

flacNews

FREE LEGAL ADVICE CENTRES

Dealing with over-indebtedness is a social as well as economic necessity

At the end of February, the Joint Oireachtas Committee on Justice, Defence and Equality published its report on the scheme of the Personal Insolvency Bill, following a hearing at which interested parties, including FLAC, gave their initial reaction to the government's plans. FLAC had notified the Joint Oireachtas Committee in advance of the hearing in a submission.

The new legislative scheme is a positive development and is a change for which FLAC has long advocated.

However, concerns remain that the Minister for Justice and Equality has missed an opportunity to tackle several important aspects of the personal debt crisis. Among FLAC's general concerns with the legislation are the high creditor approval thresholds; the uncertain fate of rejected applicants for the debt scheme; the licensing and monitoring of trustees; the costs associated with insolvency and the failure to simultaneously reform the enforcement of judgments system.

We are on a tortuous road to what we hope will be some form of economic recovery. So far, the plight of the over-indebted consumer has been of peripheral importance to policy makers. There have been some sympathetic noises made but little by way of concrete action has been the norm. The presence of the International Monetary Fund (IMF) as the main driver of this legislation would suggest that it is motivated by economic rather than social justice



concerns. Specifically, the recapitalisation of many of our financial institutions and the 2011 stress tests has laid bare the reality of the losses that must inevitably be suffered on the lending books of financial institutions.

FLAC recognises that legislation enshrining the principle of debt write-down must be carefully considered and must include safeguards against abuse. However, the plain reality is that many borrowers' ability to repay is substantially diminished, in most

instances beyond the person's capacity to control. In finalising this scheme, it is important to focus on that reality and to relieve the human misery of unsustainable indebtedness. It is likely that economic benefits will eventually result from cleaning up this mess with an anticipated improvement in the financial situation of potentially thousands of citizens and therefore the economy generally.

It is also critically important that this scheme rebalances rights and places the welfare of the insolvent debtor and his or her dependants at the heart of the matter.

There are many in Ireland not over-indebted or who are fully servicing their obligations and who are deeply suspicious of what is proposed. FLAC therefore urges the State to take the lead in explaining the necessity for collective action as a society from a social as well as an economic perspective.

☐ See further FLAC analysis of the draft Heads of Bill on Personal Insolvency on page 8

On Thursday 19 April, FLAC will host a day-long conference on 'Legislating for Personal Insolvency in Ireland': International Developments & Domestic Issues which will feature renowned international and Irish speakers debating the forthcoming personal insolvency scheme. More information on www.flac.ie

in this edition...

Dealing with over-indebtedness is a social as well as economic necessity 1

Report highlights gaps in social protection 2

Tri-City EU project on EU migrants' experiences of accessing social welfare 3

Legal service reform must focus on access to justice 4

Legal aid waiting times continue to spiral 5

New journal on Community Economic Development Law 5

Still waiting for transgender recognition law 6

Transgender woman in civil partnership highlights need to legislate 7

The human face of disability law: Deaf juror addresses law students 7

A new hope for debtors 8

Central bank figures show mortgage debt still rising 9

Training highlights challenges facing asylum seekers in Direct Provision 9

Reducing legal costs by making legislation more accessible 10

Council of Europe bodies conduct State visit 11

PILA Updates: 12-13

Focus on FLAC:
PILA Manager Larry Donnelly 14

FLAC College Societies: Flying the student flag for access to justice 15

Ireland will sign the ICESCR Optional Protocol 16

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Report highlights gaps in social protection for migrants

Entitled *Person or Number*, a joint report from three human rights organisations – Crosscare, Nasc and Doras Luimni – says there are many shortcomings in the provision of social protection to migrants.

The report was officially launched on 21 February by Minister for Social Protection Joan Burton TD. Chairing the launch was FLAC Director General Noeline Blackwell. Representatives from the human rights groups involved in the reports compilation also spoke.

Based on the personal experiences of immigrants, *Person or Number?* highlights how the recent economic recession has affected the migrant community in Ireland. Some 54 individual case studies were examined in order to build up an accurate picture of the difficulties faced by immigrants attempting to access social protection.

While it goes without saying that nearly every community in Ireland has been adversely affected by the economic downturn, it is clear from this report that migrants are particularly vulnerable in times of recession and that the Irish social welfare system is failing some immigrants. Misinformation and the inconsistent, adversarial approach of some frontline staff have been cited as major problems. Several of those interviewed said that decisions relating to their payment had been based on speculation rather than fact. Three also complained of being on the receiving end of racist or abusive language when applying for payments.

FLAC has been campaigning on the issue of the Habitual Residence Condition for some time. One of the report's most disappointing findings was a continuing failure to apply the HRC fairly, as evidenced in 16 of the cases examined.



Person or Number? has two primary aims. Firstly, it offers policy makers an opportunity to reflect on the unique problems faced by immigrants. Secondly, the report provides a series of workable recommendations that it hopes will be heeded by those involved in the social protection system. For example, in relation to the HRC, the report recommends the implementation of an annual target for proper implementation of the HRC. It also calls for publication detailed information relating to HRC appeals and an urgent revision on guidelines for temporary absence from the State.

The solutions offered in the joint report are not only practical. They have also shown the multiple barriers that migrants face when applying for social protection.

FLAC hopes that the recommendations contained in *Person or Number?* are seriously considered by the Department of Social Protection.

Download the full report at www.nascireland.org/

Tri-City EU project on EU migrants' experiences of accessing social welfare

FLAC has partnered with the AIRE Centre in London, and Lize Glass, legal consultant and former AIRE intern, in Amsterdam, in an EU Commission funded Tri-City project on EU migrants' access to special non-contributory benefits. According to EU law, EC Regulation 883/04/EC which coordinates the social security systems of Member States, these benefits include: Jobseekers' allowance; State pension (non-contributory); Widow/er's (non-contributory) pension; Disability allowance; Mobility allowance and Blind Pension.

The overall aim of this project is to improve the information that EU migrants in Amsterdam, Dublin and London have about their right to access special non-contributory benefits. This will be achieved by collecting statistical data, holding round-table discussions with other NGOs and lawyers, reviewing decisions of courts and tribunals and analysing the findings to support the sharing of information, development of best practice and increase in capacity of advisers' and representatives' knowledge about special non-contributory benefits across the three cities.

The first round-table took place in London on 19 January 2012. Adrian Berry, barrister (Garden Court Chambers) and leading practitioner in the area of EU law and European social security, provided training on the applicable EU law and AIRE Centre Legal Director Adam Weiss provided an insight into the application of the right-to-reside test in the UK and the landmark *Patmalniece* case. Martin Williams from the Child Poverty Action Group spoke about the administrative difficulties faced by EU migrants' such as administrative delays. Other AIRE Centre staff delivered presentations on the problems faced by certain vulnerable groups such as victims of trafficking and domestic violence, homeless EEA nationals, and pregnant women.

