

**PILN Bulletin, 16 October 2008**

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**1. ERA dismayed at budget cuts for equality and human rights bodies but welcomes abolition of merger plans**

The Equality and Rights Alliance has expressed its deep concern at what it terms the "savage budget cuts" suffered by the Equality Authority and the Irish Human Rights Commission as a result of this week's budget. Rather than pursue plans made public in July to merge the two bodies together with the Office of the Data Protection Commission, the Equality Tribunal and the National Disability Authority, the Equality Authority and the Irish Human Rights Commission will now share back office and administrative services instead.

The massive funding deductions amount to a reduction of 43% for the Equality Authority and 24% for the Irish Human Rights Commission, bodies which are already under-resourced. The Alliance stated that this "completely undermines the Government's budget rhetoric about protecting the most vulnerable in society." For further information, see [www.eracampaign.org](http://www.eracampaign.org).

FLAC echoes the concerns of the Alliance. With regard to the impact of the budget, FLAC's Paul Joyce has expressed his concern at the lack of legislative measures to prevent repossession of family dwellings as a result of the recession. Vulnerable borrowers are particularly exposed, he said. FLAC has also highlighted the lack of firm data on mortgage arrears and repossessions which making it very difficult to access the true extent of the problem.

FLAC will release a statement on its reaction the budget tomorrow (October 17<sup>th</sup>), the International Day for the Eradication of Poverty. In the mean time, see [www.flac.ie](http://www.flac.ie) for Paul's analysis of what the budget means for those who are in debt.

## **2. Bosnia & Herzegovina: Strategic litigation used to combat discrimination**

Earlier this year, the Public Interest Law Institute (PILI) organised the first ever training session on Strategic Litigation in Anti-Discrimination in Sarajevo, Bosnia and Herzegovina. The aim of the session was to build and expand the skills of lawyers and advocates to help combat discriminatory practices through strategic litigation. The second of two introductory sessions finished in late September.

Training involved fundamental elements that form part of the decision-making process to undertake strategic litigation and the planning of litigation discrimination cases. The concept of discrimination was discussed and international and local experts spoke about EU and national perspectives on discrimination as well as existing anti-discrimination legal frameworks. Practical exercises were undertaken to apply EU concepts of discrimination to real cases which they selected themselves. Group work focused on developing strategic action plans on specific discrimination issues that the participants confronted in reality.. The training was funded by the European Commission and organised within the framework of the project summary "Promoting Anti-Discrimination Laws and Practice in Bosnia and Herzegovina." It is hoped that the project will promote the adoption of policies and practice in Bosnia and Herzegovina to ensure equal access to employment, education and other rights and the adoption of anti-discrimination legislation. A further aim is to increase the capacity of civil society to promote anti-discrimination legislation, policies and practice by strengthening a key service provider to advocate for change.

Participation in the project was made up of public and civil society members and international organizations that advocate for human rights and equality such as the Organisation for Security and Co-Operation in Europe, the Movement for Peace, Disarmament and Liberty, BiH Women, Tuzla Human Rights Office and the Helsinki Citizens' Assembly Banja Luka together with participants of Vaša Prava, the main project beneficiary. Vaša Prava is an NGO that provides free legal aid to vulnerable groups in order to promote the rule of law and human rights protection.

The Project Summary and further information can be found at <http://www.pili.org/en/content/view/688/96/>

## **3. USA: Connecticut becomes third state in the US to allow gay marriage**

Connecticut has joined Massachusetts and California in becoming the third US State to allow gay marriage. The Connecticut Supreme Court struck down the state's civil union law on 13 October and will come into effect from 28 October. It was held that a state law limiting marriage to heterosexual couples together with a civil union law, the purpose of which was

to provide the rights and privileges of marriage to same-sex couples, violated the constitutional guarantees of equal protection under the law.

A judge in the 4-3 majority decision pointed out that "our conventional understanding of marriage must yield to a more contemporary appreciation of the rights entitled to constitutional protection. The court noted that laws in the past barred interracial marriages, excluded women from occupations and official duties and relegated black people to separate but supposedly equal public facilities. The judgement explored the nature of homosexual identity, limits of gay political power in comparison with black people and women and the history of societal views towards homosexuality. Interpreting the state constitutional provisions in accordance with firmly established equal protection principles, the judge stated, must lead to the conclusion that gay people are entitled to marry the same-sex partners of their choice, as to deny them this right would require the application of one set of constitutional principles to gay people and a second to others.

