

The AIRE Centre
Advice on Individual Rights in Europe



The AIRE Centre's first decade

The

idea of creating the AIRE Centre was conceived by Nuala Mole and Ron Hooghiemstra early in 1993 when Nuala was the Director and Ron the Legal Officer at Interights, a London-based NGO. The idea was that the new organisation would

provide information and advice on the rights people enjoy under both European Community law, as it then was, and the European Convention on Human Rights. Interights had provided a similar but limited service but the focus of its work was beginning to move away from Western Europe. We wanted to make sure that there was still a real need for the service. Nuala canvassed the views of Nicolas, now Sir Nicolas, Bratza, then the UK member of the European Commission on Human Rights. His generous response was that this discussion needed a long lunch and by the end of it we had the encouragement we needed. We wanted to be sure not only that there was a demand for our work but also that it would complement what was being done by others in the field. So we spoke to many other NGOs and legal practitioners including James Davies, the employment and immigration specialist at Lewis Silkin. He kindly agreed to host a meeting in April 1993 attended by representatives of other relevant NGOs such as Liberty and Justice, and by experienced practitioners including the late Peter Duffy. Their support and encouragement was unanimous. We cherish to this day the spirit of open co-operation and collaboration that flourishes between us and other NGOs.

The AIRE Centre came into existence in May 1993. Our first Directors were James Davies of Lewis Silkin, who still serves on our Management Committee, Roy Ashworth, an accountant with many years experience of providing support to the voluntary sector, and Tanya Noah, an immigration lawyer with a London-based practice. A condition of inheriting from Interights the remains of a small grant from the London Boroughs Grants Committee for giving advice to Londoners on European law was that we had to start work immediately. We did not have the luxury of first raising the necessary additional funds to set up a new organisation. Our assets were one laptop computer and a printer. Like old Peter Beswick in the privacy of contract case, we had no business premises. More importantly for an advice service, we had no phone and no reference library, and there was no Internet in those days to provide resource materials. We soon acquired cheap, light, airy (and spacious because totally unfurnished) offices in the Eurolink Business Centre in Brixton, where we were to remain for eight years. Katya Lester, now Lady

Lester, an immigration adjudicator, persuaded the Treasury Solicitor's office, where she then worked, to donate the desks they were discarding. We sit at them to this day. If they had known how bothersome to Her Majesty's Government were to be the challenges drafted on them over the next ten years, they might not have been so kind. In November 2001 Dawson Cornwell solicitors, with whom we had worked on family law matters, facilitated our move to Red Lion Square. We now occupy a cramped but very conveniently located garret in the former home of Rossetti, Burne-Jones and William Morris.

Back in the spring of 1993, Nuala Mole and Ron Hooghiemstra provided all the legal advice. Ron is a Dutch lawyer, who had previously worked at the secretariat of the European Commission in Strasbourg and is now with the OSCE in Kosovo. That summer Deborah Greenberg, from the Human Rights Program¹ at Columbia Law School in New York, sent us an intern, Marisa Lau. She believed that the experience would be intellectually enriching if materially Spartan. Marisa was soon joined by others, the first of more than 150 volunteers who have given their services over the past decade. (See list on inside back cover.) Piers Gardner, then Director of the British Institute of International and Comparative Law, generously gave us free access to the Institute library until we were able to acquire a modest one of our own.

By the end of 1993 we had dealt with more than a hundred requests for legal assistance substantial enough to require the opening of a file and had answered many more simple telephone or written enquiries. Louise Christian of Christian Fisher² asked us to take on the case of *Osman v UK*, which we lodged in Strasbourg in November. It was the first of more than 60 cases before the European Court of Human Rights in which we have been involved during the past ten years. We were also appointed as the UK relay of the Eurojus network, which had been set up by the Commission of the European Communities to provide advice on EC citizens' rights, a service that we provided until the end of 2002. Particular mention must be made of the sustained contributions of Jeanette Nicholas, Pearl Yong and Gillian More in the early years of the advice service. We were also able to reach a much wider public through radio and television. For a year or two in the 1990s we had a regular Wednesday morning feature during a phone-in programme on BBC Radio Five, advising on problems that had a European law element. Since that time we have frequently provided comments for the BBC World Service's *Europe Today*, as well as for their regular news bulletins. For a year or two we also had a regular slot on BBC TV News 24's Friday night European round-up.

By 1994 we were able to employ our first administrator, Tahera Huda, who looked after us in the difficult early years. She was followed in 1999 by Antony Frey who, amongst other things, computerised our accounts. Since his departure Eileen Maher has managed our finances as well as dealing with some

aspects of our publications and office administration. In 2002 Berni Smith joined us as office co-ordinator. She looks after the internship programme and has carried out most of the organisational tasks for our Tenth Anniversary celebrations.

In 1994 we began to carry out projects for the Commission of the European Communities. They included promoting awareness of European human rights standards in Albania and Moldova with the support of the PHARE and TACIS Democracy Initiatives. Our special links with those two countries are still very much alive today. We also worked for some years in partnership with Penal Reform International on their projects in the region and have more recently become involved again in the present reform of the European Prison Rules. These activities were the genesis of our work in Central and Eastern Europe, which has expanded and evolved over the years. (See **The promotion of human rights standards in CEE and the FSU**, p. 12.)

Our particular interest in the application of both European legal orders (EU and European Convention on Human Rights) to immigration and asylum matters was reflected in reports on the movement of third-country nationals into the EU, which we provided for the Commission of the European Communities Directorate General V (Employment and Social Affairs). We also started to develop a niche service advising on all aspects of EU free movement rights, in particular using EU law to assist couples in devoted happy marriages, who were threatened with separation because they could not meet national immigration requirements. We also gave special advice on the rights of nationals of certain Central and Eastern European states to establish themselves in self-employment under the Agreements concluded by those countries with the EU. One of these cases, *Kondova*, went on to become a leading judgment of the European Court of Justice. In 1996/97 we compiled all the data for the second edition of Richard Plender's *Basic Documents on International Migration Law*. Maria-Teresa Gil-Bazo and Frances Nicholson completed the Herculean task of tracking down all

the ratifications, reservations and derogations for this 900-page tome. Amazingly, they both still have close relationships with us. In 1997 and again in 2000 we updated the Council of Europe's Human Rights File on *Asylum and the European Convention on Human Rights*, as well as providing speakers for many conferences and seminars on the subject to mark the 50th Anniversary of the 1951 Geneva Convention on the Status of Refugees. We have contributed to many other publications in the field. We litigated the landmark case of *D v UK*, as well as providing assistance to the representatives in other key asylum and immigration cases before both the European Court of Human Rights and the European Court of Justice. Our litigation has benefited from the generosity of many eminent academics who have freely donated their time, their expertise and their *gravitas* to assist us in improving the intellectual rigour of our arguments. (See **Litigation**, p. 8.) We carried out information projects on the Amsterdam Treaty and training for immigration adjudicators on EU free movement law under the Schuman scheme. During 2002-03, we also participated, with the European Academy in Bolzano, in the LISI research project, identifying and evaluating legal indicators for the social inclusion of new minorities generated by immigration.

The talents and dedication of the young lawyers who have undertaken voluntary work with us over the years have been central to all our achievements. Some stayed for a few weeks or months, others have dedicated a year or more. We have hosted many young lawyers from the UK, Germany and Italy, as well as interns from Central and Eastern Europe (CEE) and the Former Soviet Union (FSU). Our links with law schools in the United States of America have expanded. In addition to our ongoing links with Columbia, we now regularly host interns all the year round from Michigan and summer interns from Georgetown. We particularly value these connections. This is not only because of the quality of the work done by our interns. They also tell us how important it is for them to have the opportunity in the everyday practice of the law to use the international standards they have studied and to assist individuals in bringing cases to international tribunals, since no comparable mechanisms exist for dealing with cases arising in the US. We are setting up a dedicated North American Alumni network to help all our US interns to keep in touch with each other and to meet successive generations of those who have worked at the AIRE Centre. In the course of preparing for this tenth anniversary we have been delighted to find how many of our former interns from across the globe still keep in touch with the human rights lawyers from other countries they met while working with us.

Among our volunteers, special mention should be made of Navi Ahluwalia, Jonathan Cooper, Tim Eicke, Catharina Harby, Nicola Rogers, and Alan Simmons, who have the longest lasting links with the organisation. It was thanks to Nicola Rogers and Alan Simmons that the AIRE Centre was able to



Nuala Mole, Director,
AIRE Centre

continue to function fully when Nuala Mole was incapacitated for three months in 1996.

Vladimir Djeric, then an LL.M student at the University of Michigan Law School and now adviser to the Minister for Foreign Affairs of Serbia and Montenegro, spent a summer with us in 1996 and established our first links with the Belgrade Centre for Human Rights. The Belgrade Centre kept the flame of democracy alive in the dark years of the Yugoslav conflicts and continues to play a key role in the strengthening of the rule of law in the region. After Vladimir left he introduced us to Biljana Njagulj (now Braithwaite). Over the past five years her tireless energy and charm have developed the AIRE Centre's extensive programme in the Balkans. (See **The promotion of human rights standards in CEE and the FSU**, p. 12.)

In 1998 Navi Ahluwalia, who had previously worked with us as a volunteer, returned for two years as Assistant Director until he was succeeded by Nicola Rogers. She returned from private practice in 2000 when Navi left to go to the Bar. Both Navi and Nicola put in at least twice the hours they were paid for and the ongoing success of the organisation is due to their dedication over the years.

Between 1998 when the Human Rights Act was passed and 2 October 2000 when it came into force³ we were engaged in a whirlwind programme, providing training on the ECHR both for the Judicial Studies Board and for private practitioners. Both Stephen Whale and Benjamin Narain made significant contributions to the work undertaken by Nuala and Navi to deliver this training. Alan Simmons and Nuala Mole worked with Luke Clements and Sweet and Maxwell in producing a new edition of *European Human Rights: Taking a Case under the Convention*. Our views are regularly sought by both UK Government Departments and Parliamentary Committees on proposed changes in legislation or constitutional reforms, or by the Council of Europe or the European Commission on various comparable matters. We warmly welcome these open consultation exercises while desperately wishing for more time and resources with which to respond to them.

Our work in Central and Eastern Europe rapidly expanded from 2000. A programme of Aire Centre seminars for judges in Serbia and Montenegro was augmented to include Council of Europe training for local and international judges in Kosovo. This was complemented in 2001–2002 by a project for the European Agency for Reconstruction reviewing the training needs of the Montenegrin judiciary and designing curricula for future use. While Nuala was away carrying out these programmes in the Balkans Nicola carried most of the burden of the day-to-day running of the office, as well as substantive legal work of her own. She was also appointed as an ad hoc inspector for immigration detention centres and added even more hours to her already heavy workload. After two years of sterling work Nicola left us in November 2002 to return to private practice.