On 1 March 2012 the second round-table took place in Dublin organised by



Pictured at the second round-table of the Tri-City project in Dublin (L-R): Saoirse Brady (FLAC), Lize Glass (Netherlands), Sarah St Vincent, Elena Consiglio, Adam Weiss & Esther Lieu (Aire Centre)

FLAC and the Aire Centre. More than 30 participants attended including legal practitioners, NGO advocates and academics with a wide range of expertise in social welfare law issues. Presentations were made by representatives from FLAC, Nasc, the Aire Centre, the Economic and Social Research Institute (ESRI) and Derek Shortall BL, a key practitioner in the area who acted in the *Solavastru* case.

Updates were also provided from the London round-table on cases concerning pregnant women and victims of domestic violence and the right to reside test.

Interestingly, the Economic and Social Research Institute presented findings from a recent report on immigrants' take-up of social welfare payments throughout the EU which dispelled common myths surrounding the issue of so-called 'welfare tourism'. The impact of the Habitual Residence Condition (HRC) on the EU migrants' access to special non-contributory benefits also featured strongly during discussions at the round-table. The

round-tables provided an excellent opportunity for individuals working in the sector of EU free movement, migration, welfare and social security to come together and share their experiences and best practice. The issues arising from the roundtables will be used by the project partners to develop advocacy and policy tools.

The next round-table will take place in The Hague in the Netherlands, in May 2012. The project will run until March 2013 and will conclude with a joint conference in London.

- ❑ More information on the project and the materials from the round-tables are available at: <http://airecentre.org/pages/ec-social-security-materials.html>
- ❑ The ESRI report on immigrants' take-up of social welfare payments throughout the EU is at: http://airecentre.org/data/files/Study_on_Active_Inclusion_of_Migrants_IZA_ESRI.pdf

Legal services reform must focus on access to justice

The Legal Services Regulation Bill will radically reform the way in which legal services are delivered in Ireland. FLAC welcomes meaningful reform in this area and believes it is vital that the Bill will make access to the legal system a priority.

In February FLAC submitted its views on the draft law and in March it made a presentation to the joint Oireachtas Committee on Justice, Defence and Equality at the Committee stage of the Bill. Its comments and recommendations are under four main headings:

- ❑ Legal costs.
- ❑ Issues around the proposed Legal Services Regulatory Authority.
- ❑ Public interest law issues.
- ❑ Public access to law and to lawyers.

Notably, one of FLAC's recommendations is to incorporate the United Nations' guidelines for lawyers into any new legal regulation mechanism. The Basic Principles on the Role of Lawyers, adopted by the UN General Assembly in 1990, actually offers more comprehensive standards for the conduct of lawyers than those proposed in the Bill, including appropriate conduct and responsibilities towards clients as well as the duty to respect the dignity of the legal profession and their role as agents of justice.

Legal costs:

One of the stated main aims of the Minister for Justice, Equality and Defence in drafting the bill is to address the thorny issue of legal costs. While the proposed legislation will offer greater transparency in relation to legal expenses and charges, FLAC is concerned that its provisions will not actually reduce costs for those who are exercising their right to access the courts or who must go to court as the only viable dispute resolution mechanism available to them.

FLAC recognises and supports the need for transparency around legal costs. However, it is FLAC's view that in order to address the real barriers forcing people to abandon their right of access to the courts, it must first be established exactly

why it is so expensive to access law. FLAC has recommended that a working group be appointed to identify why legal costs are so high and to propose ways to make access to justice more affordable.

Legal Services Regulatory Authority:

The Bill proposes a new body, the Legal Services Regulatory Authority, to broadly govern and regulate the legal profession, including the promotion of legal services to the public. In FLAC's experience, most people contacting our centres and telephone information line lack basic information on the law and the legal system as it affects them. This has a fundamental effect on their ability to access justice independently, on top of any cost consideration. However, while the mooted Authority does plan to raise awareness around legal services and their costs, it lacks a specific function to promote a basic understanding of law and the legal system.

In addition concerns have been raised around how the Authority would be controlled. Part of this comes down to how its members are appointed. The Authority would consist of 11 members, of which seven would be appointed directly by the Minister for Justice. This has raised the perception that the Authority is essentially rooted in and controlled by government. This current perception of bias in favour of the legal profession should not be replaced with a perception of bias in favour of government.

FLAC has recommended that the appointment of Authority members be reviewed so that there is total independence from the Government. In addition, FLAC believes there is an opportunity for the proposed Authority to encompass a much wider and more diverse selection of stakeholders with a legitimate interest in the regulation and oversight of legal services in Ireland.

Public Interest Law:

Public interest law cases are brought to clarify the law or to examine it in order to ensure that people's rights are being vindicated. In the experience of FLAC, as

recently examined by our Public Interest Law Alliance (PILA) project, the costs incurred by litigants in vindicating rights in the public interest is one of the biggest barriers to accessing justice. This is not specifically recognised in the Bill and FLAC has recommended that Part 10, which deals with legal costs in civil cases, should include a specific section permitting the granting of protective costs order in public interest law cases, in line with PILA's recommendations.

In addition, FLAC has highlighted the potential benefits of multi-party or class actions and has recommended that the Government review the Law Reform Commission's recommendations in this area with a view to introducing such mechanisms over the early years of the Authority's existence.

Access to law and lawyers:

In its submission, FLAC has strongly urged the Government to maintain the budget of the state Legal Aid Board such that no one who is entitled to civil legal aid should have to wait more than 2 to 4 months for help. As of January 2012, waiting lists for assistance in civil legal matters can vary up to 10 months, impacting heavily on the lives of people on the list and indeed on the entire legal system.

FLAC recognises that all state services are under pressure, but without doubt, the current blocks on access to a lawyer for those who need it are denying people their fundamental right of access to justice.

- ❑ You can read FLAC's full submission online at: bit.ly/FLAC_legalservbill11
- ❑ More information on the submission is at: bit.ly/FLAC_pr_sub_LSR2011
- ❑ The UN Basic Principles on the Role of Lawyers are online at <http://www2.ohchr.org/english/law/lawyers.htm>
- ❑ The Legal Services Regulation Bill is available at: bit.ly/legalservbill11
- ❑ PILA's 2010 report 'The Costs Barrier and Protective Costs Orders' is at bit.ly/PILAcosts_rep

Legal aid waiting times continue to spiral

The latest table of waiting times from the Legal Aid Board make for depressing reading. The state-funded body, responsible for providing civil legal aid to eligible people, has seen both its maximum waiting times and overall number of people waiting on appointments at its law centres increase substantially over the past year.

Out of 29 law centres, 22 centres have a maximum waiting time of more than 4 months. This goes against the Legal Aid Board's own recommendation as discussed by Mr Justice Kelly in the landmark case of *O'Donoghue v Legal Aid Board and Minister for Justice, Equality & Law Reform*. The Board itself recognised that no-one should have to wait any longer than two to four months for civil legal aid. FLAC monitors the Legal Aid Board waiting list statistics and the latest figures we have relate to January 2012.

Residents of Clondalkin, Tallaght and

Tipperary face the longest wait with delays of up to 10 months. This was closely followed by centres in Dublin's Brunswick Street and in Cork's Pope's Quay as well as in Kildare, Kilkenny and Laois, all with waiting times of up to 8 months.

