

JUSTICE-ILAG

Legal aid newsletter

No 2: December 2008

Around the globe: News stories on legal aid

Theme of the month

The month's news has been much like the weather in London – cold, wet and miserable. Cuts and pressures to legal aid dominate the world – from Victoria in Australia where the lawyers are demonstrating outside the courts, through British Columbia which is experiencing a 'perfect storm' of greater calls on less money to the US where a variety of pressures are leading to severe cuts to civil legal provision. In this gloom, Scotland provides a rare flash of sunlight as it increases means-tested levels and the European Court of Human Rights decides that the right to legal assistance generally extends to the position during police interviews.

Cases

European Court of Human Rights endorses in *Salduz v Turkey* the general need for legal representation during police station interviews:

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=843654&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

The Court found that in order for the right to a fair trial under Article 6 § 1 to remain sufficiently "practical and effective", access to a lawyer should be provided, as a rule, from the first police interview of a suspect, unless it could be demonstrated in the light of the particular circumstances of a given case that there had been compelling reasons to restrict this right. Even where compelling reasons might exceptionally justify denial of access to a lawyer, such restriction - whatever its justification - must not have unduly prejudiced the rights of the accused under Article 6. The rights of the defence would in principle be irretrievably prejudiced when incriminating statements made during a police interview without access to a lawyer were used as a basis for a conviction.

Reports and legislation

England and Wales: Consultation paper on means-testing criminal cases in Crown Court and capping costs payable out of central funds to those acquitted.

http://news.bbc.co.uk/1/hi/uk_politics/7713333.stm

Scotland: Civil eligibility levels to rise. <http://news.bbc.co.uk/1/hi/scotland/7714558.stm>

Legal aid and administration

US: Public defenders in seven states refuse to take new cases in order to control workload.

http://news.postbulletin.com/newsmanager/templates/localnews_story.asp?z=49&a=370241

Dramatic cuts to IOLTA funds leads to decline in funding from \$20m in 2007 to projected \$4m in 2009 in Connecticut. <http://www.ctlawtribune.com/getarticle.aspx?ID=32000>.

40 per cent cut in funding for Massachusetts

<http://www.bostonherald.com/business/general/view.bg?articleid=1132619&srvc=business&position=recent>.

10 per cent cuts to New Hampshire Legal Assistance:

<http://www.nhpr.org/node/19189>.

Cuts to civil programmes in Seattle and around the country:

http://seattlepi.nwsourc.com/local/389819_legalaid28.html.

Cuts in bank rates likely to hit legal aid provision in Ohio.

<http://www.bizjournals.com/columbus/stories/2008/11/24/story5.html>

Australia: Law Council estimates a third of legal aid practitioners dropped out 'in the past few years'. <http://www.abc.net.au/am/content/2008/s2419402.htm>.

Law Council argues £200m cut to legal aid funding in last nine years.

<http://www.abc.net.au/news/stories/2008/11/14/2420179.htm>.

Attorney General wants 'to do something' but not clear what.

<http://www.abc.net.au/news/stories/2008/11/16/2420851.htm?section=australia>.

Australia, Victoria; solicitors threaten ban on criminal legal aid work due to low costs.

<http://www.theage.com.au/national/lawyers-threaten-legal-aid-ban-over-pay-rates-20081120-6cvi.html>.

Around 200 Victorian lawyers demonstrate against legal aid cuts outside court:

<http://www.abc.net.au/news/stories/2008/11/27/2430919.htm?site=melbourne>.

Canada: BC predicts 'perfect storm' on legal aid costs as effects of economic crisis hits budget. <http://www.canada.com/vancouver/news/story.html?id=a6b444b4-6248-443a-86f5-949b03de3486>.

In Ontario, report says that more than half of all criminal certificates go to lawyers with less than 10 years experience and there is a problem in retaining experienced practitioners:

<http://www.thestar.com/News/GTA/article/545822>. The report

argues for higher payment for a class of experienced practitioners:
<http://www.theglobeandmail.com/servlet/story/LAC.20081129.LESAGE29/TPStory/National>.

Ghana: Success claimed for Ghana Legal Aid's Community Mediation Centres:
<http://news.myjoyonline.com/news/200811/22899.asp>

Nigeria. Legal Aid Council petitions to extend its remit to cover civil matters as well as criminal. <http://allafrica.com/stories/200811210325.html>

Northern Ireland: details of recipients of legal aid payments published for first time:
http://news.bbc.co.uk/1/hi/northern_ireland/7752822.stm.

US: Legal Aid Society for Greater Cincinnati celebrates century of existence.
<http://rodeo.cincinnati.com/getlocal/gpstory.aspx?id=100226&sid=138489>

US and India: Legal aid day in Ohio.
<http://www.coshocotribune.com/article/20081112/NEWS01/811120311>. Legal Aid Week in
Mangalore, India. <http://mangalorean.com/news.php?newstype=local&newsid=100339>

Legal aid and lawyers

England and Wales and US: Legal Services Commission increases funding for 150 trainees to join legal aid providers to total of £3m. <http://www.thelawyer.com/cgi-bin/item.cgi?id=135573&d=477&h=479&f=478>. US Department of Education publishes regulations on educational loan forgiveness for those undertaking public services. <http://edocket.access.gpo.gov/2008/pdf/E8-24922.pdf>. These confirm that those in not for profit organisations providing public services may qualify but :

We do not believe it is appropriate to make employees of for-profit firms receiving IOLTA funding specifically eligible for the public service loan forgiveness program. These employees are not employees of a government agency and are not likely to work fulltime at a public service job.

Events and research

Netherlands: University of Tilburg launches access to justice study group seeking to measure the cost and quality of access to justice.
<http://www.tilburguniversity.nl/faculties/law/research/tisco/research/projects/access/>

Netherlands: University of Maastricht holds conference on effective criminal defence rights as part of continuing project funded by European Commission and the Open Society Justice Initiative:

<http://www.unimaas.nl/default.asp?template=werkveld.htm&id=IJD0275IJA64QP5HGHFB&taal=en>

And finally

This is the second of three test newsletters. It includes stories that appeared in news coverage around the world during the month of November 2008. They have been assembled in order to test the usefulness of collecting this sort of information in a monthly bulletin. If useful, the newsletter may be formalised via the imminent International Legal Aid Group website: if not, it will cease at the end of the year. The newsletter is being circulated to ILAG members by Alan Paterson and to a list of individuals who might be interested by Roger Smith.

Please do scan the stories, check the links and assess the usefulness. The source is a regular daily scan of news stories, augmented by the occasional proactive search and filtered through an attempt to pick out stories with a potential international interest. The stories have been compiled by Roger Smith, director of JUSTICE to whom you are invited to email any comments or suggestions for improvements: rsmith@justice.org.uk.

During the trial period of three months until the end of the year, the newsletter will contain only news links of the kind below. There is the possibility of extending the content in due course. If you would like to be taken off the circulation list or have someone added to it: contact rsmith@justice.org.uk. ILAG was established in 1992 as a way of bringing together academics, administrators and others interested in the development of legal aid. ILAG is constructing a website at www.ilagnet.org. JUSTICE is a UK-based human rights and law reform organisation dedicated to advancing human rights, access to justice and the rule of law. Its website is www.justice.org.uk.