Catharina Harby, a young Swedish human rights lawyer, had joined us in 1999. Fortunately, the few months she planned to stay with us have turned into years. She shares in and helps to supervise all the legal work of the office but has a particular role in our work in the FSU and CEE, which she carries out in partnership with Biljana Braithwaite. For more than seven years the Council of Europe has regularly asked the AIRE Centre to provide expert speakers at seminars and conferences in Strasbourg and in CEE and the FSU, as well as inviting us to write publications, and provide expert reports on draft laws. We also participate in Council of Europe studies assessing the compatibility of national laws with European Convention on Human Rights (ECHR) standards. Responses to these requests have been co-ordinated, and often met, by Catharina. This work has been supported by many institutions in both the UK and elsewhere in Europe, including the UK Government. While we have never hesitated to litigate against the UK Government before the European Courts in cases where we considered our clients' rights had been violated, we appreciate knowing that we can often count on the friendly and generous support of the Foreign and Commonwealth Office for our work outside the UK. We have also benefited from the support of distinguished practitioners, members of the judiciary and academics, who have given their services to these programmes in the new democracies.

Until our involvement in the *Osman* case, our litigation before the European Court of Human Rights on behalf of children had been largely immigration related. As a result of our work on *Osman*, the AIRE Centre was asked, in 1997, to assist the applicants' representatives in the case of *Z v UK* and later also to assist in *TP and KM v UK* which was joined to *Z*. (See **Litigation**, p. 8, and **Families and children**, p. 16.) Both cases concerned the failure of social services to respect Convention rights in their dealings with children. Both were eventually successful in Strasbourg. Some months earlier, in 1996, the AIRE Centre had begun to work with Reunite, a British-based NGO that deals with issues surrounding international child abduction, and with ICMEC, a US centre that deals with missing children. We submitted an amicus intervention to the European Court in *Ignacolo-Zenide v Romania*, the first case involving the relationship between the ECHR and the Hague Convention on the Civil Aspects of International Child Abduction to be heard on the merits by the Court.

Our training for family practitioners and judges on the ECHR in preparation for the coming into force of the Human Rights Act, combined with our involvement in the cases of *Z* and *TP and KM* and our work on international child abduction, demonstrated the need for a project dedicated to informing practitioners and the judiciary about the relationship between the ECHR and family law. The Nuffield Foundation's generous support of the project has enabled us carry out this work, to set

up and maintain a dedicated website (thanks again to the efforts of Nicola Rogers), and to publish a quarterly bulletin on the subject for the past two years. The Family Law project is indebted to both Tamzin Brown and Thomas Barrett for the time and effort they put in to it, as well as to the distinguished experts who serve on the project's Advisory Panel, currently chaired by Mr Justice Munby.

As the years passed our caseload increased and by the time we reviewed the provision of our advice service at the end of 2002 we had opened five thousand files and dealt with many more telephone and written enquiries. We are still fully occupied in providing advice although, for reasons explained in more detail in the section describing this service, we now primarily provide advice to legal practitioners and other advice workers rather than to the general public. We continue to litigate an increasingly varied range of issues before the Strasbourg Court and remain involved in litigation before the European Court of Justice in Luxembourg. We have an ambitious and varied programme in Central and Eastern Europe and the Former Soviet Union, particularly in the Balkans. We anticipate an increase in the demand for our services when Serbia and Montenegro ratify the ECHR shortly.

Of course the sense of satisfaction that fuels the AIRE Centre's work comes from solving people's problems, vindicating their rights in the European Courts and contributing to the establishment of the rule of law in the new democracies. But we have also enjoyed other forms of recognition. By the end of 1997 we had been commended in the Philip Jones Awards presented by London Boroughs Grants as the Most Welcoming Organisation. We are especially proud of this as we were nominated by appreciative clients. In 1998 we were Human Rights Organisation of the year at the Liberty/ Law Society Gazette Awards. In 2001 the Director was voted the Human Rights Lawyer of the Year by the Liberty/ Law Society Gazette/ Justice Awards for the AIRE Centre's work at the European Court and in the Balkans.

Where will the next decade take us?

The events of the past two years across the globe, and the consequent heightened awareness of the threats posed by terrorism, have understandably elicited responses which, if unchecked, risk seriously eroding the very rights and freedoms that the AIRE Centre's work is designed to buttress. The risk is particularly grave at this stage in the establishment in Central and Eastern Europe and the Former Soviet Union of the rule of law guaranteed by international human rights instruments. Nowhere is this risk more serious than in the states that have emerged or are emerging from ethnic conflicts.

As the name of our organisation makes clear, we exist primarily to provide the advice that will assist individuals to enjoy the rights and freedoms that are conferred on them by

international law. Our work must continue to ensure that the enjoyment of those rights is "practical and effective not theoretical and illusory". We are firm advocates of the principle of subsidiarity. It is rare for us to have clients who want to be a famous case in Strasbourg. They simply want justice as soon and as near to home as possible. Conducting litigation before the European Court of Human Rights when justice has not been delivered domestically, and training local lawyers to do it, have been key elements of our work. We have been very concerned in the past two years by the exercise concerning Reform of the Court, which is currently being undertaken by the Member States of the Council of Europe in response to the overburdening of that institution. The main problem is created by the need to consider - and reject - the thousands of applications that fail to meet the admissibility criteria. One highly contentious aspect of the response of the States has been a proposal to tighten these criteria. This would deny a remedy to those who have, under the present rules, an admissible complaint but not provide a solution for dealing with the mountain of complaints which are already inadmissible. The AIRE Centre is extremely concerned that what is essentially a problem of resource allocation and efficient administrative practice is being used as an argument to dilute the protection guaranteed by the Convention to all those within the jurisdiction of the Contracting Parties. States will be able to violate their international obligations with impunity.

We will strive in the next decade to do everything we can to ensure that these very necessary reforms are carried out in a way that strengthens rather than dilutes the protection provided by the Convention to individuals.

The enlargement of the EU will bring new challenges for the application of the law of the European Union. There is no shortage of knowledge in competition or banking law available to the candidate countries. Law for the powerful is well served by the legal community. We hope that we will continue to be able to complement that commercial expertise by sharing with the new citizens of Europe and their advisers our knowledge of the benefits that EU law can bring, not only to business but also to individuals and their family members.

We hope that, with the funding and support of all our friends, we will be able to secure the resources we will need in the next decade to continue to make our contribution to the strengthening of human rights protection across Europe.

¹ Now the Centre for Public Interest Law.

² Now Christian Khan.

³ The Act came into force in Scotland on 1 July 1999, under the Scotland Act 1998.

The AIRE Centre's advice service

Ten years ago when the AIRE Centre started only a handful of people in the UK – and even fewer in many other European states – were aware of the rights which they had acquired through the evolving case law of the European Court of Human Rights and the directly effective provisions of the law of the European Community. There was no dedicated organisation to which members of the public, other NGOs and the legal profession could turn for expert advice on those rights, and the Internet was not yet available to enable people to do their own research.

The AIRE Centre was set up in 1993 to fill the gap. Our aim was to provide information and advice about European law to members of the public, and to the NGOs and legal advisers who assisted them. We have always had a multi-lingual, multi-national team of staff and volunteers in the office and can normally work in English, French, Italian, German, Greek, Spanish, Swedish, and Serbian and, from time to time, also in Albanian, Dutch, Portuguese, Romanian and Russian.

During the past ten years we have opened more than five thousand files in response to requests for help and provided simple information to many more enquirers. The range has been wide:

- 1) **“Is Norway in the EU?”**
- 2) **“My husband is British and we have a British Citizen child, but I have run away from him because he beats us both and now they are deporting me.”**
- 3) **“I want to take my case to Europe. Can you send me the form?”**
- 4) **“My wife is an EU national but I am not. I qualified as a pharmacist outside the EU and am now entitled to practise in Ireland. Can I move my practice to the UK?”**
- 5) **“My ex-husband has taken my children to Germany. How can I get them back?”**
- 6) **“How many cigarettes can you bring in, duty paid, for your own consumption?”**
- 7) **“I’ve found the Strasbourg judgment you told me about but it’s only in French – can you talk me through it?”**
- 8) **“I am a Bulgarian Citizen. Can you tell me about setting up in business under the Europe Agreements?”**
- 9) **“I’m in the High Court tomorrow morning. Could you fax me all the Strasbourg case law on double jeopardy?”**

(Brief answers can be found opposite)



Former interns of The AIRE Centre

Our advice on EU rights

In 1994 we were appointed as the UK relay of the Eurojus network, which had been set up by the European Commission to provide information and advice about their rights to residents of what was then the EEC. For nine years our dedicated team of unpaid volunteer lawyers worked five days a week under the supervision of a senior lawyer, answering the dozens of queries we received. In the mid-1990s, for a year or so, we also provided a radio phone-in advice service for the BBC one morning a week.

Where national authorities were failing to give effect to people's EU rights, the AIRE Centre would take this up with the officials concerned, many of whom had, if any knowledge at all, only a very sketchy familiarity with the EU law that they were administering. The problems were solved by a telephone call (or several days of ongoing telephone exchanges), by a short letter (or a lengthy complex correspondence lasting weeks or months), or by making a complaint to the Commission or petitioning the European Parliament on behalf of our clients. In a handful of cases, where this approach did not work, we would pass the cases on to experienced lawyers to start proceedings which sometimes evolved into litigation and went on to become keynote judgments of national courts or the European Court of Justice in Luxembourg. (See *Litigation*, p. 8.)

Until December 2002, the AIRE Centre ran its Eurojus advice line every afternoon, Monday to Thursday, and answered requests sent in by post, fax and e-mail by members of the



Advice at the AIRE Centre

public, advice workers and legal practitioners. Unfortunately, the funding provided by the Eurojus project was minimal and not sufficient to fund even one post to carry out this work. Once it became clear that the number of requests was increasing each year and that a further increase would be triggered by the enlargement of the EU in 2004, we decided that we could no longer afford to continue with the service we had been providing to the general public for nine years. We did not re-apply to be the UK Eurojus office in 2003. The AIRE Centre now provides a second-tier advice service to legal practitioners, Citizens Advice Bureaux, student welfare officers and other advice workers, as described below. A reduced Eurojus service to the general public, corresponding to the level of funding, is now provided by a firm of Scottish commercial lawyers.

Our advice on rights under the European Convention on Human Rights

The telephone advice line and the written advice service were not just for Eurojus work. Over the years we also responded to several hundred requests from members of the public, NGOs and legal practitioners for advice on the European Convention on Human Rights (ECHR) and other international human rights instruments. Most of the requests from the general public for advice on the ECHR came from people who wanted to take their cases to the European Court of Human Rights. On the coming in to force of the Human Rights Act 1998, we increasingly found that those members of the public who contacted us also needed advice on domestic law and procedure, or representation in national courts and tribunals, a service that we had never provided. The AIRE Centre has never provided advice on problems that are simply about national law, or represented individuals in UK courts or tribunals. We realised that we would have to adapt the service we provided to meet the changing circumstances.