The situation looks even bleaker when compared with statistics from the same period last year. Between January 2011 and January 2012, the waiting times had increased at 19 out of the 29 centres surveyed. The most alarming rise took place at the Popes Quay centre in Cork, where wait times grew from 3 months to 8 months in 2012. Waiting times had reduced at just 3 centres and remained unchanged at the remaining eight centres.

As of January 2012, 4443 people countrywide are waiting for their first appointment with a solicitor. This is a remarkable increase of 40% from January of the previous year. Individual centres

have also witnessed a dramatic rise in total numbers of people waiting for appointments, such as Brunswick Street in Dublin 7 and Kilkenny, with increases of 280% and 180% respectively.

One of FLAC's perennial concerns is that the current civil legal aid infrastructure is not meeting the need of the general public. Through our campaigning, publications and the diligent work of our volunteers in legal advice centres nationwide, FLAC is attempting to bridge the gap that currently exists.

However, FLAC is not a direct substitute for civil legal aid. Our work complements that of the Legal Aid Board, it does not replace it or in any way excuse the unsatisfactory waiting times revealed in the Legal Aid Board's statistics. FLAC's primary function remains a campaigning one and we will continue to monitor the state legal aid waiting times in great detail.

New journal on Community Economic Development Law seeks submissions

A new publication has been initiated by Northside Community Law Centre focusing on the effect of the overlapping fields of social policy, law and economic development on local communities.

The Irish Review of Community Economic Development Law and Policy already has 2 issues under its belt and is now seeking submissions from legal practitioners, academics and students alike for up-coming editions of the online journal.

Edited by Colin Daly and Marie Antonietta Nestor and published quarterly by NCLC, the peer-reviewed journal is generating debate around

community economic development law and increasing awareness of this non-traditional legal area.

Currently, the editors are seeking submissions for issues three and four. Articles, book reviews and case studies relevant to the issues' themes are all welcomed.

□ Issue three will focus on 'community investment and participation'. Suggestions for submissions in this area include (but are not limited to): community finance; the role of partnerships; tax incentives or cooperatives. **The deadline for submissions for issue three is 30 April 2012.**

□ Issue four will be based on 'legal

services and community legal education'. Suggestions for submissions include the impact of the proposed Legal Services Regulation Bill; *pro bono* experiences; clinical legal education from a practitioner / student / community perspective or the role of community law centres. **The deadline for inclusion in issue four is 31 July 2012.**

If you have any queries or would like to submit an article for The Irish Review of Community Economic Development Law and Policy, please e-mail the editorial team at editor@nclc.ie

Lydia Foy: Still waiting after 15 years

No transgender recognition law yet despite court ruling

On Saturday 14 April 2012, FLAC marks the 15th anniversary of Dr Lydia Foy's initial legal challenge to have her gender identity recognised in Ireland.

Dr Foy's own personal struggle had begun years earlier, but April 1997 was the first step in her tireless legal battle for true gender recognition, one which would blaze a trail on behalf of transgender people in Ireland. This personal battle evolved into one of the most groundbreaking cases in Irish legal history, ultimately resulting in the state's first declaration of incompatibility under the European Convention on Human Rights (ECHR) Act 2003.

Lydia Foy was diagnosed with Gender Identity Disorder in 1990, after years living unhappily as a male. For practical and personal reasons, Dr Foy attempted to obtain a new birth certificate that accurately reflected her true gender. This request was refused by the Registrar of Births and in 1997 she initiated her High Court challenge, represented by FLAC.

This first High Court case was to prove unsuccessful, as it was held in 2002 that neither the Constitution nor Irish law allowed for recognition of gender change. However within days of this judgment by Mr Justice Liam McKechnie, the European Court of Human Rights ruled in both the *Goodwin* and *I* cases that the UK had breached the human rights of two transgender women by failing to recognise their gender. Dr Foy appealed to the Supreme Court. Before the appeal could be heard, the European Convention on Human Rights Act 2003 was passed, bringing the European Convention into Irish law. Dr Foy issued new proceedings in the High Court and the case was heard again in 2007, a decade after her initial case had begun.

In October 2007, the High Court held in the second *Foy* case that the failure of the Irish state to recognise Dr Foy's gender constituted a breach of her



Dr Lydia Foy with FLAC Senior Solicitor Michael

Photo by Audra Melton with kind permission of Atlantic Philanthropies

rights under ECHR Article 8. It was also declared that Irish law in the area was incompatible with the ECHR. This was the first such declaration of incompatibility made under the ECHR Act 2003. A government appeal against this decision was dropped on 21 July 2010 and this finalised the Declaration of Incompatibility.

However, the sense of achievement felt in 2010 by FLAC and the many lawyers, legal interns and volunteers involved in the case is now accompanied by a nagging sense of frustration. Despite the state's ceding the case and a ruling from the courts that the state must now legislate to recognise transgender identity, Dr Foy and the wider transgender community in Ireland are still awaiting an appropriate law.

Dr Foy's action is undoubtedly a landmark case in the Irish equality and human rights sphere. It is deeply

regrettable that despite the enormous progress detailed above, the present government still has not introduced legislation allowing for recognition of a transgender individual's true gender. This amounts to an open and constant breach of the European Convention on Human Rights and FLAC continues to call on the government to rectify the situation.

The Minister for Social Protection, Joan Burton, announced in March that her Department was drafting the Heads of a Gender Recognition Bill. FLAC welcomes this development and will engage with the drafting process. Let us not see another year go by with this state-inflicted injustice visited daily upon a group of people in Irish society who have in most cases already climbed their own personal mountain to attain their true gender identity.

Transgender woman in civil partnership highlights need to legislate

A transgender woman has officially entered a civil partnership with her female partner in Ireland. The registration ceremony, which took place some time ago, amounts to legal recognition of the woman's acquired gender because the Civil Partnership Act requires that civil partners must be legally of the same sex. We will refer to the woman as 'Maria'.

The Civil Registration Service officially recognised Maria as female even though the Government has not yet introduced legislation to legally recognise transgender persons.

FLAC, the Free Legal Advice Centres, assisted Maria in her correspondence with the registration authorities, which resulted in her being allowed to register her civil partnership. Maria is a citizen of

another EU state who is working here. She is fully recognised as a female in her own country and has a birth certificate and identity documents, all showing her gender as female.

Maria is covered by EU law on free movement for workers and under that law the Irish authorities must accept her in the gender recognised by her home country. So when she met and formed a relationship with her female partner, the Civil Registration Service had to accept that they were of the same gender and could enter into a civil partnership.

However, an Irish citizen in Maria's position cannot enter into a civil partnership because Irish law still does not provide for recognition of transgender persons. Nearly five years after the High Court decided in the Lydia Foy case in 2007 that Irish law was in breach

of the European Convention on Human Rights over its attitude to transgender persons, the law has still not been changed.

It can only be a matter of time before a transgender Irish citizen applies for a civil partnership with her or his same-sex partner – or applies to get married to an opposite-sex partner. As the law stands at the moment, they are likely to be refused and the matter will end up in the courts again.

