIB Chairperson.



Sile Larkin, Equality Tribunal and Judge Mary Ellen Ring



L-R: Mark Kelly, ICCL; Geraldine Scullion; Thomas Hammarberg and Karen McLaughlin, NICEM



(L-R) Thomas Hammarberg with FLAC client Lydia Foy and FLAC chairperson Peter Ward.

all aspects of economic policy. This is the lesson...”.

Civil society and voluntary organisations have an important role to play, especially in securing human rights for vulnerable and marginalised groups. The very people whose rights are most at risk are often the same people who are least able to access information about rights in the first place. Information on social security entitlements, personal debt and the legal system is vital and often that information is provided by voluntary organisations. Mr Hammarberg said “I believe we cannot overestimate the importance of non-governmental groups and initiatives as a counter balance to the trends I have just described.”

He singled out FLAC for its work on access to justice initiatives. He described FLAC’s work as crucial. “They give tangible relief to people whose rights are at risk. They set an admirable example. They represent a caring, democratic spirit which gives some hope in the darkness.”

As a strong advocate of Roma and Traveller rights as well as LGBT groups, Mr Hammarberg expressed disappointment at the continued discrimination of marginalised groups and the increased challenge for such groups in access to justice. He noted the ongoing struggle of Dr Lydia Foy to have her gender identity fully recognised by her government.

Looking to Ms Foy among the attendees at

the lecture, Mr Hammarberg expressed incredulity that five years had passed since her successful High Court judgment with still no sign of legislation.

Thomas Hammarberg also addressed some topical issues on the Irish agenda. He called for a full independent and legal inquiry into the murder of Northern Irish solicitor Pat Finucane, and following the death of Savita Halappanavar, he stressed the need for the Irish Government to legislate for the A, B, and C judgment.

FLAC’s annual lecture is held in honour of the late Dave Ellis, a community activist who dedicated his career to working with community groups in areas including welfare rights, legal aid, legal education and legal entitlements generally. He was Community Law Officer at Coolock Community Law Centre, the predecessor to Northside CLC, for more than 20 years. Since the first memorial lecture in 2007, it has since gone from strength to strength, with such prolific and respected speakers as Professor Gerry Whyte of Trinity College Dublin, Steve Shapiro of the American Civil Liberties Union, former Senator and Northern Ireland Ombudsman Maurice Hayes, Michael Mansfield QC and most recently Baroness Nuala O’Loan, former Police Ombudsman in Northern Ireland.

▶ From Sweden, Thomas Hammarberg was Secretary General of Amnesty International 1980-1986 and was Swedish Ambassador for Humanitarian Affairs 1986-2002. Mr Hammarberg served as regional Advisor to the UN High Commissioner for Human Rights for Europe, Central Asia and the Caucasus prior to his Council of Europe commissionership. During his term as Human Rights Commissioner, he visited and reported on almost all of the 47 member states of the Council of Europe, placing special emphasis on LGBT rights and the rights of Roma, and receiving the Stockholm Peace Prize jointly with the European Roma Rights Centre in April of this year for his work on Roma rights.

**Download Mr Hammarberg’s full address at [flac.ie](http://flac.ie)**

# FLAC launches first volunteer recognition scheme



Since it was set up in 1969, FLAC has always depended on the work of its volunteers. The organisation is very grateful to the volunteer solicitors and barristers who provide a much needed and valuable service. Without their assistance, at least 12,000 people in 2011 would have not been able to receive free legal advice to help them address their individual problems.

Often our callers cannot afford to pay for private legal advice and many of them experience additional disadvantage and marginalisation. The time that our volunteers dedicate to FLAC provides a bridge between the difficulties that people are facing in their lives and the beginning of the solution.

Although FLAC have always been thankful for the contributions of our volunteers, we wanted to take another step in formally thanking them. To this end we are launching our FLAC Volunteer

Awards Scheme. The Award consists of a listing on FLAC's Roll of Long Service Volunteers, a special golden FLAC lapel pin and a certificate.

