THE BAR OF IRELAND
The Law Library
BARRA NA hÉIREANN
An Leabharlann Dlí

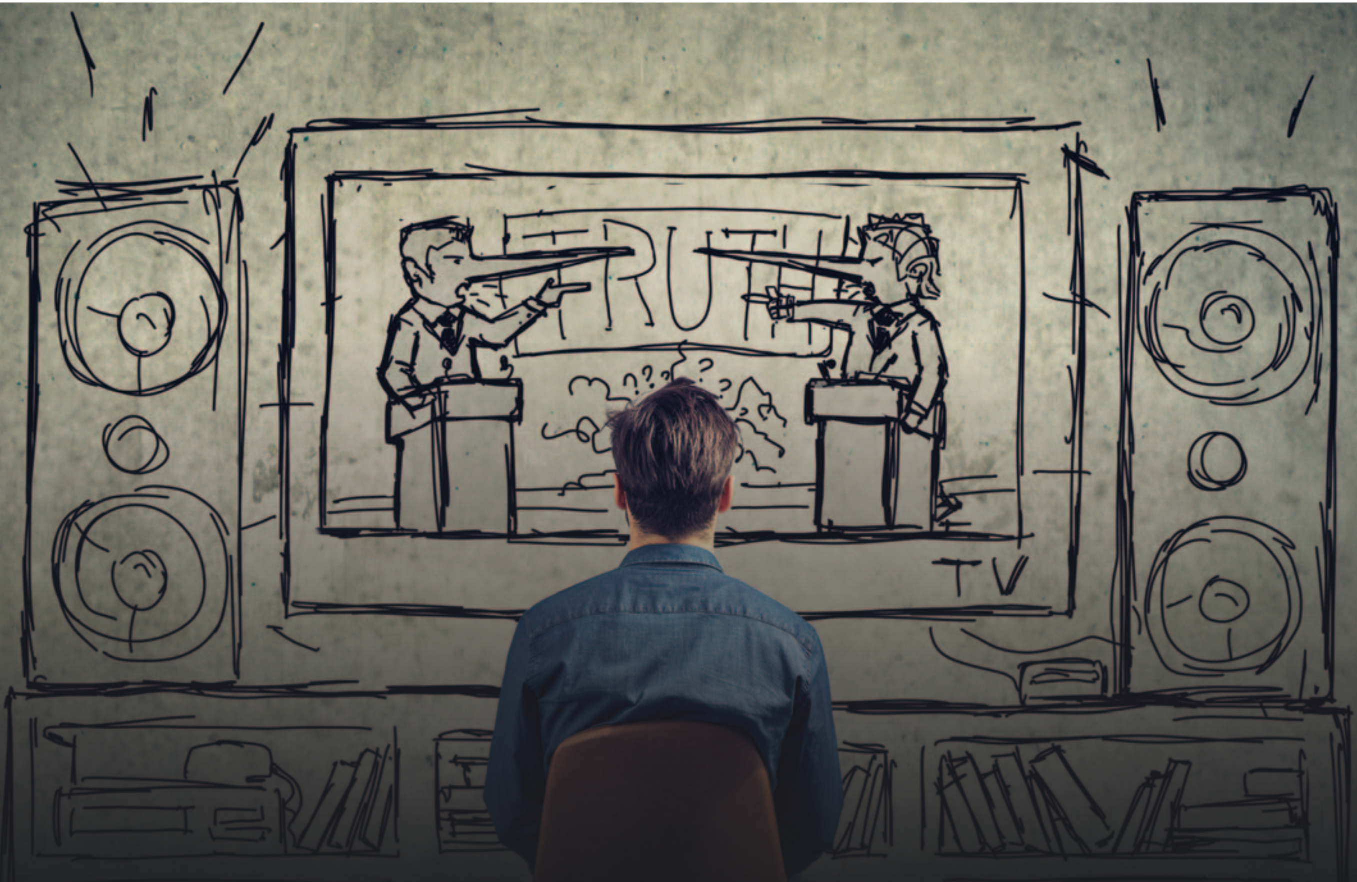
LAW IN PRACTICE
Tax litigation update

INTERVIEW
Aonghus Kelly, EU Advisory Mission to Ukraine

CLOSING ARGUMENT
Equality at the Bar

THE BAR REVIEW

VOLUME 29 / NUMBER 4 / OCTOBER 2024



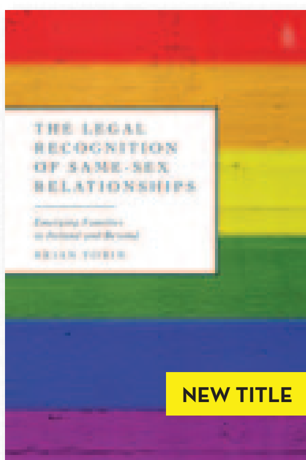
TRICKY TIMES FOR DEMOCRACY

IRISH CHILD AND FAMILY LAW

An online service for legal practitioners needing to understand the evidential, practice and procedure, and legislative framework underpinning the complex area of child and family law in Ireland.

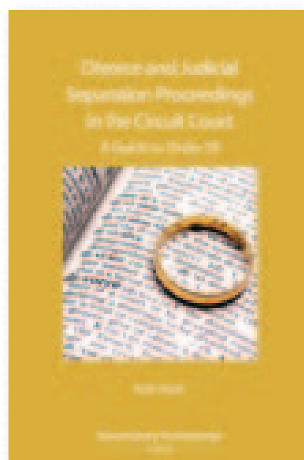
