

SUPREME COURT

Application for Leave and Notice of Appeal (AMENDED)

For Office use:

Supreme Court record number of this appeal

Subject matter for indexing

Leave is sought to appeal from

The Court of Appeal

**COURT OF APPEAL - CIVIL
Record no. 2015/488**

Between:-

FRANCIS LANIGAN

Applicant/Appellant

-and-

**GOVERNOR OF CLOVERHILL PRISON
MINISTER FOR JUSTICE AND EQUALITY
IRELAND, ATTORNEY GENERAL**

Respondents

Date of filing : **25th January 2017**

Name(s) of Applicant(s)/Appellant(s) : **Francis Lanigan**

Solicitors for Applicant(s)/Appellant(s) : **Pádraig O'Donovan & Co., Solicitors**

Name of Respondent(s) : **Governor of Cloverhill, The Minister for
Justice and Equality, Ireland and the
Attorney General**

Respondent's solicitors: **The Chief State Solicitor**

Has any appeal (or application for leave to appeal) previously been lodged in the Supreme Court in respect of the proceedings? **Yes.**

This is an amended application for leave [S:AP:IE 2016 000141]. The initial application was first lodged on 1st December 2016. An application for leave to appeal in related proceedings : Court of Appeal ref: 2015 482 was determined by this Court on 27th June:- [2016] IESCDet 85 and two further "leap-frog" applications for leave to appeal have been filed in linked proceedings:- High Court Ref: 2014 No. 6374P [S:AP:IE 2017 00014] and High Court Ref No. 2015 1662 SS [S:AP:IE 2017 00015].

Are you applying for an extension of time to apply for leave to appeal? **No.**

1. Decision that it is sought to appeal

Name(s) of Judge(s) **Court of Appeal-Civil
Peart, Irvine and Mahon JJ.**

Date of order/ Judgment **19th October 2016 (Perfected 26th October)**

2. Applicant/Appellant Details

Where there are two or more applicants/appellants by or on whose behalf this notice is being filed please provide relevant details for each of the applicants/appellants

Appellant's full name: **Francis Lanigan**

Original status **Applicant/Appellant**

Solicitor

Name of firm **Pádraig O'Donovan & Co., Solicitors Company,**

Email: **info@podonovansolrs.com**

Address: **Abberley Law Centre, Tallaght, Dublin 24.**

Telephone no: **01 4610250 086 8221262**

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Ref.

How would you prefer us to communicate with you? **E-mail**

Counsel

Name: **Michael Forde SC**

Email; **catherinefordebl@gmail.com**

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3. Respondent Details

Where there are two or more respondents affected by this application for leave to appeal, please provide relevant details, where known, for each of those respondents

Respondent's full name: **Governor of Cloverhill, The Minister for Justice and Equality, Ireland and the Attorney General.**

Original status **Respondent.**

Solicitor **Hugh Dockry**

Name of firm: **Chief State Solicitor**

Email: **hugh_dockry@csso.gov.ie**

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How would you prefer us to communicate with you? **E-mail**

Counsel

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Postcode: **Dublin 8.**

Name: **Tony McGillicuddy BL**

Email: tmcgillicuddy@lawlibrary.ie

Address: **Distillery Building, Church Street, Dublin 7.**

Telephone no: **01 817 7823**

Document Exchange no; **818100**

Postcode: **Dublin 7.**

4. Information about the decision that it is sought to appeal

It is sought to appeal the rejection of this statutory habeas corpus application and the refusal to make an Art. 267 reference to the Court of Justice.

In a letter of 21st December last to this Court, the intending Applicant's (hereinafter "Appellant") solicitors requested leave to amend this application, in light of events occurring since it was lodged on 1st December. In a letter of 18th January, the Court advised the solicitors that they had seven days to do so.

This appeal and the related leave applications concern what was a straightforward dispute concerning a European arrest warrant ["EAW"] that has become more and more complex over time and now possibly merits the description "Byzantine". Overall the Appellant contends that, had the initial trial judge (Murphy J.) dealt with the E.A.W. s. 16 application for surrender properly, this entire matter would have been resolved long before now. However, compounded by the manner in which another judge (Barrett J.) dealt with a closely connected aspect of this dispute, it has spawned multiple litigation, *inter alia*, a hearing before the Court of Justice's Grand Chamber, *Minister for Justice and Equality –v- Lanigan* (Case 237/15 PPU) [2016] Q.B. 252, three separate appeals to the Court of Appeal, two habeas corpus applications and plenary proceedings in the High Court, 2014 No. 6374P (White J.) raising numerous issues of general importance and of some complexity, as well as a previous application for leave to appeal to this Court, which was rejected: [2016] IESCDET 85.