Our new advice service

Organisations like ours which provide advice to the general public now have to meet the complex bureaucratic formalities of either the Community Legal Services (CLS) Q mark or the Office of the Immigration Services Commissioner (OISC). If we had continued to provide such advice, we would have had to meet all those requirements although most of them were irrelevant for an organisation which did not advise on UK law or represent people in the UK courts.

In June 2003, after consulting widely with all our users, we moved the focus of our work to the provision of assistance to legal practitioners in Law Centres and in private practice, as well as to advisers in Citizens Advice Bureaux, universities and voluntary organisations. We decided that we could make better

use of our limited resources by providing expert advice on the European law aspects of people's problems to advisers able to deal with the clients' whole case. We no longer provide personal advice to members of the public but direct them instead to appropriate advisers, who will themselves have the CLS Q mark or be registered with OISC (or be exempt).

Members of the general public can still access thematic information notes posted on our website, which have been specially drafted to reflect all those "frequently asked questions", identified from our files of the past ten years.

We now have a dedicated second-tier telephone advice line, which is open at present two afternoons a week. Legal practitioners and other advisers continue to contact us by telephone, e-mail or letter seeking advice on those areas of European Union law which affect the rights of individuals and on all aspects of European human rights law. The change to our new advice service has not reduced our workload. Since the requests now mostly come from professionals with a broad-brush knowledge of European law, they often raise novel and complex issues and require more detailed research and opinion writing than most of the enquiries that came from the general public.

Our telephones, e-mails and post tell us that this service is as much needed now as the service we originally provided ten years ago. It was, and is, the main reason for our existence. We hope that our funding organisations, friends and supporters will enable us to continue to provide it in the coming decade.

- 1) Norway is in the European Economic Area but not the European Union. Most rights apply to Norwegians and in Norway. But tell us why you need to know.
- 2) Ask your solicitor to contact us about the right to respect for family life under the ECHR.
- 3) Can you give us some more details about your case. Not every injustice is a violation of the ECHR.
- 4) No, the mutual recognition of qualifications rules only apply to those who acquired their qualifications in the EU.
- 5) You need to get a solicitor who will make an application under the Hague Convention to the UK Central Authority.
- 6) The EU guidelines are for 800 cigarettes, but you may bring as many as you like for personal consumption.
- 7) We have got a summary of the judgment in English on our website. If you need to know more about the case call us back and we'll be happy to talk you through it.
- 8) Bulgarians have had the right to establish themselves in business or self-employment within the European Union. They do not yet have a general right to reside or take up employment. Please see the information note on our website.
- 9)!

Litigation

The AIRE Centre's involvement in litigation before the European Court of Human Rights and, to a lesser degree, before the European Court of Justice, has been at the heart of our work throughout the decade. The table gives a list of the cases on which we have in some way worked. We also frequently provide information and advice on both European legal orders to those who are litigating cases before national courts. (Family law litigation is reviewed in **Families and children**, p. 12.)

Litigation before the European Court of Human Rights (ECtHR)

As the table shows, we have been involved in one way or another in more than 60 cases before the ECtHR and, till it was abolished in 1998, the European Commission of Human Rights. In some cases we have been the applicant's representative on the record with full conduct of all aspects of the case. *Osman v UK* and *D v UK* are the best known of those. *Osman* concerned the failure by the police to take steps to protect a child from a mentally disturbed teacher's attacks and the subsequent refusal by the courts to recognise that the police owed the child a duty of care. *D v UK* concerned the expulsion of a man in the terminal stages of Aids to an island in the Caribbean where he had no family and where there was no social or medical provision for him. In both cases the UK was found in violation of the European Convention on Human Rights. In some cases we have been brought in as a full member of the legal team to add our specialist knowledge of the Convention to the expertise of national lawyers. In other cases we have provided ad hoc advice on a particular aspect of the litigation, or identified and approached an appropriate expert, or conducted a survey of comparative law and practice in other Council of Europe States. Occasionally, those conducting the litigation just run their ideas past us and ask for our comments. In some commercial cases our involvement has been, and remains, discreet. Those cases do not appear in the table.

We may simply advise on some point of procedure and practice before the Court. Sometimes we have helped counsel to draft the speech for an oral hearing, by deleting cricketing metaphors and other phrases that would challenge the interpreters, and making sure that it does not overrun the allotted thirty minutes. When hearings are held in English we have listened to the French translation, to check that the pace of delivery is not defeating the expert interpreters' skills, and that important parts of the advocacy have not been lost in translation and have thus not reached the judges who are listening in French.

We have drafted applications, drafted or amended observations, sought and obtained interim measures under Rule 39 of the Court's rules of procedure, drafted or amended

memorials for hearings, drafted or amended counsel's speeches and drafted the claims for just satisfaction. (Lawyers unaccustomed to taking cases to Strasbourg have often had their costs claims disallowed because they failed to submit a proper detailed breakdown.)

Our litigation experiences led us, in 1998, to co-author with Luke Clements the second edition of his book, *European Human Rights: Taking a Case under the Convention*. The Council of Europe has translated this book into Albanian and a Russian edition is in the pipeline.

We have submitted (or joined with others in submitting) third party interventions in cases where the judgment would have an important impact reaching well beyond its significance for the individual applicant, such as *Chahal v UK*, *Pellegrini v Italy*, *Ignaccolo-Zenide v Romania*.

Where requests for advice and assistance require the matter to be litigated before national courts we pass the cases over to experienced solicitors and barristers – often to those who have previously been our interns – to conduct the proceedings. *Wilson v First County Trust Ltd*, one of the first cases litigated in the English courts under the Human Rights Act 1998, is one example.

Litigation before the European Court of Justice (ECJ)

Individuals have no right to take complaints directly to the ECJ if they are frustrated, as many of our clients are, by the failure of national institutions to give effect to their rights under EU law. In such cases they must litigate the point before the national courts and ask for the case to be referred to the ECJ for a preliminary ruling. We have been involved in a number of such cases. *Baumbast and R* concerned the rights of family members to remain in the UK after the situation which had originally conferred EU free-movement rights on them had changed. *Kondova* and *Barkoci and Malek* all concerned the application of the Europe Agreements, which give citizens of various Central and Eastern European states the right to move into the EU to be self-employed or to set up businesses, but not to take up employment. The litigation questioned the right of the UK to make them return to their country of origin to wait in a queue for a visa authorising them to do this, rather than regulating their position in this country.

Our litigation policy

We are often asked how we choose the cases we will litigate. The answer is we don't. We take up any case brought to us if we are satisfied that:

- the person's rights under European law have been violated;
- the case meets the procedural criteria;
- the documentation is in one of the eight or nine languages we speak, or we have access to competent free translation,¹ or the national lawyer is a reliable partner, who speaks a language we speak.

But we are not easily satisfied that those conditions are met.

As far as litigation before the ECtHR is concerned, most of our time is spent writing to people and their lawyers to tell them that they do not have an arguable case, or that they do not meet the procedural requirements, and that we cannot therefore submit a complaint to the ECtHR on their behalf. As the table shows, our success rate in Strasbourg has, in our view, been more than acceptable. If, like the ECtHR itself, we find that this open policy leads to our being swamped by more cases, particularly from the new democracies, than we can cope with, we may have to re-think our approach. For now, and for as long as our funds allow us to do so, we will continue to take any case that meets the criteria set out above.

¹ We do not consciously means test our clients but, to date, have never represented anyone in Strasbourg who was not eligible for legal aid.



What people say about the AIRE Centre

"Doing an internship at The AIRE Centre was the best decision I made in law school. The skills I learned will be useful and applicable in whatever I do."

Former intern, University of Michigan Law School student

"Many thanks for your legal opinion. It is extremely clearly written and useful."

Solicitor, City Law Firm

"I learned more about human rights litigation from the AIRE Centre lunch table than anywhere else. A few people in Brixton, and above all Nuala, have changed millions of peoples' lives across the continent."

Former intern, now Director of Human Rights NGO

"I am writing to thank you for the advice and assistance you gave us recently. I was most impressed by the way you took up the case – coming back with further information and back up."

Solicitor, Law Centre

"Since AIRE Centre's inception, Nuala Mole and the staff have taught Columbia Law School's Human Rights Interns, by example, what it means to be creative, compassionate and tireless advocates for human rights. I look forward to another ten years of partnership."

Ellen Chapnick, Dean for Social Justice Initiatives, Columbia Law School, New York

"I have learnt infinitely more in this office than I did in four years at university."

Former intern

"University of Michigan law students have been fortunate to participate as interns in the important and exciting human rights work of the AIRE Centre. In addition to its critical contribution to protecting the rights of the most vulnerable members of society, the AIRE Centre educates and trains the next generation of human rights attorneys from many parts of the world."

Virginia B. Gordan, Assistant Dean for International Programs, University of Michigan Law School