This subscription also includes regularly updated content that will be published online only.

THIS ONLINE SERVICE GIVES YOU ACCESS TO

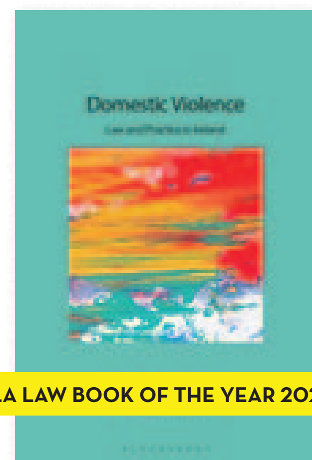


NEW TITLE

The Legal Recognition of Same-Sex Relationships
Emerging Families in Ireland and Beyond
Brian Tobin

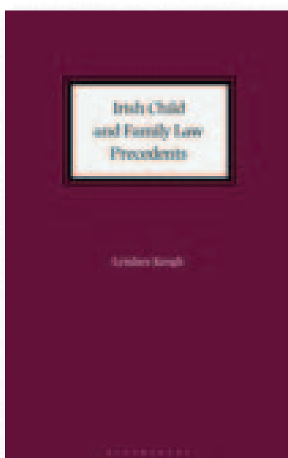


Divorce and Judicial Separation Proceedings in the Circuit Court
A Guide to Order 59
Keith Walsh

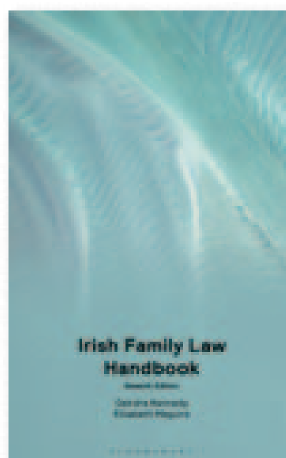


ILA LAW BOOK OF THE YEAR 2024

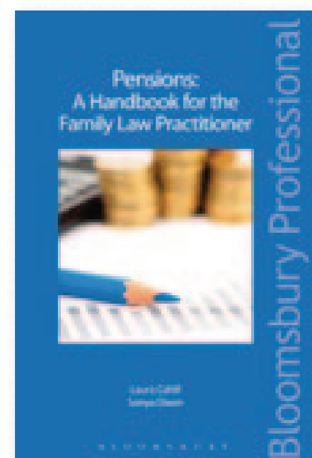
Domestic Violence
Law and Practice in Ireland
Sonya Dixon and Keith Walsh