The judgment was also remarkable in that it was the first state high court ruling to hold that civil union statutes violated the equal protection clause of a state constitution. Massachusetts has allowed same-sex marriages since 2004 while, earlier this year. California legalised domestic partnerships rather than the more broadly defined civil unions. Voters in California will decide whether the state Constitution should permit same-sex marriage in November 2008.

The case, which began in 2004, was taken by eight same-sex couples who were denied marriage licenses by the town of Madison in Connecticut. The couples contended that the denial of marriage licenses deprived them of due process and equal protection under the law. The legislature adopted a law establishing civil unions for same-sex partners conferring all the rights and privileges of marriage in 2005 but this also defined marriage as the union of a man and a woman.

The judgement in the case of *Elizabeth Kerrigan et al. v Commissioner of Public Health et al* (SC 17716) can be accessed at the following web address:  
<http://www.jud.ct.gov/external/supapp/Cases/ARocr/CR289/289CR152.pdf>

#### **4. UK and Northern Ireland: Committee on the Rights of the Child adopts its Concluding Comments on the UK and Northern Ireland**

The United Kingdom and Northern Ireland's combined third and fourth periodic reviews under the UN Convention on the Rights of the Child was reviewed by the UN Committee on the Rights of the Child last month in Geneva. The British State was last reviewed in 2002. The Committee, which monitors state's compliance with the Convention, welcomed positive developments for children in the UK and Northern Ireland since the previous review, including the Every Child Matters agenda which aims to provide a more holistic means of cross-services provision to children from birth to age nineteen. However, the Committee made a large number of detailed recommendations critiquing Britain's legal and social shortcomings.

A major concern for the Committee was the age of criminal responsibility in the UK. In Scotland it is presently set at eight years old and at ten years old in the UK. The Committee urged the UK to bring this age into line with international standards of justice which shows a higher age in other developed countries. Further with regard to children and the penal system, the Committee highlighted the number of children given custodial sentences and the lack of a statutory right to education for children in custody.

One persistent issue for the Committee over the last three periodic reviews of Britain has been the continuing lack of prohibition on corporal punishment, including smacking. The UK was urged to explicitly prohibit corporal punishment in schools.

Child poverty measures were also of concern to the Committee. While the current administration's increased spending relating to child poverty was commended by the Committee, they expressed concern that this was insufficient to eradicate poverty and to adequately challenge inequalities.

Further concerns were expressed around "the general climate of intolerance and negative public attitudes towards children, especially adolescents, which appears to exist in the State party, including in the media, and may be often the underlying cause of further infringements of their rights." Devices used to disperse young people such as ultrasound devices and ASBOs were also criticised.

With regard to discrimination, the UK was urged to work to eliminate practices which continue to affect certain groups such as Irish Travellers' children on a discriminatory basis and suggested affirmative action to benefit such vulnerable groups.

Ireland was last reviewed by the UN Committee on the Rights of the Child in 2006 and is due to report to the Committee again in 2011.

The UK State report and the Committee's Concluding Observations can be downloaded at the following address: <http://www2.ohchr.org/english/bodies/crc/crcs49.htm>

## **5. UK: Terror Bill debate results in removal of some controversial elements**

The UK House of Lords this week rejected the government's controversial plans to detain terror suspects without charge for up to forty-two days. The provision would have allowed British police to detain terror suspects for without charge for forty-two days, though the government is due to publish a bill which includes the protracted detention measure to be held in reserve in order to be introduced should there be a terrorism-related emergency. The plan to extend the detention period from twenty-eight days to forty-two was rejected by 191 votes. The rebellion in the House of Lords against the Bill was led by Lord Falconer the former chancellor.

The UK government further abandoned a second key element of its counter-terrorism bill by dropping plans to allow inquests to be held in secret without a jury if they were deemed to put national security at risk. The government has expressed its intention to pursue the measure in non-terrorism related legislation. It had been proposed that the home secretary should be given the right to stop a jury being summoned, to replace the coroner with a government appointee and hold the inquest in secret if deemed that an open hearing would put national security in jeopardy. A report by a cross-party committee of peers said that any decision to hold an inquest without a jury must be taken by a judge and not by a minister. Specially vetted coroners would sit in private without a jury if evidence surfaced involving national intelligence or anything deemed by the home secretary "not to be in the public interest".