The first group of qualifying volunteers were acknowledged at FLAC's annual Dave Ellis lecture on 13 December 2012. The aims of the awards are:

- To acknowledge the commitment and support given by FLAC volunteers,
- To let volunteers know that they do make a difference in their local communities,
- To celebrate volunteers,
- To encourage volunteering within the legal profession and
- To raise awareness of the importance of the work FLAC volunteers carry out in the centres.

On this occasion, volunteers who are directly managed by FLAC and who have volunteered regularly (10 or more times per year) for the past three years are

recognised. Next year, FLAC hope to extend the award scheme to FLAC volunteers country-wide.

We acknowledge that our records may be incomplete and may have missed out some volunteers from our lists. So FLAC asks volunteers to let us know if they qualify for the award or know of someone else who should also qualify for the award for their long and regular service. Once again, FLAC thanks all the volunteers for giving their time and skills so generously.

We hope that our volunteers have a positive and rewarding experience and that they keep volunteering with FLAC for a long time to come. As Zsé Varga, FLAC's Volunteer and Centres Manager, says:

I have a favourite quote which says 'Volunteers are unpaid, not because they are worthless but because they are priceless'. I think that sums up the contribution of our volunteers very well.

## Meet the interns!



FLAC legal interns Vanessa Lawlor, Anita Howlin, Doris Obot Ogodu, Louise Mitchell & Maria Victory at the Dave Ellis Memorial Lecture on 13 December. See page 14 for an insight into the work of legal interns in FLAC.

## This is a call: Volunteers needed in Navan!

Fully qualified solicitors and barristers are needed to volunteer at the FLAC service in Navan, Co. Meath. The volunteers are asked to provide first-stop legal information and advice in the centre. The clinics take place on the 1st Wednesday of each month. Legal information and guides will be provided to support your work. This FLAC centre is managed by the Meath Citizens Information Service.

If you would like further information about this volunteer opportunity with FLAC, please contact Eileen Flaherty at the Navan Citizens Information Centre (076) 107 6150 or e-mail to [Eileen.flaherty@citinfo.ie](mailto:Eileen.flaherty@citinfo.ie)

# Families most under pressure in 2012

**D**uring the first three quarters of 2012, almost 10,000 people contacted our telephone information line and almost 10,000 people attended FLAC centres across the country, showing a consistent demand and need for FLAC's services.

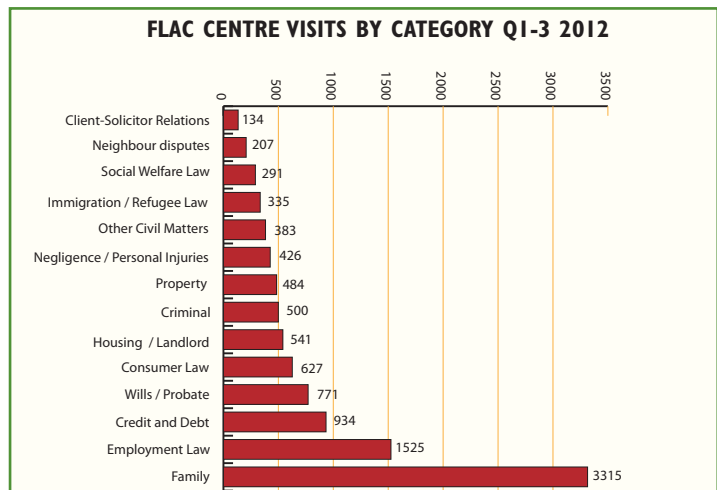
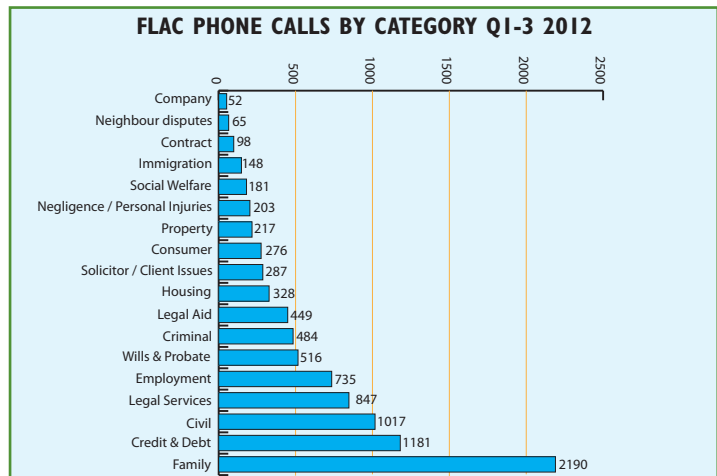
Family law continues to be the most common source of queries both on the phone line and in the centres. Within family law, divorce/separation queries are most frequent, followed by custody/access/guardianship queries and maintenance queries. This pattern is reflected in both calls to the information line and in the advice centres.