Background

The narrative here is somewhat lengthy on account of the complexity of the events and the absence of findings of several relevant facts referable to evidence adduced below in the decisions of the High Court and of the Court of Appeal. Additionally, in the High Court the Appellant did not have transcripts confirming many of the

matters on which evidence would have been given had his application for an adjournment on 14 September 2015 been granted and the trial of this Art. 40.4 application been allowed to proceed with both sides fully prepared. If leave is granted, application will be made to introduce the relevant parts of these transcripts. A summary of the background, up to February 2015, is set out in the opinion of the Advocate General in the *Lanigan case* [2016] Q.B. 252 at paras. 15 – 36 which involved this Appellant.

1. On 17 January 2013 proceedings to secure his surrender to Northern Ireland under an EAW for him to be tried on charges of murder and a firearms offence were commenced. The hearing of the s. 16(1) EAW Act application did not start until 30th June 2014 because, *inter alia*, on the Minister's objection Edwards J. refused to recommend legal-aid and there were several adjournments to facilitate the Minister file replying affidavits. The hearing lasted three days and concluded on 4th July. The Appellant's principal ground of objection was the significant threat to his life if surrendered, even if imprisoned there and that, instead, he could be tried in the State under the Criminal Law (Jurisdiction) Act 1976.
2. At the hearing, this ground was supported by two affidavits filed some months previously. They were not contested in cross-examination and there was no replying affidavit purporting to contradict this evidence. Thus, it was contended, on the balance of probabilities, the threat to his life had been established and, in consequence, both the EAW Act and also the Framework Decision on an EAW prohibited his surrender. He stressed that the *aut dedare aut punire* principle could be effected by trying him under the 1976 Act. On the hearing ending, he awaited judgement being given with reasonable expedition.
3. Instead, on 17 November 2014 the judge gave a written "preliminary ruling" in the case, concluding as follows (paras 45 and 46):

"The court now requires that the applicant engage with the, to date, *Uncontroverted Evidence* of the respondent that in the event of his surrender his life would be at risk. The court seeks information addressing the specific concerns expressed. The information may be presented to the court otherwise than in affidavit form but it must be presented in a way that the court can be satisfied of the provenance and authenticity of the information and that the information relates to this specific case.

The court will defer its consideration of the other points of objection until such time as the additional information sought has been furnished."

4. In consequence, the Minister put before the court letters from Northern Ireland prison and police officers asserting that there was no basis for the Appellant's evidence about the risk to his life there. These did not come via the requesting judicial authority, as envisaged by the Framework Decision and exemplified in the Court of Justice's recent decision in *Aranyosi & Caldaru* (Cases 404 and 659/15 PPU). Nor were they exhibited in an affidavit.

5. On 2nd December the State was served with plenary proceedings (2014 no. 6374P) challenging inter alia the constitutionality and EU law-compatibility of those parts of the EAW Act, that, on the judge's interpretation/application of them, would enable her to treat the contents of those letters as a legally permissible basis for refuting the Appellant's evidence regarding the threat to his life. Between 5th January and 19th May 2016, three written requests by his solicitors for a defence, including notice of moving a motion for judgement in default, were ignored by the Defendant's solicitors the C.S.S.
6. On 4th December 2014 the Appellant's counsel contended that the judge should not treat those letters as rebutting evidence, inter alia because the assertions in them could not be challenged in cross-examination. The judge's response was that "*[t]here is no right to cross-examine on a European arrest warrant*", for the reason that "*it is not a trial and you are not determining guilt of innocence*" (transcript pp 11 an 12)
7. On 8th December 2014 and as summarised by the Advocate General [2016] Q.B. 252 at para 29:

"the respondent in the main proceedings applied to the court to dismiss the surrender application on the ground that, under the national law of criminal procedure and evidence as well as the Irish Constitution and the Charter, the documents produced by the applicant in the main proceedings were inadmissible as evidence and, even if they were admissible, they would have to be disregarded since they were incapable of being challenged in cross-examination. That application was nevertheless dismissed by the High Court on the ground that it related to the preliminary issues on which the court had already ruled" (but refused to make any order then or later that could have been appealed before making her surrender order on 4 September 2015.)
8. On 15th December the Appellant sought to have certain questions referred to the Court of Justice under Art. 267 of the TFEU. These principally concerned the process held to be implicit in the EAW Act that ostensibly warranted treating the contents of these letters as reliable evidence, as well as a question about delay. The judge refused to refer the questions concerning that process. On 19 May 2015, she referred the question about delay. On 1st July the case was heard by the Grand Chamber, on 6 July the Advocate General's opinion was given and 16 July judgement was given [2016] Q.B. 252.
9. On 20th July 2015 counsel for the Appellant requested the judge that, if she were minded to order surrender, to defer the making of that order until the pending plenary action (2014 no. 6374 P) was heard and determined (transcript pp. 19 -20).

10. On that day the Respondents were informed in the court that in late August, when the President would be sitting, the Appellant would request an early trial date for that action. But on 21st August they issued a motion to have the action struck out as unstateable, an abuse etc. returnable for mid-October, which prevented having the trial on the following month.
11. On 4th September, counsel for the Appellant again reminded the judge of the pending plenary case, so that she would defer making a final order until they were concluded (teanscript pp. 22 and 23). Notwithstanding, she ordered surrender and refused an application for leave to appeal.
12. On 11th September the Appellant brought these present proceedings, as expressly advised by the High Court was his entitlement, to challenge the legality of his detention for the purpose of surrender, which he envisaged would be tried in conjunction with the plenary case. That was on the ground principally that he had adduced credible admissible and unchallenged evidence of the risk to his life but the provisions of the EAW Act (as interpreted by the judge) that purported to permit her treat the above letters as trumping his affidavits were unconstitutional and/or contrary to EU law.
13. On 14th September, the return day, when the hearing was about to begin and on being given then a copy of the Governor's certificate, the Appellant's counsel applied to Barrett J. to adjourn the matter to be tried in conjunction with the plenary action. That application was not refused on the day. Nor did the judge state that he would treat it as the trial of the habeas corpus, let alone so order. Had he so ordered, he would have been requested to have that order perfected so that his forcing on the trial of the Art. 40.4 in the circumstances could be appealed.
14. On 17th September he gave judgement that inter alia rejected the main claims being advanced in the plenary proceedings. That order was appealed on the grounds that the judge could not have lawfully so determined when the only application before him on the day was for an adjournment and the trial of the action never took place : other than the Appellant's affidavit for his adjournment applicaiton, no evidence was adduced at that hearing and there were no outline written submissions nor copies of the relevant authorities handed in on the day.
15. On 19th October 2016 the Court of Appeal held, speculating about what may have occurred on 14 September 2015 but without referring to the uncontradicted evidence before it of those the events, that the trial of the Art. 40.4 had taken place and the judge's findings and conclusions were correct. The Court's other ground for refusing the appeal made no reference to relevant authorities and arguments that could have been made, that in somewhat comparable proceedings has since been

given significant precedential weight. This is that somehow it is an “abuse” of the procedure, expressly provided for in s. 16(4)(a) and (6)(b) of the EAW Act, to challenge the constitutionality of provisions of that Act (as interpreted) that enables unexhibited letters from officials in a foreign country to trump unchallenged evidence about the risk to life adduced in a case, inter alia subverting entitlement to cross-examine. The Court also refused a request for an Art. 267 reference.

16. There were some subsequent developments that have a direct bearing on this appeal, several of them arising in the two related leave applications made by the Appellant, from White J. and from Humphreys J. respectively.
 - i. In November 2015 a report was published of an inspection of Maghaberry prison by the Northern Ireland prison inspectorate. It contradicts the glowing account of conditions there portrayed in the above letters that Murphy J. relied on, and lend support to the Appellant’s evidence about the risk to his life if surrendered.
 - ii In March-April 2010, in the course of the application before White J. to strike out the plenary proceedings, the State served copies of transcripts they had of, it appears, all of the relevant hearings before Murphy J., including several that the Appellant did not have. These confirm what is said above regarding those hearings and show that on several occasions the judge made it clear that she did not wish to try the issues of statutory unconstitutionality and she declined to defer ordering surrender until those issues could be determined in the plenary proceedings. One of the reasons for requesting Barrett J. to adjourn this Art. 40.4 was so that these transcripts could be obtained.
 - iii In December 2016, for an Art. 40.4 application before Humphreys J., there was affidavit evidence confirming what is said in para 13 above about the hearing before Barrett J. which was not contradicted or challenged. Para 61 of that judgement notes information given by the Respondent’s counsel that, if it had been conveyed to the Appellant before then may very well have made all of the applications in this protracted dispute unnecessary.

