

JUSTICE PRESS RELEASE

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FOR IMMEDIATE RELEASE – 21 MAY 2010

On Monday 24 May seven law lords will convene in the Supreme Court to hear a devolution appeal from Scotland on whether a suspect detained by the police has the right to speak with and be represented by a lawyer in the police station. A right long held in England, Wales and Northern Ireland but not recognised in Scotland, where the criminal justice system has always operated separately to the rest of the UK.

However, the European Court of Human Rights in *Salduz v Turkey* and in a succession of subsequent cases clarified the law at the end of 2008: The right of an individual to a fair trial is in principle irretrievably prejudiced if they are not allowed access to a lawyer as from the first interrogation by the police. Europe has had to sit up and take notice and in the few jurisdictions that do not allow such access, the law is changing.

Not so in Scotland where the High Court of Justiciary ruled last year that the Scots system was fair and the European Court decision did not require any improvements. The Supreme Court will now hear argument over three days as to whether the failure to provide the right in Scotland is a violation of Article 6 of the European Convention on Human Rights.

Jodie Blackstock, JUSTICE's Senior Legal Officer in EU Justice and Home Affairs said:

It is time for Scotland to recognise that convictions should be based on fair policing where suspects are properly advised of the law by independent advocates, and not on confessions made to police whose priority is a result

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Notes to Editors

1. The case is *Cadder v Her Majesty's Advocate* and will be heard on 24th, 25th and 26th May.
2. JUSTICE is intervening in the case, represented by Aidan O'Neill QC of Matrix Chambers/Ampersand Stable and Jodie Blackstock of JUSTICE, assisted by Tony Kelly, Scots Solicitor and Herbert Smith LLP. The Lord Advocate Elish Anglioni QC will represent herself. The newly appointed Liberal Democrat Advocate General, Lord Wallace, is also intervening.
3. Article 6 of the European Convention on Human Rights affords the right of a defendant to a fair trial which is assessed by consideration of the proceedings as a whole. Article 6(3)(c) affords the right to legal assistance. Whilst the case of *Salduz* is not binding on UK courts, we are required to take account of Strasbourg jurisprudence and where there is a clear and cogent line of authority, the Supreme Court has consistently held that the ruling should be applied in domestic cases.

Chairman of Council **Baroness Kennedy of The Shaws QC** Director **Roger Smith OBE**

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