While employment law is still the second most common type of query in the centres, the number of employment queries to centres and on the information line is down this year. Contract terms are the most discussed employment query, followed by dismissal and redundancy, followed by discrimination and bullying.

Credit and debt-related queries continue to be the second most common area of law discussed on the lo-call telephone helpline, and have also increased by almost 10% in the centres. Mortgage arrears is the most common debt related query, followed by personal loans, then debt collection procedures.

Calls to FLAC's telephone information line have shown a 24% increase in legal aid queries, up from 362 calls in the first three quarters of 2011 to 449 in the first three quarters of 2012. There has also been a 27% increase in Negligence/Personal Injury calls, up from 159 to 203 calls.

In the centres there was a 13% rise in Housing queries, up from 479 queries in the first three quarters of 2011 to 541 in the first three quarters of 2012, and also a 13% rise in Social Welfare queries up from 257 to 291.



## Child Benefit arrears paid in 'Zambrano' case

**A** non-EU national mother, represented by FLAC, recently received just over two years arrears of Child Benefit. 'Bridget' (*not her real name*) came to Ireland as an asylum seeker in 2002. She had a baby here who, under the law at the time, was entitled to Irish citizenship.

Bridget left Ireland again later in 2002 but returned in 2007 and re-applied for asylum. She was placed in direct provision and stayed there until September 2011, when she was given leave to remain in Ireland following a decision by the Court of Justice of the European Union in the case of the *Zambrano* family in May 2011. In that case, the Court held that if a child was an EU citizen and was dependent upon her/his parents, then the parents should be allowed to stay in the EU state with their child.

Bridget had applied for Child Benefit several times since returning to Ireland in 2007 but had been refused on the basis that she did not have a right to reside in the State. When she was given leave to remain, the Department of Social Protection accepted that she now had a right to reside and she was granted Child Benefit from that date.

FLAC asked the Department's Deciding Officer to review this decision, arguing that the effect of the *Zambrano* judgment was that the parent concerned should have had a right to reside all along. This point had been accepted by the Social Welfare Appeals Office in a case published in its Annual Report 2011 and in several FLAC cases.

The Deciding Officer accepted the point and payments were backdated by a further two years. There are some other issues to be resolved in Bridget's case but there is also a

general point to be made.

It is now more than 18 months since the *Zambrano* decision and the Appeals Office has accepted that it has a retrospective effect if other conditions of the Habitual Residence Condition are met. The Department should stop automatically rejecting applications for arrears in *Zambrano*-type cases. It should not be necessary to appeal and argue these points over again in every single case.

Instead of requiring every claimant to go through the time-consuming (for all sides) appeals process, FLAC argues that the Department should just inform all remaining *Zambrano* parents of their right to payment of arrears if they satisfy the other HRC conditions, and clear this backlog so that they can start to reduce the totally unacceptable delays in the Appeals Office.



## PUBLIC INTEREST LAW ALLIANCE UPDATE

# European Pro Bono Forum 2012

**P**ILA attended and spoke at PILnet's sixth annual European Pro Bono Forum, held in Madrid on 25 and 26 October 2012. The Forum provides an international comparative perspective on *pro bono* practice in Europe. More than 350 international attendees – lawyers, NGO representatives, academics – from 48 countries were at the Forum and heard from a range of speakers on *pro bono* initiatives in Europe and globally.

Noeline Blackwell, Director General of FLAC, spoke at the opening plenary session of the Forum. She addressed the role that *pro bono* lawyers can play in addressing the needs of the most vulnerable, particularly in these times of great economic challenge, and outlined the impact the recession is having on marginalised and disadvantaged people in Ireland.