Orders and findings

High Court : Refuse Habeas Corpus

“There is no “fundamental denial of justice, or a fundamental flaw” presenting in this application which would justify the High Court granting a remedy in these Article 40 proceedings in respect of a detention order previously made by the High Court. Having regard to all of the foregoing, Mr. Lanigan’s application must fail.”

Court of Appeal : Dismiss Appeal

“I believe that Barrett J. was correct to reject the arguments put forward and to dismiss the application made under Article 40.4 of the Constitution.

In my view those questions [in respect of which an Art 267 reference was sought] do not arise in the present proceedings. If they arise at all, they do so in the EAW proceedings, and there is no reason therefore why this Court would refer them.”

5. Reasons why the Supreme Court should grant leave to appeal

Please list (as 1, 2, 3, etc) concisely the reasons in law why the decision sought to be appealed involves a matter of general public importance and/or why in the interests of justice it is necessary that there be an appeal to the Supreme Court.

Interests of Justice

- i. The Appellant’s surrender under an EAW was ordered notwithstanding uncontested and uncontradicted evidence of a threat to his life. Having been remanded in custody for surrender he sought to challenge the legality of his detention by way of Art. 40.4.2 of the Constitution. However, as explained above, the Art. 40.4 trial that is the Appellant’s constitutional and EU law right (Art. 47, incorporating Convention Arts. 5(4), 6(1) and 13), never took place, but the Court of Appeal somehow thinks it took place. Such denial of access to the courts is a profound injustice as, without access, it is impossible to vindicate any legal entitlement, let alone the right to life.
- ii. Even if that hearing was the trial, there was never an issue there about whether Art. 40.4 was an appropriate procedure for raising the underlying issue – an unconstitutional provision that enables letters from abroad being deemed reliable evidence resulting in the Appellant’s detention. Nor was this procedure put in issue in the notice of opposition to the appeal. Accordingly, the Court should not have determined the issue without affording the Appellant opportunity to consider the arguments about being precluded from relying on Art. 40.4 and respond to them with relevant authorities and written submissions. This denial of fair procedures is an elementary injustice. Nor did the Court afford any opportunity to make submission on why an Art. 267 reference was warranted, another injustice in the circumstances.
- iii. In December 2016 for an Art. 40.4 application before Humphreys J. there was affidavit evidence confirming what is said in para. 13 above about the hearing before Barrett J., which was not contradicted nor challenged and it is in the interests of justice that leave to appeal be granted.

General Public Importance

- i As explained above, there is a need as a matter of general public importance for this Court to determine and to set out for trial courts principles on inter alia:-

- (a) when does the statutory entitlement to make Art. 40.4 applications in the context of EAWs properly arise?
- (b) the conduct of Art. 40.4 proceedings in cases where E.U. law is involved, where Arts. 5(4), 6(1) and 13 of the European Convention apply via Art. 47 of the E.U. Charter and, in particular, the extent to which the national law conforms with the *U.N. General Assembly's Report of the Working Group on Arbitrary Detention*, 4th May 2015, U.N. Doc WGAD/CRP.1/2015, 55 I.L.M. 365 (2016).
- (c) Issue (a) here can apply to all EAW cases, where the Respondent loses at the trial. Issue (b) here applies to all types of cases where an individual seeks to challenge the lawfulness of his detention. Accordingly, their ultimate resolution will affect an extensive range of cases which, of itself renders these matters of general public importance.

Insofar as the Court below's judgement constitutes a precedent, applications to the Court in Strasbourg by other litigants are almost inevitable.

- ii Issues of compliance with the EU Framework decision on an EAW and Art 47 of the Charter, in conjunction the Convention arise, their resolution may require an Art. 267 reference and be applicable and be applicable to EAW cases across the E.U. As explained by the Advocate General and by the Court of Justice in the Appellant's own case [2016] Q.B. 252 (paras 42 et seq. and paras 43 et seq.) and in several other C.J.E.U. proceedings, Art. 5 of the Convention and in particular Art. 5(4) on habeas corpus-type proceedings apply in EAW cases. It is contended here *inter alia* that, under the "conforming interpretation" obligation, Art. 40.4.2 (insofar as it does not do so in terms) must be applied in a manner consistent with Arts 5(4), 6(1) and 13 of the Convention. On this basis it is contended that,

- (a) on the undisputed evidence adduced of what occurred on 14 September 2014, the rejection of this Art. 40.4 application contravened E.U. law;
- (b) even if what occurred on that day was the trial of the Art. 40.4 application, E.U. law entitled the Appellant to seek redress by way of the national law analogue of Art. 5(4) of the Convention;
- (c) if the Court of Appeal had been minded to establish a broad principle about the "abuse" of Art. 40.4, not confined to the unique facts of this case, under Arts 6(1) and 13 of the Convention the Appellant should have been given proper notice of that and opportunity to appropriately respond.