Table of cases

Case Name	App. no.	Counsel role	Decision	Issues
<i>ECtHR cases: Primary Legal Representative (P), Assisted (A) Third Party Intervention (TPI)</i>				
Adegulo v United Kingdom		A	Settled	Arts. 3, 8, expulsion
Ahmed v Austria	25964/94	A	Violation art. 3	Refugee, restriction on expulsion
Ajayi (King) and others v UK	27663/95	P	Inadmissible	Immigration, citizenship
Aslan v Turkey		A	Pending	Arts. 2, 3, 5, disappearance
Assenov v Bulgaria	24760/94	A	Violation arts. 13, 3, 54, 5S1, 25	Alleged ill-treatment by police, pretrial detention
Avcisoy v UK	49277/99	A	Settled	Art. 3, expulsion
Barrett v UK	30402/96	P	Inadmissible	Arts. 2, 13, duty of care, tort
Bayatyan v Armenia	23459/03	A	Pending	Imprisonment for conscientious objection to military service
Begheluri and others v Georgia	28490/02	A	Pending	Religious intolerance, police complicity in mob attacks
Bensaid v UK	44599/98	A	No violation arts. 3, 8, 13	Expulsion, mental health
Berlinski v Poland	27715/95, 30209/96	P	Violation arts. 6-1, 3-c No violation art. 3	Ill-treatment by police, timely proceedings
Blake v UK	68890/01	P	Communicated	Arts. 6 and P1-1, confiscation
Brown v UK	32504/96	P	Inadmissible	Constructive eviction
Cardoso v UK	47061/99	P	Communicated, settled	Private rights, immigration status
Chahal v UK	22414/93	TPI	Violation arts. 3, 5-4, 13 No violation art. 5-1 Art. 8 not examined	Asylum, GC hearing
Choudry v UK	27949/95	P	Inadmissible	Arts. 2, 3, 8, 13, deportation
Condron v UK	35718/97	A	Violation art. 6-1 No violation art. 6-3b, c Art. 6-2, no issue	Unfair trial, right to silence
Cooke v Austria	25878/94	P	Violation arts. 6-1, 6-3c	Applicant's presence at appeal prevented
Cyprus v Turkey	25781/94	A	Violation arts. 2, 5, effective investigation Violation arts. 9, 13, 3, relatives Violation arts. 8, P1-1 No violation arts. 4, 5, alleged detention No violation arts. 5, 6, 11	Unlawful detention
D v UK	30240/96	P	Violation art. 3 No violation art. 13	Expulsion of terminal AIDS victim
Davenport v Portugal	57862/00	P	Communicated	Art. 6, length of proceedings, respect of possessions, effective remedy
Dobbie v UK	28477/95	P	Inadmissible	Access to court, limitation periods, effective remedy
Dogan v Turkey		A	Pending	Arts. 2, 3, 5
DP and JC v UK	38719/97	A	Violation art. 13 No violation arts. 3, 8, 6-1	Family law
Elhasoglu	PK 9887	P	Non-exhaustion, file left open	Asylum claim
Georgiou (Mario's Chippery) v UK	40042/98	P	Inadmissible	Art. 6, criminal charges, taxes
Gerrard v UK	21451/93	P	Admissible, settled	Art. 8, prisoner's correspondence
Gilberson v France	23298/94	P	Violation art. 5-4, settled	Settling claim for just satisfaction
Gldani Congregation of Jehovah's Witnesses and others v Georgia	71156/01	A	Pending	Religious intolerance, police complicity in mob attacks
Goswami v UK	62521/00	P	Admissible	Arts. 8 and P1-1 +14, widow's pension
Gul v Switzerland	23218/94	A	No violation art. 8	Family reunion
Halford v UK	20605/92	A	Violation arts. 8, 13 Arts. 10, 14 not examined	Private life, respect for correspondence, effective remedy
Haseldine v UK	18957/92	A	Inadmissible	Access to court, freedom of expression
Hilal v UK	45276/99	A	Violation art. 3	Expulsion, internal flight alternative
Ignaccolo-Zenide v Romania	31679/96	TPI	Violation art. 8	Respect for family, private life
James v UK	77033/01	P	Inadmissible	Adoption, "wild child", liability of local authority
Jaramillo v UK	24865/94	P	Inadmissible	Family expulsion
Jehovah's Witnesses of Moscow v Russia	00302/02	A	Pending	Attempt to ban religious minority, unreasonable length of proceedings
Kakavand v Turkey	24005/94	A	Inadmissible	Inhuman treatment, access to court, expulsion
Kamara v UK	24381/94	P	Inadmissible	Family expulsion

Case Name (cont.)	App. no.	Counsel role	Decision	Issues
Keenan v UK	27229/95	A	Violation arts. 3,13 No violation art. 2	Death in custody
Litovchenko v Russia	69580/01	A	Inadmissible	Invasive medical treatment with no consent
MAR. v UK	28308/95	P/A	Admissible, settled	Exhaustion of domestic remedies, death penalty, inhuman treatment, fair hearing
Mouta v Portugal	33290/96	P/A	Violation arts. 8, 14	Art. 8, contact for gay father
Nicholas v Cyprus	37371/97	P	Inadmissible	Access to court
Ocalan v Turkey	46221/99	A	Violation arts. 5-4, 5-3, 6-1, 6-3b,c; 3, implementation of death penalty No violation arts. 5-1, 2, 12 No violation art. 3, death penalty, detention conditions	Fair trial, lawfulness of hearing, procedural guarantee for review, inhumane treatment
Olaechea v Spain		P	Communicated, Rule 39 indication given	Art. 6 and extradition proceedings, arts. 3, 5, 6, in receiving country
Olie v United Kingdom		A	Pending	Art. 8, moral and physical integrity, compulsory medical treatment
Osman v UK	23452/94	P	Violation art. 6-1 No violation arts. 2, 8	Failure of police protection
Osu v Italy	36534/97	A	Violation art. 6-1 No violation art.13	Appeal, conviction in absentia
P, C and S v UK	56547/00	A	Violation arts. 6-1; 8, removal of child at birth; 8, procedures for care, freeing for adoption orders	Family law
Pellegrini v Italy	30882/96	TPI	Violation art. 6-1	Fair hearing, recognition of foreign judgments
Poku v UK	26985/95	P	Inadmissible	Inhuman treatment, family life, expulsion
Porter v United Kingdom		A	Pending	Art. 8
Romanchenko and others v Russia		A	Pending	Deprivation of private property, unfair trial
S and others v UK	34593/02	P	Communicated	Arts. 6, 8, 13, supervision of care orders
Saramati v France, Norway and Germany		P/A	Pending	Accountability of KFOR, unlawful detention in Kosovo
Scott v Spain	21335/93	A	Violation art. 5-3 No violation art. 5-1	Lawful arrest, detention
Seyhan v Turkey	33384/96	P/A	Admissible	Arts. 2, 3, 5
Singh v UK	30024/96	A	Partly inadmissible, struck off	Inhuman treatment
Singh v UK		A	Pending	Arts. 3, 8, expulsion
Singh v UK/Hussein v UK		A	Violation art. 5-4	Detention during HM's pleasure
Smith v UK	61480/00	A	Inadmissible, six months rule	Victims' rights
Sorabjee v UK	23938/94	P	Inadmissible	Expulsion, family life, domestic remedies
Stetic v Croatia	67266/01	P	Struck off, art. 37 fulfilled	Detention, alleged violations of arts. 3, 6
Stubbings and other v UK	22083/93	A	No violation arts. 6-1, 8, 14, 14+6-1, 14+8	Access to court, discrimination, respect for private life
Taylor v UK	48864/99	A	Inadmissible	Juvenile justice, heavier penalty, reasonable time
TI v UK	43844/98	P/A	Inadmissible	Responsibility for expulsion under Dublin Convention
Togher v UK	28555/95	A	Partly admissible, settled	Exhaustion, inhuman treatment, respect for family life, unlawful detention
TP and KM v UK	28945/95	P/A	Violation arts. 6, 13	Family life
Union of Jehovah's Witnesses and others v Georgia	72874/01	A	Pending	Court-ordered dissolution of religious organisation
Vvubya v UK	PL7264	P	Settled, granted leave	Immigration
W v Finland	12946/03	P	Pending	Arts. 6, 8, transfer of prisoner
Walker v UK	34979/97	P	Inadmissible	Compensation for unlawful detention
Wood v UK	32540/96	P	Inadmissible	Respect for home, fair hearing, protection of rights
Yousef v UK	14830/89	A	Admissible	Respect for family life, effective remedy
Z v UK	29392/95	P/A	Violation arts. 3, 13 No violation art. 6; Art. 8, no issue	Degrading treatment, access to courts
<i>ECJ cases:</i>				
Baumbast and R v Sec. of State for Home Department	C-413/99	A		EU free movement rights of family members
The Queen v SSHD, ex parte Kondova; ex parte Barkoci and Malek	C-235/99 C-257/99	A A		Application of Europe agreements Application of Europe agreements

The promotion of human rights standards in Central and Eastern Europe (CEE) and the Former Soviet Union (FSU)

I. AIRE CENTRE PROGRAMMES IN ALBANIA AND MOLDOVA

When the European Commission launched its programmes of assistance to Central and Eastern Europe and the Commonwealth of Independent States the focus was on economic reform. These programmes were expanded in 1994 to include promoting the development of civil society and the establishment of the rule of law under the PHARE and TACIS Democracy Initiatives. The AIRE Centre was one of the first organisations to develop partnership projects with other EU Member States in order to work with organisations in Albania and Moldova. We held a series of seminars and workshops in Albania and Moldova on the European Convention on Human Rights (ECHR) and other international standards. We prepared and translated relevant materials into the local languages (Albanian, Romanian and Russian) for distribution to lawyers, judges and NGOs, and hosted interns from both Albania and Moldova in our offices in London.

These projects continued after the PHARE and TACIS funding had come to an end, with the support of the UK Government's overseas aid programmes and the Westminster Foundation for Democracy. We still have close links with both countries. Our monthly *Bulletin* of the case law of the European Court of Human Rights is now produced in Albanian and Romanian (for Moldova), as well as in Serbian and Polish. At the request of the Council of Europe we have provided advice on draft laws in Albania and have worked with our Albanian colleagues on Council of Europe studies, which assess the compatibility of local laws with ECHR standards. Between 1994 and 1997 we provided assistance in drafting and developing schemes to promote orderly migration and return for the International Organisation of Migration in Tirana. We also assisted in drafting the Final Report of the EU's STOP programme,

which looks for solutions to the trafficking of women and children in South East Europe. In 1998 we conducted for the Council of Europe an assessment of the impact that the influx of refugees from Kosovo was having on Albania. The assessment gave early warning of the need to prepare for a further influx of refugees, which occurred, as anticipated, in 1999. In 2000, we co-hosted a seminar on the ECHR in Tirana, for young lawyers from both Tirana and Pristina, and we gave technical assistance to the Centre for European Law in Tirana, which was charged with translating EU treaties into Albanian.

II. AIRE CENTRE PROJECTS IN SERBIA AND MONTENEGRO

ECHR training for judges, prosecutors and other state legal professionals

The AIRE Centre, in co-operation with the Belgrade Centre for Human Rights, the Centre for Democracy and Human Rights in Montenegro (CEDEM) and the Council of Europe, has taken the lead in ECHR-based professional training in Serbia and Montenegro. In September 1999 we jointly organised the first workshops on the ECHR for Serbian and Montenegrin judges and lawyers. Course feedback showed that the participants considered the workshops provided unique access to developments in European human rights standards and recommended that co-operation should continue.

With our partners we therefore started a comprehensive Training Programme, which consists of quarterly Modules dealing with different aspects of the ECHR. Over four years (September 1999 – September 2003) we have organised over 30 Modules attended by around 950 participants. As part of this ongoing Programme, we have already organised Modules covering, for example, the prohibition of torture and the right to a fair trial; freedom of expression and the right to privacy; right to family life; freedom of conscience and religion and freedom of association and assembly; the right to liberty and security of person; freedom of movement and the right to citizenship; the interface between the ECHR and the military; and ECHR guarantees and the fight against organised crime. Each Module involves new participants, so as to widen knowledge across the legal community in Serbia and Montenegro. But it also involves several of the most promising participants from the previous Modules, some of whom are now local trainers in their own right. The intention is to develop a self-reinforcing network of legal practitioners who are aware of the importance of the ECHR.

We have been fortunate that so many highly qualified experts in the field of human rights from several European countries have generously given up time and skills to participate in this work.