In September 2011, FLAC made a submission to government around planned legislation to provide for transgender rights in Ireland, available at bit.ly/FLAC_TGsub

The human face of disability law: Deaf juror addresses law students

Students at NUI Galway were given a unique opportunity to hear firsthand both the legal developments and human emotion experienced throughout the course of a disability law case. On 20 February, FLAC Senior Solicitor Michael Farrell and deaf client Joan Clarke addressed law students enrolled on the university's LLM in International and Comparative Disability Law and Policy.

The primary focus of the event was the case of *Clarke v Galway County Registrar and Ors.* with Michael Farrell and Joan Clarke, the solicitor and plaintiff in the case in question, both giving their views about it. This enabled the postgraduate law students to learn about the legal technicalities from the solicitor involved in the case and also gave them an opportunity to hear the plaintiff's own personal reaction.

In 2006, Joan Clarke was prevented from serving on a jury at Galway Circuit Court, despite her willingness to do so. Joan is profoundly deaf and was excluded from jury service on account

of her disability by provisions contained in the Juries Act 1975. These have since been somewhat amended by the Civil Law (Miscellaneous Provisions) Act 2008 but at the time, the law explicitly excluded deaf people from serving on juries, to Joan's huge disappointment.

Represented by Michael Farrell, Ms Clarke took her case to the High Court where it was held in 2010 that a blanket ban on deaf jurors can no longer be imposed. However, the judge went on to express his own opinion that persons could still be omitted from the jury panels over concerns about retaining the secrecy of deliberation with an interpreter present.

In addition to her own story, Joan was also able to relay the disappointment and embarrassment felt by Damien Owens, a deaf man ordered to leave the jury box in Tullamore Circuit Court in November 2011, when a judge held that an interpreter could not be allowed to assist him in the jury room.

Ms Clarke told the assembled students,

through an interpreter, that she felt that taking her case to the High Court had been a worthwhile experience even though she found it intimidating and frustrating and even if the outcome was not completely satisfactory. A lively discussion ensued as students considered issues such as the ability of deaf jurors to follow evidence in court, to pick up on underlying emotion in witness testimony and the debate surrounding the so-called '13th juror' or sign language interpreters in the jury room while the jury discusses the case.

The event was the brainchild of Eilíonóir Flynn of NUI Galway's Centre for Disability Law. She felt it would be beneficial for students to supplement their academic understanding of case-law with the personal impressions of the plaintiff.

Michael Farrell echoed this "An event like this is a very useful exercise. People can spend a long time analysing abstract legal issues. But today has reminded us that cases are not solely about points of law. Cases are about people too."

A new hope for debtors?

Draft scheme of personal insolvency bill published

On 25 January 2012 the government published its draft general scheme of the Personal Insolvency Bill 2012. This comprehensive document is a precursor to the publication of the Bill itself, which, as recently agreed with the EU Troika, has been deferred and will now be published before the end of April 2012.

FLAC has welcomed these proposals and it eagerly anticipates the publication of the Bill itself, which is of crucial importance not only in terms of modernising Ireland's antiquated personal insolvency legislation, but also in terms of adopting a comprehensive approach to tackling Ireland's personal debt crisis.

The thrust of the draft general scheme is that it paves the way for the introduction of an out-of-court debt settlement process in relation to both unsecured and secured debt, and it reduces the discharge time from bankruptcy to three years. However, after a bankrupt has been discharged from bankruptcy he/she may still be required to make additional payments for up to a further 5 years.

The out-of-court debt settlement system can be described as comprising three tiers. The first tier refers to unsecured debt up to €20,000 such as personal loans or credit card debt. This

debt can be frozen for one year and then completely written off if the debtor fulfils the qualifying conditions. The second tier refers to the Debt Settlement Arrangement. This covers unsecured debt of not less than €20,000. The debtor is required to liaise with a Personal Insolvency Trustee in this process, which will normally run for five years, after which a portion of the debt can be written off. However, the fly in the ointment is that creditor agreement to the tune of 65% is required for a Debt Settlement Arrangement to come into being.

The third tier refers to Personal Insolvency Arrangements (PIA). It covers both unsecured and secured debt from €20,001 to €3 million. A Personal Insolvency trustee will make a proposal on the debtor's behalf to creditors. However, in order to pass muster it must be supported by at least 65% of creditors generally. A PIA will normally last 6 years. Importantly, the PIA prioritises keeping families in their homes and provides that where a proposal is agreed and adhered to, the debtor's mortgage debt could be written down to market value.

While FLAC generally welcomes the draft general scheme it has a number of concerns. One of these is the licensing of personal insolvency trustees, which must be robust and rigorous. Unfortunately the draft scheme is short

on detail in relation to the licensing process. FLAC also considers the thresholds to be too low, especially as regards the debt relief certificate.

Furthermore, FLAC would advise that an ongoing review mechanism be incorporated into the system, allowing for issues arising to be addressed in a timely fashion rather than after 10 years as is proposed. Additionally, FLAC believes that full discharge from bankruptcy should occur after three years, save in cases of grossly improper behaviour.

On 15 February FLAC made a presentation to the Joint Committee on Justice, Defence and Equality on the draft general scheme. FLAC has also made a written submission to the Department and it hopes that its input will be considered.

- ❑ FLAC's presentation to the Joint Oireachtas Committee on Justice, Defence and Equality is available at bit.ly/FLACPR_joc_debtsub
- ❑ The full FLAC submission on the draft scheme of personal insolvency/debt settlement is available at: bit.ly/FLACsub_draftPIscheme
- ❑ The scheme of the draft law is at bit.ly/draftdebtbill

Volunteer solicitors & barristers needed

FLAC is seeking **fully qualified** solicitors and barristers.

- ❑ We need volunteers for **Port Laoise, Co. Laois; Balbriggan, Swords and Malahide, Co. Dublin; Dundalk, Co. Louth; Tralee, Co. Kerry; Arklow, Wicklow and Blessington in Co. Wicklow.**
- ❑ We are also looking for

employment law experts in the north Wicklow area.

- ❑ **Roscrea** FLAC urgently needs volunteers for a day-time service for women who may be experiencing **domestic violence.**
- ❑ **OutHouse** FLAC needs volunteer lawyers for an LGBT clinic (see article on page 16).

In general, volunteers give first-stop legal advice for about two hours a month in a FLAC centre. Resources will be provided to support your voluntary work.

If you are interested in getting involved, please contact Volunteer & Centres Manager Zsé Varga at (01) 887 3600 or by e-mail to volunteers@flac.ie

Central bank figures show mortgage debt still rising

The latest mortgage arrears figures released by the Central Bank on 17 February 2012 confirm an upward trend that will be all too familiar to readers of FLAC News. Despite a reduction in the total number of private residential mortgages held in Ireland, the percentage of these accounts in arrears for a period of 90 days or more continues to rise.

In the final quarter of 2011, some 9.2% of private residential mortgages were in arrears for longer than 90 days. This is an increase from 8.1% in the previous quarter, ending September 2011. When the mortgage arrears statistics for the year 2011 are examined, it is clear that people are finding it increasingly difficult to adhere to their original repayment plan.