Because the contrary is far from *acte clair*, the Appellant seeks an Art. 267 reference if this Court is minded to find against him.

There also is the question of the procedure to be adopted when seeking a reference under Art 267. The Appellant contends that at a minimum applicants should be asked to furnish an outline of the questions it is sought to ask and a summary of how they arise in the proceedings, and if rejected, a brief reason : consistent with the principles established by this Court in e.g. *Malak* [2012] 3 IR 297. As a precedent, these present proceedings suggest that there is no such requirement. If that appears to be the national law, a reference on this issue is called for.

We apprehend that the opposition to this leave application also will allege abuse herein. But it was:-

- i. the Minister who elected to defend the EAW application without filing any affidavit that might have contradicted the Appellant's affidavits, relying entirely on letters from foreign officials;
- ii. for over 6 months the Minister delayed delivering a defence to the plenary action, ignoring several written requests for one, and then avoided a trial in September 2014 by motioning for a strike-out of the proceedings;
- iii. without adducing evidence, the Respondents somehow persuaded the Court of Appeal that a trial of the Art. 40.4 may have occurred on 14 September 2015, when they were under an obligation to be frank with the Court about what occurred then;

6. Ground(s) of appeal which will be relied on if leave to appeal is granted

As the above account should show, the central issues here are:- what did take place at the hearing on 14 September 2014; if the judge directed that the Art. 40.4 must be tried on the day, did that comply with Art. 40.4 and 5(4); can the general issue about the "abuse" of Art. 40.4 be dealt with in the appeal, since it was not an issue in the High Court; is the use of Art. 40.4 here a disqualifying abuse; the process for dealing with requests for an Art. 267 reference.

The Court of Appeal erred in fact and/or in law as follows:-

- i. Without reference to the evidence adduced, concluding that the trial of the Art. 40.4 application took place on 14th September 2015, in which both parties voluntarily and fully participated and, by inference, that the judge rejected the Appellant's application for an adjournment, which was properly communicated with articulated reasons therefor, and insisted on the trial proceeding there and then.
- ii. Alternatively, if that Court is correct on those facts
 - (a) holding by inference that this did not infringe the Appellant's constitutional and Charter right to "*adequate time and facilities to prepare [his] case, including through disclosure of information*" (Report of U.N. Working Group on

Arbitrary Detention's guidelines on court proceedings, UN Doc, WGAD/CRP.1/2015, in 55 LLM 365 (2016).) and

(b) entirely disregarding the detailed critique of the substance of the judgment of 17th September 2015, contained in annex II of the Appellant's written submissions before the Court.

- iii Determining what subsequently has been identified as a major principle about resort to Art. 40.4 of the Constitution without the Appellant having proper notice and opportunity to make any, let alone adequate submissions on the point.
- iv Notwithstanding what s. 16(4)(a) of the EAW Acts requires, holding that the Art. 40.4 procedure cannot be invoked to prevent surrender and secure at least conditional release so that a constitutional challenge to relevant provisions of the EAW Act, already in being, may be progressed.
- v Refusing to make an Art. 267 reference to the Court of Justice, without entertaining argument about why such a reference was sought, the refusal being on grounds that are not adequately stated ("*these questions do not arise*") and that are contradictory ("*they [may] do so in the E.A.W. proceedings*", but Murphy J. and that Court refused to make the reference that was sought in the uncertified appeal in those proceedings)

Legal principles and provisions on the above grounds which to an extent are flagged in the "reasons why" part above-