## **6. USA: Voter registration woes as Presidential election nears**

The American Civil Liberties Union (ACLU) has called on the US Department of Justice to require states to comply with federal law with regard to the registration of voters for the upcoming US Presidential elections. It has been reported in the New York Times that election officials in a minimum of nine US states are in breach of federal law by improperly using Social Security data to screen newly registered voters or by removing thousands of voters after the federal deadline for registration has expired. The states involved are Alabama, Colorado, Georgia, Indiana, Louisiana, Michigan, Nevada, North Carolina and Ohio, over half of which are key battleground states for candidates.

The ACLU has called for the Justice Department to prosecute states for being "overly aggressive in purging voter rolls and blocking people from registering to vote." The organisation has actively used strategic litigation to protect the rights of voters in the upcoming election and into the future through its Voting Rights Project. Over 300 lawsuits have been taken to enforce the provisions of the Voting Rights Act and the US Constitution. These have related to felony disfranchisement such as the denial of the right of individuals who have been convicted of felonies; voting for American Indians and minority languages such as those of Alaska natives; ballot access; absentee ballots; voter purging; problems relating to voting technology and the Voting Rights Act.

Further information can be obtained through the ACLU's Voting Rights Project online at <http://www.aclu.org/votingrights/>

## **7. Irish Society of International Law Annual Lecture 28 October 2008**

The Irish Society of International Law's Fourth Annual Sean Lester Lecture will be take place at 7.30pm on 28 October 2008. This year's lecture, entitled 'On the Law of Peace', will be delivered by Professor Christine Bell. The venue for the event is the Green Hall at the Law Society of Ireland, Blackhall Place, Dublin 7.

Christine Bell is Professor of International Law and Co-Director of the Transitional Justice Institute at the University of Ulster. Her lecture will be followed by the launch of her new book 'On the Law of Peace: Peace Agreements and the Lex Pacificatoria' (OUP).

Admission to the lecture is €15 on the night, though advance purchase tickets are available online ([www.isil.ie](http://www.isil.ie)) at the reduced price of €10. Admission is free to members of ISIL and CPD certificates are available on request.

## **8. Second annual European Pro Bono Forum, Budapest, 5-7 November 2008**

The Public Interest Law Institute (PILI) will host the second annual European Pro Bono Forum from 5-7 November 2008. The Forum will take place in Budapest in Hungary with the aim of exploring emerging trends in *pro bono* practice across Europe. PILI encourages law firm representatives (both local and international), NGO representatives, solo practitioners and anyone interested in *pro bono* legal services to attend the Forum. Over two hundred people are expected to attend. Péter Köves, President of the European Council of Bars and Law Societies (CCBE), will be keynote speaker at the opening reception.

For any further information and to register for the conference, see [www.probonolawyer.eu](http://www.probonolawyer.eu) - discounts are available for NGOs and students.

**9. Date for your Diary: FLAC's Second Annual Dave Ellis Memorial Lecture, 1 December 2008**

FLAC is delighted to announce the date for our Second Annual Dave Ellis Memorial Lecture which will take place on Monday 1 December 2008, kicking-off at 6.30pm. The event will take place in the Morrison Hotel, Lower Ormond Quay, Dublin 1.

The lecture will be presented by Steven Shapiro, Legal Director of the American Civil Liberties Union (ACLU) based in New York City.

Further details will be announced closer to the date but for now, mark the date in your diary and keep an eye on [www.flac.ie](http://www.flac.ie)!

**10. ICCL Human Rights Film School Competition Launch, 10 December 2008**

The Irish Council for Civil Liberties (ICCL) will hold a reception and film screening on International Human Rights Day, to mark the launch of its Human Rights Film School competition. The event will take place at the Irish Film Institute in Temple Bar, Dublin 2 on 10 December 2008. This competition will offer film students and filmmakers the opportunity to submit an original short film, which will be judged by a panel of experienced, well-known professionals representing the Irish film industry.

Further information on the launch at the IFI and the competition can be obtained by contacting the ICCL at [info@iccl.ie](mailto:info@iccl.ie).

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