The total number of Irish residential mortgage accounts has continually declined over 2011, falling from 782,429 in March to 768,917 in December. Worryingly, this drop in outstanding mortgage accounts has been accompanied by a rise in the number of households in arrears of over three months. However, it is not only the households described in the arrears statistics that concern FLAC.

A significant number of households have entered into discussions with their

lenders in an attempt to create a more workable payment plan. Between October and December 2011, some 74,379 mortgages were classified as 'restructured'. Of those accounts, 36,767 were not in arrears and are labelled as 'performing' by the Central Bank. During the same period, 9178 restructured mortgages had their repayment terms extended, while 24,811 entered an interest-only agreement.

FLAC has previously highlighted the



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dangers of assuming that households with mortgage accounts 'performing' as per the restructured agreement are not in great financial difficulty. It is vital to remember that these accounts have been renegotiated as a result of financial distress. Therefore, by adding the number of mortgages in arrears to those restructured but performing

loans, it can be stated that 107,708 Irish mortgages are struggling under heavy financial pressure.

The Central Bank statistics also reveal that 895 properties were held in possession at the end of the year (which refers to cases where the lender has stepped in and formally repossessed the property). During the final quarter of 2011, some 133 properties were taken into possession by lenders. Of these, 50 were taken on foot of an Order enforcing the debt, while the remainder were vacated voluntarily or abandoned. In the wake of these statistics, FLAC has warned that the unremitting upward trend in mortgage debt while predictable, should not lead us to become apathetic about a problem that is now affecting over 100,000 households.

FLAC Director General Noeline Blackwell warned that because the arrears figures are predictable, there was a danger of people no longer being appalled by the ever-rising number of family home mortgages in trouble. This makes it all the more urgent that the government introduce a comprehensive solution.

Read more about FLAC's reaction to the latest figures at <http://bit.ly/AkG6Jh>

Training highlights challenges facing asylum seekers living in direct provision

On 13 February 2012, FLAC delivered training on the challenges faced by asylum seekers living in direct provision accommodation and looked at opportunities for change. The aim of the training, which was supported by the Irish Refugee Council (IRC), was to highlight human rights concerns relating to the direct provision system and provide participants with the necessary lobbying and campaigning tools to empower both organisations

and individuals working with direct provision residents and individual residents themselves.

The training session began with an overview of government policy in relation to direct provision. Direct provision and dispersal was originally introduced in November 1999 as a pilot scheme but was rolled out nationwide in April 2000 and it remains in place today. At the moment there are approximately

5,600 people living in direct provision accommodation, with 55 per cent of these having been there for 3 years or more. Each adult in direct provision receives a weekly allowance of €19.10 and €9.60 per child.

FLAC has opposed the scheme since its inception due to the detrimental impact on the human rights of asylum seekers, which has been highlighted in

Continued on page 11

Reducing legal costs by making legislation more accessible

One of the greatest overheads accumulated when working with law is establishing what the legislation actually says. Legislation published on the electronic Irish Statute Book (eISB) (www.irishstatutebook.ie) does not show any amendments which may have been made. This article addresses a few of the questions which commonly arise for practitioners and any one working with legislation. The output generated by three Law Reform Commission projects, the Legislation Directory, Statute Law Restatement and the Classified List of Legislation, can help us answer some frequently asked questions.

1. How do I find out what amendments (if any) have been made to an Act?

The answer is in the Legislation Directory on the eISB website. Choose "Primary Legislation" for Acts, and the second option which starts "A chronological index...". Then find the year of your Act, and your Act within that year. The table for that Act summarises all the changes made to the Act up to the date of the Directory's last update (stated on the option you clicked). If your Act dates from 2006 or later, the Directory will also give you detailed commencement information and a list of any secondary legislation made under the Act.

2. Is there a consolidated version of this Act with the amendments integrated?

Possibly. Check the Restatement section of the Commission website at www.lawreform.ie. Restatements are prepared under the Statute Law (Restatement) Act 2002 and those currently published on the Commission's website are pre-certified pending certification by the Attorney General. Certification will entitle them to judicial notice.

3. How do I find out if a pre-1922 Act is still in force?

The Statute Law Revision Act 2007 lists all pre-1922 Acts still in force in the first schedule on the date of its enactment.

Some of these have been repealed since, and you can check their status in the Legislation Directory.

4. Where could I find the text of a pre-1922 Act?

The eISB does not currently contain pre-1922 legislation. The Commission's website will shortly have nearly all the pre-1922 legislation retained by the Statute Law Revision Act 2007, but meanwhile, you would have to go to a law library or use a commercial database like Justis or Lexis.

5. I heard a bill was going through the Oireachtas. Where can I find out if it is now enacted?

Look on the Oireachtas website at www.oireachtas.ie which shows the progress of a bill, or on the President's website at www.president.ie under "The President's role". Then check to see if there is a commencement provision, as legislation does not always come into effect on signature by the President but may need a commencement order, or have a particular date specified in the Act.

6. An Act contains a commencement provision which says that it will be brought into effect by ministerial order. Where can I find out if it is in effect and on what date?

The Legislation Directory contains a list of Acts with related commencement orders (the third option listed on the main page). Alternatively, if the Act dates from 2006 or after, this information is tracked on the Legislation Directory page for that Act. Another option is to do a search by putting the name of the Act in inverted commas into the first "Title" search box on the eISB's Search page.

7. How do I find out if powers under an Act have been exercised to make regulations?

If the Act dates from 2006 or after, this information is tracked in the Legislation Directory page for that Act. If not, you will have to do a search using the search facility on the eISB. Put in the name of the Act in inverted commas in the second box and start the search from the date of the Act.



Barbara Brown and Aoife Clarke, members of the Law Reform Commission's Legislation Directory team

8. How do I find out if a statutory instrument has been amended?

If the SI dates from 2003 or after, this information is tracked in the Legislation Directory. Choose the option "Secondary Legislation" and find the year and number of the SI – any amendments appear in the table belonging to it. If the SI is earlier than 2003 (or 2002 as the Directory is being extended backwards as more work is done), do a search using the search option with the name of the SI in the second box, starting from the year of the SI.

9. Where can I get a list of all legislation in force on family law?

The Law Reform Commission has published a Classified List of Legislation in Ireland on its website, and it is now in its 4th revision. All the family law legislation is under Title 17, Family Law.

Many comparable jurisdictions have current law available online, and this reduces the overheads in working with legislation. Ireland is behind in many respects, but if you get to know your way around it, the information available online does enable you to check the current position.

The author of this article, **Alma Clissmann** is the Statute Law Restatement project manager in the Law Reform Commission and may be contacted at aclissmann@lawreform.ie

Useful websites:
www.irishstatutebook.ie
www.oireachtas.ie
www.lawreform.ie

Training highlights challenges facing asylum seekers living in direct provision

Continued from page 9



two FLAC publications, namely *Direct Discrimination* (2003) and *One Size Doesn't Fit All: a legal analysis of the direct provision and dispersal system in Ireland, 10 years on* (2010), both available to download from the FLAC website.