Spain's Minister for Justice, Alberto Ruiz-Gallardón, who also spoke at the opening session, said that in a time of crisis, such as the present dire economic situation in his country, *pro bono* work takes on a very special importance as government resources for public legal aid shrink under austerity measures. He also said that "lawyers need to give back to society what they have been able to pull from it".

PILA Project Officer Lianne Murphy spoke on a panel that discussed how *pro bono* projects can result in systemic change when lawyers get involved in strategic *pro bono* projects i.e. those that are likely to have a wide or systemic impact, rather than just one-off pieces of work.

Lianne gave some examples of strategic projects that lawyers on the PILA *pro bono* register are involved in, e.g. a

group of lawyers that came together to assist Barnardos by researching the legal framework and models of aftercare in other jurisdictions to support their view that aftercare should be mandatory here in Ireland.

Executive Director of PILnet, Edwin Rekosh afterwards commented on the success of the Forum saying that "when the Forum was first launched in 2007, we hoped that the seed we were planting might take root and that slowly *pro bono* might become part of the legal landscape in Europe. To see the flowering of that idea in such a short

time is a tremendous statement about *pro bono* as a wellspring of social justice."

A&L Goodbody attended the Forum, making it the first Irish law firm to do so. A&L Goodbody is signed up to the PILA *pro bono* register and have carried out extensive *pro bono* work through PILA.

Read more on PILNet's work at [www.pilnet.org/](http://www.pilnet.org/).

Conference proceedings are at [probonoforum.eu/](http://probonoforum.eu/)

## Conference on use of class actions in EU held in Brussels

To help us in our campaigning to remove barriers to public interest litigation, in November PILA Legal Officer Maeve Regan attended a conference in the European Parliament in Brussels on "Increasing Access to Justice Through EU Class Actions". PILA had helped to organise this conference with a number of organisations, including the American Bar Association and NUI Maynooth.

PILA convened two panels at the conference: on 'Access to Justice as a Human Right' and 'Class Actions to Enforce Basic Human Rights'. Over 100 lawyers and policy makers attended the conference. The central ideas of the event were the usefulness of class actions in accessing the courts, the best model for a class action system and whether there could be a basis in EU law for requiring all Member States to have a class action procedure. Ireland is very unusual among developed jurisdictions in not allowing class actions.

Speakers at the PILA-convened sessions included Baher Azmy, Legal Director of the Centre for Constitutional Rights, New York. Mr Azmy described class actions as a "key tool" in the protection of civil rights. The Centre has used class actions in cases involving police misconduct, where the plaintiffs challenged the police action of "stop and frisk". Mr Azmy said that this action is taken about 22,000 times a day and they had evidence that 85% of those subjected to it were black or Latino. He said the class action was the appropriate method here and in other cases where the individual damage may be considered minor but where, when hundreds and thousands of stories are aggregated, the impugned actions are clearly seen to be more serious.

Papers from the conference will be available shortly on [www.pila.ie](http://www.pila.ie).

# IBA event showcases legal rights topics

**P**ILA held an evening public event on Thursday 4 October 2012 to coincide with the International Bar Association's annual conference taking place in Dublin. The event was held in association with Marriage Equality and dealt with three different legal rights issues; marriage equality, Indigenous people's rights and poverty, business and human rights. PILA were very fortunate to have a high calibre of speakers.

R. Douglas Elliott, one of Canada's leading constitutional lawyers, with many Supreme Court cases on LGBT rights to his credit including the leading same-sex marriage case in Canada, *Re Same Sex Marriages*, spoke about marriage equality, as did Justine Quinn BL, co-founder of the LGBT Lawyers Association of Ireland. Susan Fay, Managing Solicitor with the Irish Traveller Movement Law Centre's and Garth Wallbridge, a leading Canadian

Attorney on aboriginal rights and chair of the Canadian Bar Association Aboriginal Law Section, spoke on Indigenous people's rights. Lastly, Lloyd Lipsett from the IBA Human Rights Institute's taskforce on illicit financial flows spoke about poverty, business and human rights.