Judicial training seminar, Belgrade

This training programme has now reached its second phase: training the local trainers. Since September 2002, two Training for Trainers seminars have been held in Montenegro and in Strasbourg. With the assistance of the first 15 local trainers, who have now completed their training, introductory one-day training courses on the ECHR will be held for all 5800 judges, prosecutors, court experts and trainees in Serbia and Montenegro's judiciary. The courses started in May 2003 organised by the Judicial Training Centres of Serbia and Montenegro and the Council of Europe. This basic training, while of course necessarily limited in its scope, will introduce the ECHR and its role in setting European standards in the field of human rights.

ECHR training for trial lawyers and NGOs/civic society in Serbia and Montenegro

In June 2003 we started, in partnership with the Belgrade Centre for Human Rights and the Council of Europe, a two-year project to train lawyers and NGOs in Serbia and Montenegro so that they can play their part in integrating European human rights into Serbian and Montenegrin domestic legal practice. Until then, most human rights training had focused on the judiciary. This project focuses on ECHR legal standards and the procedures necessary to take local human rights cases to domestic courts and to the European Court of Human Rights in Strasbourg (the ECtHR). The goals are to make it easier for private citizens to make cases based on the ECHR and take them if necessary to the ECtHR; and to inform human rights and other non-governmental organisations of the ECHR, so they can act as better watchdogs over state legal institutions. Four seminars, followed by a study tour for the successful participants, are planned as a part of this project.

Monthly Bulletin of case law of the European Court of Human Rights

This *Bulletin* carries summaries, together with explanatory comments, of the most recent decisions of the ECtHR, focusing on the cases most relevant to the situation in former Yugoslavia. The *Bulletin* is produced monthly by a team of lawyers from the AIRE Centre, who have experience both in litigation before the ECtHR and in working in former Yugoslavia. It is translated into Serbian/Croatian/Bosnian, Albanian, Polish and Romanian. The first issue was published in January 2000. The current print run in Serbian is 6300, and it is distributed – by name – to all the judges, prosecutors and trainees at all levels of jurisdiction in Serbia and Montenegro. The Albanian edition is distributed through the Council of Europe to local judges in Kosovo. The international judges are sent it electronically in English for parity of information.

The *Bulletin* helps to overcome one of the main problems

of training programmes generally: the lack of follow-up. It serves to maintain the participants' interest in the subject matter, keeps them abreast of developments, and further deepens their knowledge in the field.

Other work in Serbia and Montenegro

Since 1999, the AIRE Centre has been involved in a number of other activities in Serbia and Montenegro.

As part of the preparations for accession to the Council of Europe in 2001-02, Serbia Montenegro was required to carry out an in-depth examination of how well its domestic legislation and practice complied with the requirements of the ECHR and its Protocols, and with the case law of the ECtHR. At the request of the Federal Government and the Institute of Comparative Law (which had been requested by the Government to produce the compatibility study), we regularly provided advice on certain areas of ECtHR jurisprudence to assist the completion of this important task.

In 2001, the AIRE Centre was also contracted by the European Agency for Reconstruction (EAR) to carry out a project with the Judicial Training Centre (JTC) of Montenegro, identifying the training needs of the judiciary and developing curricula for younger and senior judges, judges' expert assistants, investigation judges and court personnel. Nuala Mole, the director of the AIRE Centre, was the Team Leader on this project. She worked closely with JTC Montenegro and the Montenegrin Ministry of Justice to design and adopt training curricula, bringing in experts from other European countries and organising study visits abroad to observe the work of other judicial training institutions. In October 2003, we started a follow-up project for the EAR in Montenegro providing expert assistance to the JTC in implementing these curricula.

Our other activities have included providing expert speakers at legal seminars organised by others in the region; providing expert advice to those drafting model laws; organising study visits for legal professionals in the UK; and publishing key legal texts. Over the years we have worked with a number of governmental and non-governmental organisations. Our main partners in the region have been the Council of Europe, the Belgrade Centre for Human Rights, CEDEM, the Institute for Comparative Law, LEX and the British Association for Central and Eastern Europe (BACEE).

Our programmes and other activities in Serbia and Montenegro were carried out with the support of a number of funding organisations. We particularly appreciate the generous support we have received over the years from the Westminster Foundation for Democracy, the Foreign and Commonwealth Office, the Council of Europe, the European Agency for Reconstruction, the Swiss Ministry for Foreign Affairs and the Friedrich Ebert Foundation.

Kosovo

We have had a particular role to play in the establishment of the rule of law in Kosovo. We attended the first human rights conference since the establishment of UNMIK, which was held there in December 1999, and have been involved in the region ever since. At the request of the Council of Europe we have provided training for local judges and lawyers in Pristina, Peja, Gjilane, and Prizren, and induction training for the international judges and prosecutors who serve across the region. We have hosted two local OSCE human rights officers as interns in our office, and several people who have worked as staff members, interns or volunteers at the AIRE Centre now work in Kosovo and keep our links there alive. We are currently advising the Criminal Defence Resource Centre in a case currently pending before the ECtHR, which calls three European Governments to account for authorising unlawful military detention. The detained person's release had been ordered by a court which included one of the international judges appointed to ensure the observance of the rule of law.

Publications

In addition to the human rights *Bulletin* we have produced a number of other publications in Serbia and Montenegro. We have not yet secured the funds for these to be translated into Albanian for distribution in Kosovo.

- An overview of new cases before the ECtHR, highlighting new trends in the jurisprudence, updated yearly.
- An overview of the first cases brought before the ECtHR from former Yugoslav countries, updated yearly.
- A review of the impact of selected judgments of the ECtHR in the domestic legal systems of Council of Europe countries.

III. PARTICIPATION IN PROGRAMMES IN OTHER AREAS OF CEE AND THE FSU ORGANISED BY OTHER INSTITUTIONS

In the early 1990s the AIRE Centre worked closely with Penal Reform International on their projects to bring an awareness of human rights to prison officials and prison administration in CEE and the FSU, and made several visits to Romania and Belarus. We also worked on the Council of Europe's programmes on the abolition of the death penalty in Ukraine.

During the past decade experts from the AIRE Centre have been regularly called upon by intergovernmental organisations such as the Council of Europe, the UNHCR, the UNHCHR, and international NGOs such as the Helsinki Federation, Amnesty, ECRE and others to provide training and expert advice at workshops and conferences all over CEE and the FSU. Below are a few examples of the kind of work that we have done.

In 1999, we provided trainers on the ECHR for a series of courses being held by the Russian Judicial Academy with the support of the Council of Europe. Nuala Mole and Catharina Harby were then asked to write the Council of Europe's Handbook on Article 6 (the right to a fair trial): *A guide to the implementation of Article 6 of the European Convention on Human Rights*. This book was edited by the Russian Judicial Academy, and has been distributed to judges throughout the Russian Federation. An English language edition has now been published and there are also translations into Bosnian and Serbian.

During the summers of 2000, 2001 and 2002 the AIRE Centre, with the support of the Irish Government, organised a one-week Summer School in Moscow in co-operation with the Council of Europe and the Moscow Institute for Human Rights. The participants at this Summer School were lawyers and academics interested in learning how to bring a case to the European Court of Human Rights in Strasbourg. The course included sessions on admissibility criteria and practical suggestions for litigating in Strasbourg, as well as a discussion of the substantive law. In summer 2003 we provided expert trainers for a similar summer school held near Krasnoyarsk in Siberia as part of a programme run by the International Helsinki Federation.

In 2001 we organised the London week of a rule of law programme for Uzbek judges and prosecutors, which had been funded by the British Embassy in Tashkent. We also regularly collaborate with the British Association for Central and Eastern Europe (BACEE) on the programmes which they arrange in London for visiting judges, public officials and parliamentarians.

The AIRE Centre has provided trainers and legal

advice in many other countries of CEE and the FSU, either as guest speakers for the Council of Europe or UNHCR, or in collaboration with NGOs in Hungary and Poland. We have also provided training placements for lawyers from the countries listed below in our London office, with the additional support of funders like the Charities Aid Foundation and the International Human Rights Internship Program.

Albania	FRY Macedonia
Armenia	Moldova
Azerbaijan	Poland
Belarus	Romania
Bosnia Hercegovina	Russian Federation
Croatia	Serbia (including Kosovo) and Montenegro
Czech Republic	Ukraine
Georgia	
Hungary	

With the support of the funders and the many international experts who give their time to assist us in this work we hope to continue to strengthen the establishment of the rule of law in these regions.

THE AIRE CENTRE AND THE BELGRADE CENTRE FOR HUMAN RIGHTS

by Professor Vojin Dimitrijevic

The Belgrade Centre for Human Rights is two years younger than AIRE. In 1996 it was a fledgling outfit which operated under difficult circumstances in Serbia, in opposition to the regime symbolized by Slobodan Milosevic. These were times of apathy in Serbia. Milosevic had signed the Dayton Agreement and was duly rewarded by some Western powers. In the words of his propagandists, he became the “ineluctable factor of peace” and the western media forgot about his being the “butcher of the Balkans”. Yugoslavia, and within it Serbia, looked very remote from being admitted to the United Nations, let alone from becoming a member of the Council of Europe.

Nevertheless, we in the Centre thought that we should prepare for the *best* scenario. Even then we suggested to other NGOs and to opposition parties to start drafting laws for better times and fill their drawers with such papers. We thought that our Vladimir Djeric should use his stay abroad to get better acquainted with the practical strategies and details on the submission of applications to the European Court of Human Rights, which is how he came to the AIRE Centre. After his return to Serbia Vladimir was dismissed from the University of Belgrade and had to go to temporary emigration.

Since then we have expanded our partnership. We are all impressed by the energy, devotion and stamina of Nuala Mole, Biljana Braithwaite and her collaborators and followers at the AIRE Centre. I have lost count of how many events we have organised together with them, and how many times they have come to the remotest parts of our country to assist the Belgrade Centre and other human rights organisations in raising the awareness of human rights, and in their efforts to train members of our legal profession to better serve the cause of human rights.

Serbia and Montenegro is now a member of the Council of Europe and will soon ratify the European Convention on Human Rights. The disciples of AIRE will now be in the first ranks of our experts acting before national and international judicial bodies.

(Professor Dimitrijevic is, *inter alia*, co-founder and Director of the Belgrade Centre for Human Rights and a member of the Institut de Droit International, and was formerly member and Vice-Chairman of UNHRC.)



Workshop with Judicial Training Centre, Montenegro

Families and children

The rights of families, and particularly the rights of children, have always played a prominent role in the AIRE Centre's work.

From our earliest days, immigration-related family problems have formed the single most recurrent issue in the requests for advice and assistance made to our advice service. Unfortunately, our diligent efforts in Strasbourg to challenge decisions that separated husbands from wives and parents from children, or that constructively deported British children from the country of their citizenship, were all unsuccessful. The Commission and Court in Strasbourg rejected any case where it was theoretically possible for the whole family to move from Europe to the country of origin of the one family member who had the immigration problems.