One of the presentations set out the relevant national and international law in relation to economic, social and cultural rights. Breakout sessions in the afternoon explored how children and adults' economic, social and cultural rights are affected by the direct provision system. The workshops also looked at the State's obligations to respect, protect and fulfil those rights.

During the course of the training,

participants identified opportunities for change at a policy level. Much discussion also focused on ways to empower direct provision residents by providing them with information on complaints mechanisms as well as ways to present their issues publicly.

Twenty-three participants attended the training, including representatives from national and regional NGOs and direct provision residents. While most participants had a high level of knowledge of the topics covered before the training, nearly all participants stated they would have a high or very high level of confidence in using the information presented at the training in their work. Promisingly, national and regional NGOs attending the training also expressed their intentions to host workshops in their local areas using the training materials.

Thank you Dylan!

FLAC was delighted to receive a generous donation of €1,500 from Dylan Haskins in February this year. Dylan ran for election in Dublin South East in 2011 and while not elected, he received enough votes to qualify for the reimbursement of his election expenses. Dylan made the generous decision of distributing this and the surplus from his election campaign among 10 different charities and causes carrying out work within the scope of his four campaign policy areas.

FLAC's work on debt and consumer credit fit within the 'Restructuring for a Reliable Economy' pillar of the campaign.

Thank you to Dylan and all those involved in his campaign!

Council of Europe bodies conduct State visit

The European Commission against Racism and Intolerance (ECRI) and the Advisory Committee on the Framework Convention for the Protection of National Minorities (ACFC) made a joint monitoring visit to Ireland from 27 February to 2 March 2012. The two Council of Europe bodies met with various government departments as well as meeting civil society representatives to discuss the situation regarding both national minorities and measures taken to combat racism and intolerance.

The delegation consisted of ACFC members Mr Einar Niemi of Norway and Ms Edita Īiobiene of Lithuania and ECRI members Ms Alenka Puhar of Slovenia and Ms Barbara John of Germany. They were accompanied by Mr Stephanos Stavros, Executive Secretary to ECRI and Mr Krzysztof Zyman, Administrator in the

Secretariat of the Framework Convention for the Protection of National Minorities.

FLAC, along with a number of other NGOs, raised concerns with members of ECRI and the Advisory Committee about substantial cuts to the human rights and equality infrastructure including the dismantling of the National Consultative Committee on Racism and Intolerance (NCCRI) as well as the merger of the Irish Human Rights Commission and the Equality Authority. We also highlighted concerns about the direct provision and dispersal system for asylum seekers as well as the impact of the Habitual Residence Condition (HRC) on migrants and other vulnerable groups including victims of domestic violence, Travellers and EU migrants.

Representatives from both bodies met with government officials to discuss

issues outlined by civil society representatives. ECRI delegates also visited a direct provision accommodation centre in Galway while the ACFC delegates went to a Traveller halting site to assess the updated position of both groups since their previous visits.

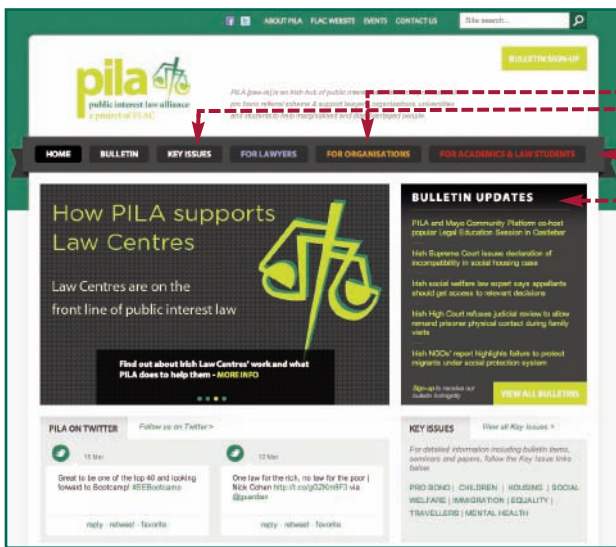
The joint visit was the first such combined visit to the State by the bodies although it was ECRI's fourth visit to Ireland and the FCNM's third monitoring cycle. The bodies will issue a joint report and will invite the Irish Government to make comments before publishing the final report in 2013.

Previous reports on Ireland, including the State's responses, can be accessed online at <http://www.coe.int/>

pila PUBLIC INTEREST LAW ALLIANCE a project of FLAC

UPDATE

PILA launches new website as hub of public interest law



www.pila.ie

In early March PILA was delighted to launch its new website, developed by Totally Communications. Major new features on the website are:

- Clear information about how PILA can work with organisations, lawyers, academics and law students.
- Extensive resources available under Key Issue topics, such as housing, social welfare, immigration and the barriers to public interest litigation.
- An ‘Achievements’ page which sets out clearly PILA’s successes since its launch.
- Mobile access to the site for all smartphone users! When visiting PILA.ie from your phone, you will be auto-directed to the mobile website. For now, the mobile website is just for the Bulletin – but soon all content, and future exciting developments to the PILA website will be available in mobile format.

Seminar on the role of NGOs in public interest litigation

The Public Interest Law Alliance held a practitioner seminar on 9 February entitled The role of non-governmental organisations in public interest litigation. It featured as speakers Liam Herrick (Executive Director, Irish Penal Reform Trust) and TJ McIntyre (Lecturer, University College Dublin), and was chaired by Professor Colin Harvey (Professor of Human Rights Law and Head of the Law School, Queen’s University Belfast).

The seminar aimed to provide practical case studies and guidance on how NGOs can be involved in public interest litigation – including potential risks and common obstacles.

Liam Herrick spoke in detail about the

experience of IPRT in pursuing public interest litigation on behalf of mentally ill prisoners in the case of *Lennon, Carroll and Irish Penal Reform Trust (IPRT) v. Governor of Mountjoy Prison*. His presentation included discussion of the barriers that IPRT faced by bringing the action, such as issues of standing (*locus standi*) and the ongoing risk of costs.

TJ McIntyre spoke about the catalyst events that were the foundation for the NGO Digital Rights’ involvement in ongoing public interest litigation. He discussed the preliminary hurdles to the litigation, including issues of standing and security for costs. He also spoke about the factors that NGOs must consider before taking

litigation – questions such as whether the litigation is a last resort, are there low cost alternatives and whether the organisation could afford to lose?

PILA Manager Larry Donnelly rounded off the event by suggesting the possibility of NGOs getting involved in public litigation as *amicus curiae* (a friend of the court). The Irish Human Rights Commission has recently appeared as an *amicus* in a number of public interest cases, including a hearing that is part of the Digital Rights litigation.

Copies of the papers and presentations from the seminar are available on www.pila.ie.

PILA and Mayo Community Platform co-host popular Legal Education Session in Castlebar

On Wednesday 15 February, PILA and the Mayo Community Platform hosted a free legal education session on family law and mental health law. It was a very popular event, with a turnout of over 80 people from a wide range of organisations. This event is an example of PILA's continuing efforts to ensure its services reach organisations outside of Dublin.

The key speakers at the session were Michael Smyth of FG Phelan & Co Solicitors and Thomas J Walsh of Thomas J Walsh Solicitors. Michael delivered a mental health presentation, and Thomas delivered a family law presentation.