The feedback from the seminar was excellent and the presentations are available on [www.pila.ie](http://www.pila.ie).



Speaking at the IBA event on Marriage Equality is Canadian lawyer Douglas Elliott LSM, with FLAC Director General Noeline Blackwell seated.



Above left: Atanas Politov, PILnet Director for Europe speaking at the PILNet forum in Madrid; Above right: attendees at the forum



Speakers at the Forum in Madrid (L-R): Suzanne E Turner of Decherts (USA), Jasper Teulings of Greenpeace, Yasmin Baltiwala of A4ID and Anastasia Dergacheva of Morgan Lewis & Bockius (Russia).

## Date for your diary! Practitioner Seminar on the EU Charter of Fundamental Rights

On 7 February 2013 PILA will hold its sixth practitioner seminar. The event, entitled *Using the Charter of Fundamental Rights of the EU – from theory to practice*, will run from 4pm to 6pm in the Morrison Hotel, Lower Ormond Quay, Dublin 1.

It will feature Jonathan Cooper OBE, of Doughty Street Chambers and Dr Suzanne Kingston of UCD. Jonathan Cooper OBE has renowned expertise in human rights law and in invoking the Charter. Dr Suzanne Kingston has extensive experience in EU law, both academically and in practice. Michael Farrell, Senior Solicitor with FLAC will chair the seminar.

A wine reception will be held after the talk. Please note that as places are limited, you will need to RSVP to Louise Mitchell at [Louise.Mitchell@flac.ie](mailto:Louise.Mitchell@flac.ie) to confirm your place, indicating any special requirements.

## FOCUS ON FLAC:

# Legal Interns: Emma Cassidy, Andrew Guy, Anita Howlin, Lorraine Walsh

*In this issue, we talk to four interns with FLAC since early 2012. They are participants on a FÁS LTI scheme that offers them the chance to do FETAC-accredited courses and gain valuable work experience, which they hope to use to find employment following the programme. From time to time FLAC has openings for law and other graduates on this scheme – see [flac.ie](http://flac.ie) for more.*

**Lorraine Walsh** is FLAC's Volunteer and Centres Intern. Lorraine has a Diploma in Legal Studies from DIT as well as two other diplomas in the areas of employment law and mediation. She has also studied for the FEI exams. Lorraine's work at FLAC involves recruiting and managing volunteer advisors for our network of advice centres. These are the solicitors and barristers who assist people in centres, explain what options are open to them and where they may obtain further assistance. The legal advice centres are mainly located at Citizens' Information Centres around the country and Lorraine provides support to ensure that they are run smoothly as well as scheduling volunteers so that they are signed up for dates that suit them.

Through her internship, Lorraine feels she may be suited to work in the area of human resources. "I came in here thinking it would be a great platform to decide what I'd do next, and I have discovered that I really do like the 'human resources' side of things."

**Andrew Guy** came to FLAC after a Masters in Legal Studies at DIT, where he completed a thesis in the area of mental health law. Like a number of FLAC legal interns, Andrew's time is split between FLAC's confidential telephone information line and his programme work. Andrew is currently working alongside FLAC's Director General, Noeline Blackwell, on Civil Legal Aid. As Andrew notes, it was FLAC who first lobbied the government to establish a civil legal aid scheme. "FLAC has been campaigning since the scheme was introduced for a more comprehensive, fairer system, and we're always looking for ways to improve it".

Andrew feels that working at FLAC allows interns to get a hands-on understanding of the NGO and legal sectors. "You're exposed to a lot of things that maybe in other jobs, at this level, you wouldn't experience. There's case work; you get opportunities to go to different events, seminars, meet people that you would probably spend a career hoping to meet,



L-R: Andrew Guy, Emma Cassidy, Lorraine Walsh and Anita Howlin

so it's been really great doing that."

**Anita Howlin** came to FLAC after completing a legal studies degree at Waterford IT. She too spends part of her day providing basic legal information to the public over the phone and is working on FLAC's programme dealing with Credit and Debt Law reform.