EU law often proved to be of more assistance than human rights law. We have been able to help many citizens of the European Union to keep their families together by using their rights under EU law to move to another Member State to live and work when the third-country national spouse was not permitted to remain in the UK. More than two-thirds of the advice we give each week on the right to the free movement of persons within the EU relates to family formation or family reunion. In the case of *Baumbast and R* we advised on the rights of third-country national family members to remain in the UK under EU law when the EU partner was working on a contract in another country (*Baumbast*), or when the marriage had been dissolved but the non-custodial EU citizen father and his children wished to enjoy regular contact (*R*).

By 1997 our help was being sought on issues such as the interface between the European Convention on Human Rights and the Hague Convention on the Civil Aspects of International Child Abduction. We have frequently collaborated with Reunite on these issues over the years, and have attended meetings both in Europe and across the Atlantic on child abduction.

In 1997 we were asked to assist in litigation that was being conducted in Strasbourg by the Official Solicitor on behalf of five children who had been subjected to appalling neglect and ill-treatment in their own home. The local authority had negligently failed to intervene and the UK courts had held that the local authority owed no duty of care to the children. The case, *Z v UK*, was joined both in the UK and in Strasbourg to the case of *TP and KM v UK*, where the same refusal to recognise a duty of care had occurred. *TP and KM* concerned the removal of a child from her mother because of the wrongful identification of an abuser, and the refusal for a year to allow access to the video evidence that made the error clear. The European Court of Human Rights (ECtHR) found violations in both cases.



FAMILY LAW/EUROPEAN CONVENTION ON HUMAN RIGHTS PROJECT

With the support of a generous grant from the Nuffield Foundation, the AIRE Centre set up in September 2000 a two-year project dedicated to the interface between family law and the European Convention on Human Rights (ECHR). Nuffield generously renewed that funding for a further year in 2003.

The aims of the project were to provide relevant up-to-date information, which would be of practical assistance to legal practitioners, the judiciary, and social workers in their everyday work, and to assist the sound development of ECHR standards as they apply to family law in the UK.

The Human Rights Act 1998 came into force on 2 October 2000. Between 1998 and 2000 it became apparent from training sessions we held that the legal professionals working in family law who were most in need of understanding ECHR standards were often the same legal professionals who appeared to have least familiarity with those standards. They were also often the same legal professionals whose errors led to the UK Government being brought, at great cost to the public purse, before the ECtHR. The UK has been found by the Court to be in violation of its obligations under the ECHR in a number of cases involving measures taken by public authorities in the 1990s. This unfortunate record demonstrates the ongoing need for greater awareness of the relevant standards on the part of all those practising in this field.

The website

A key element of the project was setting up a website to provide easy access to up-to-date developments in the Strasbourg case law, and commentary on the wider implications of the evolving jurisprudence. The President of the Family Division, Dame Elizabeth Butler-Sloss, Lady Justice Hale, and many other members of the judiciary and practitioners attended the launch of the website on 28 March 2001.

The website was set up to be simple to use. We monitor, report and comment on developments at the European Court of Human Rights in family cases, including early warning of pending and communicated cases and admissibility decisions. We produce prompt summaries in English of the many Strasbourg decisions that are now only published in French. We monitor, report and comment on developments in ECtHR cases which are not family-related but which may have a particular relevance to the family practitioner, for example Article 6 (right to a fair trial), as well as proposed or adopted new Council of Europe or Hague Conference Conventions, or initiatives at EU level. We also monitor, report and comment on developments at UK law which have applied (or failed to apply!) the ECHR through the Human Rights Act. The site carries briefing papers on specific

aspects of the interface between the Convention and domestic family law. We are grateful to a users group of practitioners in the Chambers of Michael Pert QC at 36 Bedford Row, who provide us with constructive criticism of the website and suggestions for improvement.

As part of our Tenth Anniversary celebrations, and at the suggestion of the experts on our Family Law Advisory Panel, we have offered free access to the website during 2003.

Case law updates

For those who lack computer facilities or skills, or who simply prefer hard copy, we also provide quarterly paper updates. These clearly cannot match the website for the breadth and depth of information provided but have been warmly welcomed. The updates report the decisions at all levels of the ECtHR within the period, with case commentaries expanded into an article if the case is deemed particularly significant. The updates also provide details of relevant domestic cases and of all Strasbourg cases that have been “communicated” to Governments, or whose “admissibility” or “inadmissibility” has been decided by the Court, where the judgment that is eventually delivered may have an impact upon family law. This last section is particularly important since it contains information which is otherwise very time consuming, if not impossible, for someone who is not an expert in the ECtHR to access. The updates also alert subscribers to more detailed material which can be found on the website. We send updates to all Family Division judges and have recently begun sending them also to the Court of Appeal and the House of Lords as well to those who subscribe to the service.

We also produce regular articles for specialist journals such as *Child and Family Law Quarterly*, *European Human Rights Law Review*, *Family Law*, *Family Law Journal*, *International Journal of Family Law*, *Legalease*, and *New Law Journal*.

Promotional work: meetings, conferences, lectures

In May 2002, we arranged a meeting in London on Contact and Article 8 of the ECHR, which was chaired by Lady Justice Hale. Judge Elizabeth Palm, the Swedish judge at the ECtHR (now retired), who has sat on many of the European Court’s most significant family cases, was the keynote speaker.

We have also provided speakers at events arranged by other organisations. We spoke on Family Law and the ECHR at the Justice human rights conferences in 2001 and 2002 and presented the session on Family Law at the British Institute of International and Comparative Law’s review of ECtHR case law in 2003.

In July 2003 we joined with Butterworths, the legal publisher, to host a reception at King’s College London to mark the publication of the new edition of *Children’s Rights and the*

Developing Law by Professor Jane Fortin.

In line with our desire to take the project out of London, we have made presentations at a meeting of the Devon and Exeter Law Society, and at a workshop on the Convention and Family Law held in conjunction with the University of Plymouth. We contributed to a weekend workshop of the Isle of Man Law Society on Family Law and the ECHR and have held several seminars on the subject in the Balkans, with the participation of many distinguished expert practitioners and academics in the field.

Promoting the sound development of the law: litigation support service before the ECtHR

The AIRE Centre has been involved, either as the applicants’ representative or as a member of the legal team, in litigating several important family cases at the European Court of Human Rights in Strasbourg.

Z v UK (2001) (*X v Bedfordshire* in the House of Lords) concerned the failure by the local authority to take steps to protect five children under ten from known neglect and abuse in their own home. This was found by the ECtHR to be severe enough to violate Article 3, which prohibits “torture or ... inhuman or degrading treatment”. Their inability to get redress for this in the UK was found by the Court to violate Article 13 (the right to an effective national remedy). The AIRE Centre worked with the Official Solicitor and the solicitor and counsel instructed in the case. We carried out legal research and assisted in drafting Observations and Memorials to the Court, while providing the essential liaison between the legal team in *Z* and counsel in *TP and KM* as the latter case had been joined to *Z* by the Court.

TP and KM v UK (2001) (*M v Newham* in the House of Lords) concerned the removal of a child from her home as a result of mistaken identification of an alleged abuser, and the refusal to permit the mother access to the evidence which would have enabled her to prove this. The ECtHR made the important finding that local authorities were obliged to provide a parent with all appropriate information at their disposal. The information, which might assist the parent to present a case challenging the authorities’ actions, should be supplied even if the parent did not ask for it. The same violation of Article 13 was found as in *Z*. The AIRE Centre worked closely with counsel in researching and drafting Observations and Memorials.

The AIRE Centre’s Director was given the Liberty/ Law Society award as Human Rights Lawyer of the Year in December 2001 for, *inter alia*, her work on these two cases.

Although the judgment was given in 2001, the cases of *Z* and *TP and KM* are not yet closed. In November 2002 we made submissions to the Committee of Ministers (the Strasbourg body which monitors states’ compliance with judgments) asking it to exact from the Government a clear explanation of what steps it is

taking to protect other individuals from violations such as occurred in *Z* and *TP and KM*. We will continue to pursue this matter with the Committee until a satisfactory solution has been reached. Violations of children's rights that occurred through the acts or omissions of local authorities before 2 October 2000 are still problematic. The Court of Appeal ruled in July¹ that the immunity from suits in negligence accorded in *X v Bedfordshire*, which had been found to violate the ECHR in *Z* and *TP and KM*, could no longer be invoked as good law in respect of claims made by children in the British courts. The Court of Appeal disallowed the parents' claims. Leave to appeal this decision to the House of Lords has been sought and the AIRE Centre is working with counsel in the case.

We also provided advice to the representatives in the early stages of the case of *DP and JC v UK* (2002), which raised similar points of law to those at issue in *Z* and *TP*.

The AIRE Centre worked closely with counsel on the case of *P, C and S v UK* (2002). This case concerned the removal of a baby at birth from her parents without a court hearing in which they could participate, and the child's subsequent freeing for adoption and placement with no possibility of contact. We assisted counsel with research on the ECtHR case law and conducted a survey of European adoption law,² which showed that the violations alleged could not have occurred under the laws of other European states. The Court found that the abrupt removal of the child at birth by social services and the conclusion of the care and freeing proceedings without legal representation for the parents violated the ECHR. This was only the second case in fifty years in which the applicants had been successful in persuading the Court that a public authority had violated the Convention by the removal of a child from its parents (as opposed to finding procedural errors). It was also the first case for twenty years where the Court had found that the lack of legal representation in a civil case had violated the right to fair trial. The judgment, however, left unclear the extent to which local authorities are entitled to use emergency procedures that exclude the participation of the affected parents and children in situations that are not emergencies in the sense of being unforeseen. The AIRE Centre has sought clarification from the ECtHR on this important point. The applicants had asked the Court to rule on the compatibility with the ECHR of English adoption law, which did not permit a flexible response by the courts to situations where a child was adjudged to need a new permanent home, but the Court declined to do so.

The AIRE Centre is now acting for the mother and children in the case of *S, A and B v UK*, which has been "communicated" by the ECtHR to the Government. As *Re S* it was decided by the House of Lords in March 2002. The Court of Appeal had previously construed the Human Rights Act to mean that, when making a care order under the Children Act, a court could identify "starred milestones" in the care plan, and could

require the case to be brought back before it in order to supervise the adherence of the local authority to those key elements of the plan. The House of Lords disagreed, reversed this finding and additionally found that the absence of this power did not make the Children Act incompatible with the HRA.

The Strasbourg ruling in this key case will guide the procedures to be followed in future in implementing all care orders.

We are also acting in a case against France concerning a child with dual nationality who was taken into public care. The mother and three-year-old child were prohibited from using their usual language and mother tongue at contact visits, which seriously damaged the possibility of maintaining and developing their relationship.