Lianne Murphy, PILA's Project Officer said at the session "We are delighted to be able to host this Legal Education Event in partnership with the Mayo Community



PILA staff & Mayo Community Platform representatives, with Thomas Walsh Solr at the free legal education session in Castlebar, Co. Mayo.

Platform in Co. Mayo. It is important to raise awareness around the areas of mental health law and family law, and to increase individuals' and organisations' capacity and knowledge which I believe we have achieved here today. I would like to acknowledge the two solicitors who contributed their knowledge and time *pro*

bono, which was crucial to the success of the event."

Speaking to the *Mayo Today* publication, Michelle Rooney from the Mayo Community Platform said: "The day was a huge success and extremely informative. It was great to see such a large turnout and we are confident that those who took part were able to take valuable learning away with them. The Mayo Community Platform is committed to building on the success of this event, and continuing to work collaboratively to support those affected by poverty and social exclusion."

PILA Manager meets UCD Law Professor

PILA Manager Larry Donnelly met recently with Professor Colin Scott of the School of Law at University College Dublin to discuss the School's ambitious plans in the field of clinical legal education.

Globally, clinical legal education programmes award academic credit to law students working with practising lawyers and non-governmental organisations; they allow students to see how to apply the theory they learn in the classroom in real-world scenarios.

Clinical legal education programmes also seek to make students aware of the potential for law to be used in the public interest and of the special responsibility of lawyers in society.

PILA is working to expand clinical legal education in Irish law schools. UCD School of Law is introducing a number of clinical elements to its undergraduate law programmes. These range between modules addressing clinical themes (such as in the theory of court practice) through to more experiential learning in fields such as advocacy and



Sketch of UCD's planned new law building

alternative dispute resolution. An additional new module will address lawyers, ethics and legal practice and present students with the opportunity to engage with issues of professional ethics for the first time at UCD.

The programme will be run in the new Sutherland School of Law building, in a purpose-built clinical legal education centre with legal practice rooms, witness room and judges' room, as well as a three hundred-seat lecture theatre which converts into a ceremonial moot court. The School sees the new modules as comprising a first phase of clinical development and has further innovative plans including developments in the field of public interest law.

Professor Scott commented that while these innovative modules are also targeted at encouraging students to

acquire some valuable new skills, the primary purpose is to enrich understanding through experiential learning rather than claiming to train the students in all the skills they might require for legal practice.

The burgeoning clinical programme at UCD is another very welcome initiative in the development of Irish clinical legal education. It was important for PILA to support both the programme at UCD and the efforts of all those interested in starting clinical legal education programmes at Irish law schools.

Larry Donnelly concluded that the experience of other jurisdictions demonstrates that today's clinical law students are likely to be the public interest lawyers of the future.

FOCUS ON FLAC:

Larry Donnelly, PILA Manager

Public Interest Law Alliance (PILA) is a project of FLAC formally established in 2009. PILA seeks to advance the use of law in the public interest in Ireland. Larry Donnelly, a native of Boston, Massachusetts, USA, is PILA Manager. His interest in working with FLAC was first ignited when he attended its conference on public interest law in 2005. Larry joined PILA in September 2010 from his post as Lecturer and Director of Clinical Legal Education at the School of Law, NUI Galway. He is also an attorney-at-law who has practiced before state and federal courts and administrative tribunals in the US Commonwealth of Massachusetts.

PILA seeks to bring together people committed to using law for the benefit of marginalised and disadvantaged people. Larry believes that the strong social justice roots of PILA's mission must be fully recognised if using law in the public interest is to reach its full potential. Whilst working with non-governmental organisations, individual lawyers, law firms, community and independent law centres, legal academics and students, PILA has also cultivated relationships with individuals and organisations committed to public interest law in other countries. Moreover, the Public Interest Litigation Support (PILS) Project in Belfast is another key PILA partner. PILA's fortnightly *Bulletin* has over 1,500 subscribers and is a vital means of contact with members of the Alliance.

Since PILA's launch in 2009, it has been promoting the use of the law by NGOs for social change. A prime example of PILA's success is the ever-increasing number and type of referrals the project has completed through its *pro bono* register, thereby connecting legal need with legal expertise in a wide range of practice areas. Since its inception, PILA has organised 26 legal education training sessions delivered *pro bono* by lawyers for NGO staff. These sessions aim to assist organisations to use the law more effectively in their work. Sessions have been held on mental health law, housing law, family law, good governance, immigration law, drafting and advocacy skills amongst others. Larry puts it thus: "PILA has helped to put public interest law on the map in Ireland. We can see that in the community of lawyers who have signed up to the *pro bono* register and



© Photo by Derek Speirs

in the increased knowledge of the law and legal system in NGOs."

In addition, Larry consults on an ongoing basis with legal academics in Irish law schools about existing and planned clinical legal education programmes, resulting in significant expansion. He talks to law students throughout Ireland to raise their awareness of public interest law and to encourage involvement with PILA. To this end, Larry publishes law review articles and presents conference papers, nationally and internationally, on the role clinical legal education can play in furthering the causes of human rights and social justice. One of PILA's long-term goals is to have clinical legal education in all the law schools

modelled on the system that operates in the US and other common law jurisdictions, such as Australia and the UK.

PILA has identified costs as the most significant barrier to public interest litigation in Ireland. In Irish litigation, the normal rule is that "costs follow the event", often meaning that the loser pays the winner's costs. A protective costs order differs from the normal costs order in two key ways. Firstly, the order is made at the outset of the case; secondly, the costs order does not follow the event. They are granted in a very limited category of cases involving genuine issues of public interest that extend beyond the confines of the individual case before the court and are in need of resolution.

The Irish courts have not yet granted a protective costs order. They have, however, recognized their jurisdiction to grant these orders in two cases: *Village Residents Association Ltd. v An Bord Pleanála and MacDonalds* and *Friends of the Curragh Environment Ltd v An Bord Pleanála & Ors*.

PILA has raised awareness about the use of protective costs orders in other jurisdictions and FLAC has argued for putting protective costs orders on a legislative footing in its submission on the pending Legal Services Regulation Bill. Ultimately, Larry is confident that, in an appropriate case, an Irish court will issue a protective costs order.

Legal advice with your pancake?



FLAC Legal Intern John Deignan giving a talk to visitors of Ringsend CIC enjoying Pancake Tuesday on 21 February. FLAC and Dublin CIS 2-4-6 co-hosted a pancake morning with a difference: As well as enjoying some delicious pancakes, visitors got legal advice from volunteers at the pop-up FLAC clinic and listened to free talks on social welfare appeals and making a will.

FLAC College Societies: Flying the student flag for access to justice



Pictured at the launch of NUIM FLAC are (front row, L-R) Sinéad Finnerty, Peter O Loughlin, Dr Louise Kennefick, Sé Sweeney McCabe (back row, L-R) Liam Sunner, Deirdre McGowan, Kevin Clarke, Matt McDermott, Patrick Cagney and Zsé Varga, FLAC Volunteer and Centres Manager.