- i. Failing to refer to any of the evidence that caused the Court to make the finding of fact, contravening one of the most basic requirements of fair procedures and the obligation on courts to give reasons for their decisions. Has an administrative agency (e.g. RAT) decided in this manner, its determination would be quashed in a judicial review.
- ii. Art. 40.4.2 of the Constitution and Art. 5(4) of the Convention do not entitle a court to force on the trial of a habeas corpus application almost the instant the jailor's certificate is furnished to the Respondent's legal representatives, who should be given at least 24 hours to consider the certificate and make appropriate preparations if the applicant wishes to contest it. : K. Costello, *The Law of Habeas Corpus* (2006) pp. 152-157. The "forthwith enquire" obligation refers to the pre-certification and production stage; *Costello* pp. 135-137.
- iii. When minded to determine a major issue of constitutional principle (e.g. alleged "abuse" of Art. 40.4) the Court should ensure that the parties have notice that the question is in issue and that the relevant authorities are cited and arguments made – which in some circumstances e.g. here, may require having the hearing adjourned.

- iv. The view that Art. 40.4 cannot be deployed where the legality of detention may be challenged in some other form of proceedings is a radical departure from established law. Logically it spells the virtual judicial abrogation of habeas corpus because persons who are advised that their detention is unlawful almost always have the option of issuing a plenary summons and applying immediately *ex parte* for provisional release pending adjudication of the dispute. Forcing habeas-type applications into this approach deprives individuals of some of the important procedural advantages of Bolingbroke's "noble badge of liberty" under Art. 40.4's predecessor, 21 & 22 Geo. II C. 11. None of these points are addressed in the Court's judgement, nor were they canvassed at the hearing.
- v. Even if in proceedings not involving EU law the Court's conclusion is correct, which is disputed, under conforming interpretation and further in light of the requirement in s.16(4)(a) of the EAW Act, it is permissible as compatible with Art. 5(4) of the Convention to bring these present proceedings. Apart from that Court's subsequent decision in *Owczarz*, there seems to be no precedent for this novel interpretation of Art. 40.4. Proceedings of this nature would be permitted under statutory habeas corpus (e.g. habeas corpus in aid of *certiorari*: the *Pinochet* proceedings in the 1990s) and in habeas in the United States (e.g. habeas in aid of an Alien Tort Act claim, *Rasul –v- Bush* US 466 (2004))
- vi. There are EU law issues here that are not *acte clair* against the Appellant. At a minimum, when seeking a reference, the Court should have afforded him some opportunity to make the case for one and, if refusing one, briefly explain why those grounds are not persuasive: the minimum of fair procedures and duty to give reasons.

Kieran Kelly BL
Michael Forde SC

7. Other relevant information

Neutral Citation of judgement appealed against: **Court of Appeal [2016] IECA 293**

8. Order(s) sought

Set out the precise form of order(s) that will be sought from the Supreme Court if leave is granted and the appeal is successful:

What order are you seeking if successful? **Set aside Order of Court of Appeal-Civil upholding the rejection of the habeas corpus application and direct that that application should be tried in conjunction with what remains of the pending plenary action (2014 no. 6374P) and/or fresh Art. 40.4 proceeding challenging the constitutionality of parts of the EAW Acts.**

Order being appealed: **Order of 19th October 2016**

If a declaration of unconstitutionality is being sought please identify the specific provision(s) of the Act of the Oireachtas which it is claimed is/are repugnant to the Constitution.

*If a declaration of incompatibility with the European Convention on Human Rights is being sought please identify the specific statutory provision(s) or rule(s) of law which it is claimed is/are incompatible with the Convention. A declaration is not sought but it is contended that the procedure in the High Court contravened *inter alia* Art. 5(4), 16(1) and 13 of the Convention. Because the European Convention on Human Rights Act, 2003, does not apply to judicial proceedings, the Appellant's only redress under the Convention is an application to the Strasbourg Court.*

*Are you asking the Supreme Court to:
depart from (or distinguish) one of its own decisions? No.*

make a reference to the Court of Justice of the European Union? Yes; the questions relate to points 1(a) and (b) above under "General Public Importance" and the basis for them summarised there.

Will you request a priority hearing? Yes

If Yes, please give reasons below:

This is an EAW case and there have been enormous delays so far in progressing it, for which the Appellant cannot be faulted. Also the Appellant was in custody for almost two years and presently is on bail on very strict terms.

Signed: _____

Pádraig O'Donovan

Solicitor for the applicant/appellant

Please submit your completed form to:

The Office of the Registrar of the Supreme Court
The Four Courts
Inns Quay
Dublin

together with a certified copy of the Order and the Judgment in respect of which it is sought to appeal. This notice is to be served within seven days after it has been lodged on all parties directly affected by the application for leave to appeal or appeal.