Third party interventions

The European Court of Human Rights can give permission for interested persons, who are not parties to the litigation, to submit interventions to the Court, either to assist in assessing the wider implications of the litigation before it, or to take into account some aspect which is not uppermost in the minds of the parties.

The AIRE Centre has always had a particular interest in the development of ECtHR jurisprudence on the Hague Convention on the Civil Aspects of International Child Abduction. *Ignaccolo Zenide v Romania* was the first case involving the relationship between the ECtHR and the Hague Convention to be heard on the merits by the Court. The erroneous view that the Hague Convention regulates which parent should have custody of a child had led to many inappropriate decisions both by national courts and ECtHR organs. The Hague Convention only demands the return of a child from the jurisdiction in which it is unlawfully retained by the abducting parent to the jurisdiction competent to decide those issues. Together with Reunite and a team of specialist lawyers³, the AIRE Centre submitted an intervention which set out clearly for the Court the object and purpose of the Hague Convention and assisted it in coming to an informed judgment.

Many of the growing number of cross-border marriages break down and one or other party returns home, often removing or retaining the children unlawfully. The mutual recognition of matrimonial judgments is assuming an ever-increasing part of the family practitioner's private law workload. The case of *Pellegrini v Italy* (2001) concerned the recognition of a foreign matrimonial judgment (an annulment by the Vatican of a marriage which had subsisted for more than twenty years), which had been obtained in violation of the fair trial guarantees of Article 6. Since the whole question of the recognition of foreign matrimonial judgments was in the process of being regulated at EU level by the new Regulation 1347/2000 (often known as "Brussels II"), we felt it was important for the ECtHR to be aware that its judgment would have implications far beyond the facts and

parties. We prepared and submitted to the Court a detailed intervention, which set out the most important provisions of the new regulation. (The text is on our website.) The case was successful and, as a result, the Brussels II Regulation, which must be applied in conformity with ECtHR case law and which came into force in 2001, must now take into account whether the guarantees of fair trial in Article 6 and fair procedures in Article 8 were observed in the original procedure. We also put a detailed analysis of Brussels II on our website to assist the judiciary and practitioners. Since the *Pellegrini* judgment was for many months only available from the court in French, our English report was also of considerable value.

Advice service and litigation support in the UK

Throughout the duration of this project, the AIRE Centre has been operating a telephone advice line and providing case by case written advice on the interface between family law and the ECHR (and where appropriate EU law). We provide advice to those who are litigating family issues in person, as well as to the solicitors and counsel who are acting for children or their parents or, increasingly, grandparents in UK proceedings, and to those who have been unsuccessful in UK or other domestic litigation and who wish to proceed to Strasbourg. Sometimes all that is needed is a ten-minute telephone conversation with counsel or the solicitors to clarify a point or to direct them to the relevant case law. Sometimes more detailed consideration of the file and considerable research and analysis and a full written opinion is required.

The AIRE Centre's experience indicates that there is a real need for a publicly funded second-tier advice system. The Legal Services Commission has still not set up such a system (such as has been done for, eg, immigration) to service the needs of the family practitioner who does not have specialist expertise in ECHR law.

We are actively seeking funding to enable us to continue with the project when the second Nuffield grant comes to an end in December 2003.

¹ In *JD v East Berkshire, MAK and RK v Dewsbury, RK v Oldham*.

² This research can be found on our website.

³ Henry Setright, QC, Anne-Marie Hutchinson, Marilyn Freeman, Professor Nigel Lowe.

Advisory panel

The project has been supported by the President of the Family Division and Lady Justice Hale and is assisted by an Advisory Panel now chaired by Mr Justice Munby.

The other panel members are:

Luke Clements *Solicitor and Senior Research Fellow, Cardiff Law School*

Louise Creighton *Creighton & Partners*

District Judge Nicholas Crichton *Inner London & City Family Proceedings Court*

Deborah Cullen *Secretary to the Legal Group, British Association for Adoption and Fostering (BAAF)*

Audrey Damazer *Regional Justices' Clerk, Inner London & City Family Proceedings Court*

Professor Jane Fortin *King's College London*

Jacqui Gilliatt *Barrister*

Peter Harris *formerly Official Solicitor*

Anne-Marie Hutchinson, OBE, *Dawson Cornwell*

Professor Nigel Lowe *University of Cardiff*

Professor Judith Masson *University of Warwick*

Andrew McFarlane, QC

Judge David Pearl *Care Standards Tribunal*

Charles Prest *Legal Director, CAF/CASS*

Heather Swindells, QC

Penny Wood *Barrister*

Project workers

Nicola Rogers masterminded the website. Sam Sullivan at Edition Design built and continues to host the website. He also designs and prints the quarterly updates and provides the project with much needed technical advice. Berni Smith administers the database. Thomas Barrett, Tamzin Brown, Jacqui Gilliatt, and Elin Weston have all worked with Nuala Mole on the project.



Nuala Mole, Director, AIRE Centre

AIRE people

Entela Josifi



I already had contacts with the AIRE Centre in 1996 before I went for an internship there in 1997. After graduation from the Law School, I wanted to continue my education in international human rights law. I attended seminars organized by the AIRE Centre in Albania. Such seminars were like a window opened to me out of

which I understood I had so much to see.

During the almost nine months of my internship at the AIRE Centre, I realized how much work was needed to create centers like that and I was trained to carry out such a task back in my country. I had the wonderful chance to work with world-famous specialists in the field, who at the same time were amazing people. I learned so much during this internship that I could compare it with a full nine months course at a University. During this internship, I advised individual clients in writing and on the telephone on their rights under the European Convention of Human Rights; I researched the case law of the European Commission and Court of Human Rights; I acted as a liaison with lawyers in Albania with regard to the possibility of future applications against Albania to the European Court of Human Rights; attended a hearing at the European Court of Human Rights; and visited detention centers and law centers in the United Kingdom.

I have kept and developed my personal and professional contacts with the AIRE Centre after my internship, and all has been such a great experience. I would like to take the chance to express my gratefulness to the staff of the AIRE Centre and especially to its Director, Mrs. Nuala Mole, for continuously being such a significant support to my career development and myself.

Current career: After my graduation on May 2001, at the Notre Dame Law School in Indiana USA, with a Master Degree in international human rights law, I started to work in Kosovo.

For one year, I worked as a Foreign Legal Counsel for the American Bar Association Office in Prishtina. During this time I undertook research to become familiar with the complexity of applicable law in Kosovo; drafted the text (in English and Albanian) of a project-Regulation on the Establishment of the Local Commission on Missing Persons in Kosovo; worked as a member of the working group in initial outlining of a benchmark for criminal trial judges of Kosovo; attended training seminars for criminal defense lawyers and criminal trials at the International Criminal Tribunal for the Former Yugoslavia at the Hague, the Netherlands; designed and organized implementation of the Project for Public Information and Participation.

From September 2002 until the present I have worked as a Legal Officer for the Department of Justice of the United

Nations Mission in Kosovo. During this time I am providing overall general legal advise and support to International Judges in their functions in courts in Kosovo, especially in all areas of determining, interpreting, and applying the applicable law and international human rights principles. The advise and support I provide is carried out by: conducting legal research, and advising on the applicable law, international human rights principles and humanitarian law; Reviewing, analyzing, and advising on all court documents as well as investigation documents; Drafting legal opinions, pleadings, and other court documents.

Jared Genser



During my second year of law school, I spent a semester working intensively at the AIRE Centre. On my first day on the job, I was answering the advice line, researching European Union law, and providing advice to individual clients. It was a great representative introduction to four months that had a significant impact

on shaping my career.

Most tangibly, during my time at the AIRE Centre, I was involved in representing James Mawdsley, the British national who had been sentenced to 17 years in solitary confinement in Burma for handing out pro-democracy leaflets there. It was this experience and our subsequent success in securing his release that inspired the creation of Freedom Now.

More intangibly, I also learned a number of other key lessons through my experience at the AIRE Centre. First, a good lawyer is much more than someone with strong research and writing skills – you must be able to connect with your clients with compassion and empathy. There were indeed many moments on the advice line where half of what the client needed was someone to listen to them. Second, the only way to be successful is to take the initiative. While I probably could have been characterized as a self-starter prior to arriving at the AIRE Centre, my self-confidence as an actual practitioner of law really began to blossom during my time in London because I was relied upon to do real work. Finally, enjoy the collegiality of working with others. One of the things I enjoyed most at the AIRE Centre was the open space and ongoing discussion and debate of legal issues. It is indeed the constant atmosphere of self-improvement and understanding that makes the AIRE Centre the special place that it is.

Current career: I am currently an associate in the Federal Affairs and Legislative Practice Group of Piper Rudnick LLP in Washington, DC. As a lawyer-lobbyist, I represent both national and international clients as well as foreign governments before US Congress and the executive branch and counsel them on a variety of issues in foreign affairs, appropriations, and international trade.

In addition, I also have an active human rights practice as President of Freedom Now, an all-volunteer non-profit organization, which seeks to free prisoners of conscience around the world through legal, political, and public relations advocacy efforts. Freedom Now has successfully helped secure the release of such prisoners of conscience as Ayub Masih, a Pakistani Christian sentenced to death for blasphemy in Pakistan, and Saad Eddin Ibrahim, a prominent Egyptian and American academic who was imprisoned for his work on democratization in Egypt. In addition to its individual case work, Freedom Now has developed an intensive training program (and accompanying manual) which is being used to inspire young lawyers in Washington to get involved in prisoner work. You can learn more about Freedom Now at www.freedom-now.org

Maria-Teresa Gil-Bazo



In 1995, Barbara Harrell-Bond, at the time Director of the Refugee Studies Programme in the University of Oxford, decided that if I was serious about studying refugee protection under International Human Rights Law, I “needed to go to Nuala Mole”. Soon I found myself in the AIRE Centre’s Brixton offices trying to decipher both the complex ways of state practice on EC provisions on the free movement of persons, and also the procedures for taking a case to the European Court of Human Rights.

The AIRE Centre was then, and remains today, a sound continuing source of inspiration, an example of devotion and commitment to standing on principle when defending the rights of individuals under International Law

At the AIRE Centre I learned the fineries of International Law that cannot be found in books. I also learned how enthusiastic leadership based on sound knowledge, encouragement and support, can make the most of restricted resources at the service of those who need them most. At the AIRE Centre I also found some of the closest friends that I still have today. The AIRE Centre still exercises a magnet effect on me, as a place to find inspiration, intellectual stimulation, and to remember all the good reasons why doing human rights work in Europe is still worth it.

Current career: I was born in 1969 in Bilbao (Spain). I hold a PhD in International Law, developed under the supervision of Professor Fernando Mariño (Member of the UN Committee Against Torture). My work received the highest distinction by unanimity of the Tribunal presided over by Professor Manuel Díez de Velasco (former Member of the Spanish Constitutional Court and former Judge at the European Court of Justice).