At the moment, Anita is involved in researching and writing up a user guide around the incoming Personal Insolvency legislation. Regarding her work on the information line, she finds great satisfaction in knowing that people have gone away with helpful information: "People can be very friendly and very grateful for any kind of information or help you can give them. You get a good sense of achievement from doing work like that. You get a lot back."

**Emma Cassidy** began her work with FLAC on the organisation's communications portfolio. Her day can cover a variety of media-related activities, from drafting press releases and articles for the web to liaising with journalists or helping in the organisation of campaign events. She also carries out legal research for FLAC's social welfare law reform campaigns.

With an LLM in Human Rights and

Criminal Justice and a love of the NGO sector, working at FLAC fulfils many of Emma's personal interests, and she is excited to be working for an organisation that has had been so influential in Irish human rights law. As she said herself, "In a way, it's quite surreal. When I was studying human rights, this is the sort of job that I was dying to go and do, and now I'm here!"

For these interns, their work experience at FLAC has been a rewarding and challenging experience. Being given a variety of tasks to do has allowed each of them to begin to discover strengths and find out what it's like to work in a legal office environment.

All would agree that their experience here is something positive that they will carry with them into the future. FLAC has occasional openings for internships – contact [info@flac.ie](mailto:info@flac.ie) for more.

## Law students!!!

In this issue, we talk to four interns with FLAC since early 2012. They are participants on a FÁS LTI scheme that offers them the chance to do FETAC-accredited courses and gain valuable work experience, which they hope to use to find employment following the programme. FLAC is grateful to FÁS for its support.

# Agency hears EU-wide concerns on access to justice

**W**hile long waiting times for civil legal aid and for court hearings cause concern in Ireland, the Fundamental Rights Agency conference held in Brussels in December 2012 showed that these concerns are shared throughout Europe.

Based in Vienna, the Fundamental Rights Agency is a European Union body which is responsible for providing evidence-based advice to the EU on fundamental rights questions. It is guided by a Management Board of independent experts from each member state. The 400 delegates who attended the conference included those who administer justice, who make policy, who work in NGOs – including FLAC’s Noeline Blackwell – and academics. The recurring theme of the conference was how economic austerity was restricting or reducing access to justice. There was a particular focus on the importance of access to justice in avoiding discrimination.

Access to justice was examined both in the context of access to the courts and access to a just outcome. On the former context, the Council of Europe’s Commissioner for Human Rights, Nils Muizniek, told delegates:

In my day-to-day work ... I am confronted with a simple reality: human rights and the rule of law are empty words when the justice system is inefficient or inaccessible. In practice, litigation remains one of the most effective ways in which human rights standards come to life for ordinary citizens. When a court enforces a human right in a particular case, it is not only the litigant who benefits from it, but the whole society.

Nuala Mole, Director of the UK’s AIRE Centre, suggested that she did not accept a reduction in budgets as an excuse to cut people’s access to legal aid. She suggested that if the State could afford to prosecute a case, then it could afford the funds needed to permit a proper defence. In his address, Nils Muizniek also described the budgets available to legal aid regimes in a number of Western European systems,

including Ireland, as relatively generous. By comparison, in some of the countries of Eastern Europe, he believed that the legal aid budgets were entirely inadequate even when different legal systems were taken into account. The range across Council of Europe countries was between €1 per head of population in Albania to €46 per head in the UK. He expressed particular concern about the access of migrants, children and persons with disabilities to legal aid and the legal system.

As well as noting similar groups whose access to justice should be assured, the UN High Commissioner for Human Rights, Navanethem Pillay, also spoke about budget cuts:

While States have a margin of appreciation with regard to austerity measures this margin of appreciation is not unlimited. Once States have decided to implement austerity programmes or budget cuts, considerations regarding human rights obligations of States should guide all decision-making in this area. Retrogressive

measures affecting economic, social and cultural rights can only be justified after a careful examination of all alternatives.

Closing the conference, Maija Sasklin of the Fundamental Rights Agency noted that "when times get harder, more rights violations are likely to occur". This conference was an opportunity to remember the crucial importance of maintaining access to justice for everyone; and particularly the extra effort required to ensure it for those who are liable to suffer discrimination. Access to legal aid is part of this need. So too is support for monitoring bodies such as national human rights institutions and Ombudsmen. So too is accessible information on the law and how to use the legal system. All of it is essential in a society that hopes to maintain fundamental human rights.