Irish Child and Family Law Precedents
Lyndsey Keogh BL



Irish Family Law Handbook
Deirdre Kennedy and Elizabeth Maguire



Pensions
A Handbook for the Family Law Practitioner
Laura Cahill and Sonya Dixon

You can get in contact with us directly at
professionalsales@bloomsbury.com

For more information on this online service please visit:
www.bloomsburyprofessional.com/ie

BLOOMSBURY PROFESSIONAL ONLINE

OCTOBER 2024

CONTENTS

117
Message from the Chair

118
Editor's note

119
News
Criminal fees campaign
Specialist Bars

127
News feature
EDI and
well-being update

129
Interview
Defending the rule of law

xx
Legal update

132
Law in practice
Chapter and verse

136
Law in practice
Tricky times for democracy

142
Law in practice
Taxing appeals

146
Closing argument
Futureproofing the Bar

THE BAR OF IRELAND
The Law Library
BARRA NA hÉIREANN
An Leabharlann Dlí

The Bar Review
The Bar of Ireland
Distillery Building
145-151 Church Street
Dublin DO7 WDX8

Direct: +353 (0)1 817 5025
Fax: +353 (0)1 817 5150
Email: molly.eastman@lawlibrary.ie
Web: www.lawlibrary.ie

EDITORIAL BOARD
Editor
Helen Murray BL

Patricia Brazil SC
Michael Conlon SC
Tom Flynn SC
Clíona Kimber SC
Brendan Kirwan SC
Paul McGarry SC
Cathleen Noctor SC
Sean Ó hUallacháin SC
Peggy O'Rourke SC
Lydia Bunni BL
Dearbhla M. Cunningham BL
Elizabeth Donovan BL
Declan Harmon BL
Michael Kinsley BL
Cian McGoldrick BL
Catherine Needham BL
James Nerney BL
Una Nesdale BL
Emer Ní Chúgáin BL
Tim O'Connor BL
Michael O'Doherty BL
Morgan Shelley BL
Alison Walker BL
Ciara Murphy, CEO
Vanessa Curley, Law Library
Molly Eastman, Policy & Public Affairs Officer
Paul O'Grady, Publisher
Ann-Marie Hardiman, Think Media

PUBLISHERS
Published on behalf of The Bar of Ireland by Think Media Ltd
Editorial: Ann-Marie Hardiman
Paul O'Grady
Colm Quinn

Design: Rebecca Bohan
Tony Byrne

Advertising: Paul O'Grady
Commercial matters and news items relating to *The Bar Review* should be addressed to:
Paul O'Grady
The Bar Review
Think Media Ltd The Malthouse, 537 NCR, Dublin
DO1 R5X8
Tel: +353 (0)1 856 1166
Email: paul@thinkmedia.ie
Web www.thinkmedia.ie

www.lawlibrary.ie

Views expressed by contributors or correspondents are not necessarily those of The Bar of Ireland or the publisher and neither The Bar of Ireland nor the publisher accept any responsibility for them.

ACTING
FOR EVERYONE

The Bar's members act every day for people or organisations whose legal problems reflect every aspect of modern life.

Sean Guerin SC
Senior Counsel, Barrister – Member of the Inner Bar
Chair of the Council of The Bar of Ireland

One of the *Forensic Fables*, by the English barrister, Theo Matthew, published nearly 100 years ago, paints the character of *The Fierce Advocate Who Really Had a Soft Heart.* In court, the fierce advocate "carried all before him". Outside court, however, the fierce advocate was meek and submissive.

Matthew had immense experience of the practice of law and of its practitioners, and his short pen pictures captured so many of the different types found among their number. It would be unreasonable to expect that all public commentary would be so well informed. Even so, it remains a surprise how often public comment on the profession fails to get past the oldest cliches and the most unthinking tropes.