I currently work as the European Union Representative

for the European Council on Refugees and Exiles (ECRE) in Brussels. Since 1999 I have been a Lecturer on the Protection of Refugees under International Human Rights Law at the Masters on Migration Studies in University Carlos III de Madrid and in University Pontificia Comillas (Spain). Between 1999-2002, I was Executive Officer in Justice and Home Affairs issues for Amnesty International EU Office. Before then, from 1994, I worked as a Researcher in University of Deusto (Bilbao, Spain) where I was a Member of the Faculty of Law. Between 1993-1995 I was a Legal Adviser for the Spanish Commission for Refugees (CEAR), where I represented asylum seekers during the asylum procedure. In 1997 I was a member of the OSCE Electoral Missions in Albania and in Bosnia i Herzegovina. I am the author of numerous academic articles.

Tim Eicke



With the encouragement of my then pupil master, I joined the AIRE Centre as a part-time intern in 1993/94 while doing my first six months pupillage. In my time there – in true AIRE Centre style – I was “thrown in at the deep end” and was soon exposed to both its case load concerning EC law (in particular free movement of persons) and human rights law. It was during that time that – solely by reason of the fact that I was the only intern/lawyer speaking sufficient German – I was asked to prepare the application to the (then) European Commission of Human Rights in a case by a British national against the Austrian government. Despite the suggestion by some people that it stood no chance of success, this case – some six years later, by which time I had moved on into private practice although still acting on instructions from the AIRE Centre – concluded by a judgment of the Court finding a violation of Article 6 (*Cooke v Austria*). While this case, for obvious reasons, stands out, the controlled exposure to a large variety of (difficult) cases in both these areas of the law during my time at the AIRE Centre and the guiding hand of its director, Nuala Mole, in dealing with such cases have provided a very large part of the foundations upon which my current practice was established. The origins of any “expertise” I may have in these areas of the law can clearly be traced back to my beginnings at the AIRE Centre and the training (by doing) and encouragement provided by Nuala and my two pupil masters (both of whom whole-heartedly supported the work of the AIRE Centre and my part therein). Even now, some ten years later, I still draw inspiration from the skills and experience gained during my time at the AIRE Centre.

Current career

As a barrister specialising in human rights law, EC law and immigration, I appear regularly in both the ECJ and the

European Court of Human Rights as well as domestic courts and tribunals, and was counsel in some of the leading cases in their respective areas, such as, for example, *Alconbury*, *Goodwin v United Kingdom* and *Kondova v Secretary of State for the Home Department*. I was educated at Passau University and Dundee University (LLB Hons English Law). I qualified in 1993, and joined Middle Temple and later Lincoln's Inn. Since 1999 I have been junior counsel to the Crown, and am a member of Essex Court Chambers.

I am joint editor of *European Human Rights Reports*; contributor to Grosz, Beatson and Duffy *Human Rights – The 1998 Act and the European Convention*; an editor of *The Strasbourg Case Law: Leading Cases from the European Human Rights Reports*; *Human Rights Damages* (looseleaf); *Law of Betting, Gaming and Lotteries* (Smith & Monckton); and consultant editor of *Children Law and Practice*.

Vladimir Djerić



I met Nuala Mole for the first time in early 1995, when she was selecting interns at the University of Michigan Law School. I was very much interested to work with the AIRE Centre, as I was always interested in human rights litigation, especially before the European Court for Human Rights. Initially, I have to say, Nuala was a bit skeptical about my internship because, at the time, Yugoslavia (Serbia and Montenegro) under the Milosevic regime was nowhere near membership in the Council of Europe. At the same time, she understood that lawyers from Yugoslavia should become acquainted with the ECHR and the Court, and eventually invited me to come to London. I was to be the first in

a series of people from Serbia and Montenegro who would be affiliated with the AIRE Centre.

My internship with the AIRE Centre lasted three months. I started by answering inquiries about the ECHR, but gradually and now I realize purposefully, I got more and more complicated assignments. In addition to answering numerous inquiries, I did a lot of work on the UN Convention Against Torture, wrote an in-depth briefing paper on freedom of expression for seminars in Moldova, and co-drafted application to the European Court of Human Rights in *Seyhan v Turkey*.

Upon my return to Belgrade, I continued working as assistant professor at the Faculty of Law and was also affiliated with the Belgrade Centre for Human Rights. My lectures at the Faculty of Law, as well as my work in NGO sector, contributed a lot from the experience and knowledge I gained with the AIRE Centre. Most importantly, I was able to keep and further convey the idea that human rights may somewhere and someday work in practice, which seemed quite a distant and unlikely idea to anyone in Serbia during Milosevic.

Since the democratic changes in Serbia in October 2000, everything turned upside down and many lawyers and other NGO activists entered government structures to pursue democratic reforms. Similarly, I started working in the Ministry for Foreign Affairs, as advisor to the minister (who also used to be a prominent human rights activist). In particular, I am glad to have been able to personally witness and participate in the process of admission of Serbia and Montenegro to the Council of Europe. And then, in 2003, I remembered how in 1995 I made the argument to Nuala that Serbia will one day be in the ECHR system and that it is important to prepare for future. I am glad and thankful that she was prepared to think so much in advance.



Former interns of The AIRE Centre

The work of the AIRE Centre has been achieved by:

Navtej Ahluwalia
Zainab Ahmad
Imke Ahrens
Kate Akester
Dalia Al-Fallouji
Helen Arabanos
Bojana Asanovic
Lisa Bagley
Clive Baldwin
Charles Banner
Stephanie Barker
Thomas Barrett
Jonathan Beloe
Cecile Bleskine
David Blundell
Anna Boase
William Boggs
Sarah Bookbinder
Gretchen Borchelt
Steve Bowen
Biljana Braithwaite
Claire Brigham
Lisa Bromfield
Tamzin Brown
Laura Bruzzaniti
David Burkoff
Sarah Burt
Nancy Butin
Israel Butler
Kim Butler
Alexandre Calice
Judith Carter
Parosha Chandran
Theodora Christou
Jonathan Chudler
Cornel Ciabotaru
Giuseppe Colangelo
Jonathan Cooper
Uddalak Datta
Gunay Defferli
Beatina Di Cino
Alessandra Di Perna
Vladimir Djeric
Federica Donati
Tim Eicke
Eva Engelken
David Figueroa-Ortiz
Joanna Flower
Katherine Fortin
Michelle Foster

Deirdre Fottrell
Antony Frey
Benjamin Friedman
Lisa Gambone
Jared Genser
Sarah Geraghty
Maria-Teresa Gil-Bazo
Jacqui Gilliatt
Hannah Godfrey
Sarah Gogan
Clare Gordon
Jonathan Halpern
Deidre Hamilton
Catharina Harby
Claudia Heuterbes
Drew Holiner
Ron Hooghiemstra
Artan Hoxha
Mei Ling Huang
Tahera Huda
Robina Hussain-Naviatti
Iliriana Islami
Remzije Istrefi
Lee Jackson
Imran Jaffer
Malcolm Jarvis
Anja Jauch
Joanna Jenkyn-Jones
Tashia Jithoo
Entela Josifi
Jeff Kahn
Ulrike Kassner
Dorothee Kaul
Ciaran Keller
Claudia Keller
Saleem Khalid
Jef Klazen
Isabell Koch
Jens Koenig
Hiikmah Kohle
Kwaku Koranteng
Chantal Krishnadasan
Barbara Kryszko
Marisa Lau
Sarah Le Fevre
Joanna Lewis
Clinton Light
Glenna MacGregor
Jennifer Magida
Eileen Maher
Klentina Mahmutaj
Daniel McLaughlin
Bridget McVay

Alison Meacher
Roberta Medda
Kristin Meister
Annalisa Meloni
Nuala Mole
Gillian More
Alejandro Morlachetti
Irina Muller-Schieke
Christina Murdoch
Maya Naidoo
Benjamin Narain
Nathalie Nassar
Jeanette Nicholas
Frances Nicholson
Katerina Obretenova
Robert O'Donoghue
Charity Osborn
Pushpa Pandya
Marianna Patane
Jasmine Patel
Maxine Pieri
Drew Porter
Yasmin Punjani
Noelle Quenivet
Shilpa Raja
Asim Rehman
Carola Reimann
Richard Rickford
Beatrice Rigotti
Sian Roath
Heather Roberts
Nicola Rogers
Alex Ruck Keene
Nadia Safardi
Sebastian Said
Faisal Saifee
Mai-Ling Savage
Julia Schmodde
Jessica Schultz
Britta Schwarz
Giles Seal
Liana Sebastian
Frances Sheahan
Alan Simmons
Berni Smith
Raffaella Sodano
Paola Somaini
Androulla Soteriou
Annetta Steenken
Friederike Steglich
Ewa Styn
Lotta Teale
Niven Toolan

Benjamin Torrance
Christine Vamvakidou
Lizette Van Bergen
Veronica Vela
Franco Vella
Ellen Walker
Katherine Weed
Viola Werner
Elin Weston
Stephen Whale
Kirsten Wiese
Ralph Wilde
Felicity Williams
Christian Wisskirchen
Vera Woyczehowski
Richard Wray
Genti Xholi
Pearl Yong
Monika Zacny
Barbara Zeitler

We have also provided short placements each year for young lawyers from CEE and the FSU attending the Human Rights programme of the University of Birmingham.

Some names will, inevitably, have been omitted from the list. We apologise.

The following have served or are now serving on our Management Committee. An asterisk indicates the names of current members:

*Navi Ahluwalia
Roy Ashworth
Damian Chalmers
*James Davies
*Tim Eicke
Tahera Huda
Alison Hunter
*Anne-Marie Hutchinson,
OBE
*Frances Nicholson
Tanya Noah
Pushpa Pandya
Nicola Rogers
Michael Tugendhat, QC
*Stephen Whale
*Ralph Wilde
*Robert Wood

We are grateful to the following whose grants or donations have supported our work:

Charity Know How Grants Committee
Council of Europe
Department for Constitutional Affairs
Department for International Development
European Agency for Reconstruction
European Commission
Foreign & Commonwealth Office
Home Office
International Human Rights Internship
Program, Washington DC
London Boroughs Grants Committee
Lyndhurst Settlement
New College JCR
Nuffield Foundation
Ptarmigan Trust
Swiss Ministry for Foreign Affairs
Westminster Foundation for Democracy
and private donations

We are grateful to Matrix Chambers for their generous donation, which has made possible the publication of this Review.

matrix
chambers

The AIRE Centre

Third Floor, 17 Red Lion Square, London WC1R 4QH
Advice line: 020 7831 3850 Tel: 020 7831 4276 Fax: 020 7404 7760
E-mail: info@airecentre.org
Website: www.airecentre.org

Registered Charity no. 1090336. Company Limited by Guarantee reg. no. 2824400.