**FLAC is a member of the EU Fundamental Rights Agency.**

Read more at: [url.ie/gs2q](http://url.ie/gs2q)

## DCU FLAC chair wins Chancellor’s medal



Co-chair of Dublin City University’s student FLAC society, Rebecca Townsend, has been awarded a Chancellor’s medal at the university’s autumn 2012 graduation ceremonies. The medal recognises outstanding achievement by a student in both academic and extra-curricular work and is awarded to just one undergraduate and one postgrad student each year.

Rebecca, a BCL Law & Society student, founded the FLAC society with Elaine Marum. Alongside her studies and work on the student FLAC, she is a keen sportswoman and volunteer with CARI.

Pictured above are (L-R) Senator Martin McAleese, Chancellor of Dublin City University, Rebecca Townsend and DCU President Brian McCraith.

## Thomas Addis Emmet Fellowship applications now open

**A**pplications are now being accepted for FLAC's Thomas Addis Emmet Fellowship 2013. Law students at undergraduate and postgraduate level as well as those enrolled at King's Inns and the Law Society are eligible to apply.

Run by FLAC in conjunction with the University of Washington, Seattle, the Fellowship is aimed at Irish law students with an interest in public interest law and human rights. During their two-month stay in Seattle, Washington, the Fellow will gain first-hand experience in an international public interest law environment. The award includes flights, accommodation, meals and a living allowance.

Successful applicants will get the opportunity to interact with American law students, attend law lectures given by experts in the public interest field and also get involved with casework. Previous Thomas Addis Emmet Fellows have worked with the non-profit Washington Appleseed Centre for Public Interest Law.



Thomas Addis Emmet Fellow for 2012 Valerie O'Driscoll receives her award from Thomas Hammarberg at this year's Dave Ellis lecture.

Washington Appleseed seeks to promote social justice by engaging *pro bono* lawyers and campaigning for legal reform.

Anyone interested in the 2013 Fellowship can download the application form from

FLAC's website at [bit.ly/Yci4Yw](http://bit.ly/Yci4Yw). Completed forms and CVs should be sent to FLAC, 13 Lower Dorset Street, Dublin 1. The closing date for applications is **15 February 2013**.

## UN Special Rapporteur on Human Rights Defenders visit

**I**n November the UN Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya made a fact-finding visit to Ireland, her first visit to an EU member state since taking up in her mandate in 2008.

Special Rapporteurs are experts in a specific field of human rights and work for the UN on a voluntary basis, in their own capacity, independent of national governments. Ms Sekaggya is a magistrate, a former Chairperson of the Uganda Human Rights Commission and a founding member of the Human Rights Centre Uganda. Her main concern as Special Rapporteur is the protection of human rights defenders around the world.

Ms Sekaggya met President Michael D. Higgins, Chief Justice Susan Denham, the Irish Human Rights Commission and the Director of Public Prosecutions among others. She met with civil society representatives at an NGO roundtable and later in thematic meetings spread over two days and hosted by FLAC.

Speaking as she left Ireland, Ms Sekaggya

said that while the general environment in Ireland was favourable, "Ireland has not been very active in disseminating information about the UN Declaration on Human Rights Defenders at the domestic level and in raising awareness about the specific profile and role of defenders in society, particularly of those working for the rights of marginalized communities".

The high potential cost of public interest litigation was identified by the Special Rapporteur as a significant barrier to the work carried out by human rights defenders. FLAC has raised this issue, most recently in our submission on the proposed Legal Services Bill. Ms Sekaggya expressed concern for several defenders groups, such as environmental defenders,



Ms Sekaggya with her assistant Dolores Infante Canibano and FLAC folk

activists working on reproductive health, and asylum seekers. She made several preliminary recommendations to the Irish Government including disseminating the Declaration on Human Rights Defenders nationally, adopting a National Action Plan on human rights and speeding up the draft legislation on a merged Equality & Human Rights Commission.

She will present her report to the UN Human Rights Council in early 2013.