Friday 24 February saw the launch of the latest addition to the FLAC College Societies family at NUI Maynooth. Speaking at the event, Zsé Varga, Volunteer & Centres Manager of FLAC, commented on how the centre will benefit both the students who run the clinics and those seeking legal information.

NUI Maynooth FLAC joins the four current student societies at University College Cork, Trinity College Dublin, NUI Galway and Dublin City University.

NUI Maynooth FLAC will hold clinics on campus at 7pm every Tuesday in the Iontas Building. The clinics will provide basic legal information to the NUI Maynooth students via 8 law students supervised by a legal practitioner. Spokesperson for NUIM FLAC Sinead Finnerty said the group was looking forward to using its knowledge and training in helping the community in any way it could.

The FLAC student societies play a very important role in the work that FLAC does. They operate independently of FLAC's head office but work closely with the organisation to further the aims of access to justice. They have

held campaigns in conjunction with FLAC on many issues. FLAC college societies are the first introduction for many law students to Public Interest Law. Students benefit from the practical experience gained from attending clinics and working with qualified solicitors and barristers as well as getting the opportunity to apply the legal knowledge and skills they learn in the lecture hall to real life legal problems.

FLAC college societies provide a very important service to the students they assist. The main issues include landlord and tenant law, minor public order offences and employment law.

The student FLAC societies also provide training for members to ensure they are able to assist students with legal problems. Training seminars typically include issues like landlord and tenant law, employment law and the law around public order offences.

The societies are a fantastic opportunity for people studying law to get involved with law's practical side from the very start of their careers.

Eoin Coffey is Convenor of UCC FLAC and a former Legal Intern at FLAC HQ.

Work permit success for Bulgarian and Romanian nationals

FLAC welcomes the recent decision by the Department of Jobs, Enterprise and Innovation to amend their work permit policy in relation to Romanian and Bulgarian nationals.

In a case initiated by Nasc, the Irish Immigrant Support Centre, assisted by Brophy Solicitors and Michael Lynn BL, the State was asked to reconsider their position on the work permit requirement for Romanian and Bulgarian citizens.

Originally, the Irish state was of the opinion that Romanian and Bulgarian nationals with Irish citizen children would not be entitled to work permits here (unless they had already fulfilled other requirements granting access upon accession). The basis for this opinion was that they believed that the ruling in the *Ruis Zambrano v Office National de l'emploi (ONEm)* case did not apply to individuals from Romania and Bulgaria respectively.

PILA, the public law interest project of FLAC, facilitated legal advice on this issue for NASC through its *pro bono* referral scheme. On foot of the legal advice, PILA organised a working group bringing together the NGOs and practitioners who resolved this important issue which will help certain Romanian and Bulgarian nationals realise their employment rights.

In March 2011, the Court of Justice of the European Union handed down its ruling in the *Zambrano* case. The Court held that an EU member state could not refuse the third country national parent of a dependent EU citizen child the right to live and work in the member state of which the child is a citizen.

The Irish Government has since indicated that Romanian and Bulgarian parents of Irish citizen children will be granted access to the Irish labour market without need of work permits.

□ The Dept of Jobs, Enterprise and Innovation website has been updated: bit.ly/djei_change

Ireland will sign ICESCR Optional Protocol

FLAC welcomes the government's announcement that Ireland has agreed to sign the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

A joint press statement issued by the Tánaiste and Ministers for Foreign Affairs and Justice on 6 March revealed that Ireland would sign the Optional Protocol, subject to ratification, becoming the tenth European Union member state to sign the Protocol.

The ICESCR Optional Protocol provides individuals with recourse to an international complaints mechanism if they feel their rights have been denied at a domestic level. It is a separate legal document from the ICESCR itself and includes enforcement procedures for rights contained within the Covenant.

Under the Optional Protocol, a 'communications procedure' and an 'inquiries procedure' are established. The communications procedure allows individuals and/or groups to lodge a complaint with the Committee on Economic, Social and Cultural Rights while the latter option allows the Committee to undertake its own investigation into human rights violations.

Minister for Justice, Equality and Defence, Alan Shatter commented that:

"the complaints mechanism established by the Optional Protocol to the ICESCR is in keeping with the spirit of the many independent complaints, monitoring and inspection bodies that are currently in place in Ireland. In signing this Optional Protocol, we continue

to affirm our determination to achieve full respect for human rights in practice."

FLAC is pleased that the government has taken this opportunity to pledge its dedication to protecting economic, social and cultural rights at a time when these particular rights are especially vulnerable.

It is important to point out that these mechanisms will only be available following ratification of the Optional Protocol. In addition to this, ten states in total must ratify the Protocol before it becomes enforceable.

As it stands, only seven states have fully ratified. FLAC will continue to urge the Irish Government to demonstrate its commitment to human rights by ratifying the Optional Protocol.

New website for LGBT legal assistance initiative

A new website was launched recently on an initiative to provide free legal information to Ireland's Lesbian, Gay, Bisexual & Transgender community. The website is run by the LGBT Lawyers' Association of Ireland and aims to create awareness of the specific legal issues experienced by the LGBT community here.

It is hoped that the Association's work will increase the visibility of LGBT lawyers and provide LGBT students with additional support.

One of the services offered by the association is an LGBT FLAC clinic on the premises of Outhouse at 50 Capel Street, Dublin 1. The clinic is open 7.00pm-8.30pm on the first Tuesday of every month and provides free and confidential advice on LGBT legal issues.

❑ Check out the LGBT lawyers' new website at www.lgn.ie

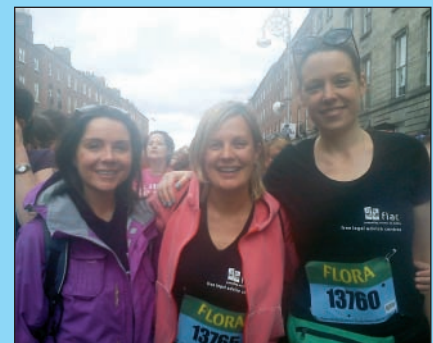
Women's Mini-Marathon 2012: Come join Team FLAC!

Join Team FLAC for the Flora Women's Mini Marathon this year – still the biggest all-women's event of its kind in the world with more than 40,000 women taking part every year. Brilliant atmosphere, great cause!

In 2011, FLAC helped more than 25,000 people struggling with legal problems in areas like family, employment and consumer credit. We campaigned hard to improve law around personal debt, equality and social welfare. We produced guides on issues like social welfare appeals, habitual residence and mortgage arrears.

FLAC needs your support to ensure this important work continues.

To join the FLAC team for the event, just e-mail us at info@flac.ie and we will send you out a FLAC Women's Mini-Marathon Pack, with a sponsorship card and other information. You will collect your Team FLAC t-shirt on the day of the race and



Team FLAC runners Victoria Conway, Carine Pessers and Sarah McCabe at the Women's Mini-Marathon in 2011.

after it's over, we'll get together for the post-race analysis!

You will need to register for the race separately. You can do this online at <https://www.florawomensminimathon.ie/> or by sending in the application form from the Evening Herald that appears every Wednesday and Saturday. Do apply soon as the places are filling up fast!