Because court clothing has changed little in several hundred years, it is suggested that the Bar is stuck in the 18th or 19th Century, even as barristers are among the first to grapple, on behalf of their clients, with the legal implications of the latest advances in technology, wherever human ingenuity has led to new challenges to the existing legal and social order.

A varied role

Because some barristers can earn a comfortable living, it is suggested that the Bar is out of touch with ordinary experience. For those who have reached the first rank of any profession or business, the ability to earn a good living is to be expected. No profession could reasonably be said to be out of touch when its members act every day for people or organisations whose legal problems reflect every aspect of modern life. Whether the issue is resolving the challenges of shared parenthood in new family and social structures, understanding and confronting the threats to privacy and public order enabled by new technologies, or managing the implications for global businesses of the latest geopolitical events, barristers have a role to play in advising on and, if necessary, litigating the issue for their clients.

That work is difficult and onerous. It can of course be rewarding, financially and intellectually, but it is never less than demanding. Public comment on the profession rarely captures the price paid for those rewards. That price is counted, not just in the years of study and slowly learning the skills and judgment required to operate at the highest level. It is counted too, even at the highest level, in long hours of preparation and the intrusion of thoughts about the next day's court work at all hours of day and night.

There is good reason to believe that, whatever cliches frequently characterise public comment about the Bar, the ordinary public has a better

understanding of the value of the independent referral Bar.

A collegiate profession

It has been an honour to work with my immediate predecessor, Sara Phelan SC, over the past two years, as she led the campaign to seek long-overdue pay restoration for barristers practising criminal law. Skeptical voices said that there would be no public sympathy for any pay claim by barristers. What the debate on that issue has shown instead is what every barrister instinctively knows: no matter how challenging or unpopular a cause may appear, if the claim is just and it is advanced with skill, persistence and determination, it will commend itself to reasonable people.

It has been an inspiration to see the spirit of shared undertaking by colleagues around the country, especially from other areas of practice, in the conduct of that campaign. That is an important reminder that ours is a collegiate profession, where learning and experience are freely shared between colleagues as a service to the interests of justice and to all who seek it.

While the profession awaits (at time of writing) further substantial progress on pay restoration for criminal practitioners, thoughts turn to the other areas where the Bar has a key role in public debate – areas such as planning law, family law, defamation, and asylum and immigration, to name only a few.

Some of the issues arising in these areas reflect a trend over the last several decades of legislative and policy change, which often seems designed to undermine or degrade the quality of legal representation available to the ordinary citizen and, ultimately therefore, the quality of justice provided by the State. That effort is abetted by tired and inaccurate notions of what it is that barristers do every day for their clients and how they do it.

Theo Matthew drew a moral from each of his fables. For *The Fierce Advocate Who Really Had a Soft Heart* the moral was: "Be fierce". That is an apt moral to guide those who advocate not just on behalf of individual clients but on behalf of the profession.

TACKLING DISINFORMATION

This edition covers a wide range of topics, from online election interference to tax law.

Helen Murray BL
Editor
The Bar Review

This autumn, we are looking forward to elections at home and abroad, and so *The Bar Review* asked Aoife McMahon BL to examine the impact of disinformation in the political sphere, and the attempts made by Government and the EU to stymie foreign information manipulation.

Aonghus Kelly, Head of the International Crimes Legal Unit at the European Union Advisory Mission to Ukraine, is the subject of our interview. His experiences of advising war crimes investigators and prosecutors from the Middle East to Bosnia are inspirational.

Gráinne Fahey BL has prepared an essential guide to Chapter 3 of the Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020, which governs the admission of business records in civil cases – everything you need in one article.

As we all know too well, it is tax season, and Lorna Gallagher BL has prepared an interesting and informative overview of the practice of tax litigation in Ireland and, in particular, a presentation of recent jurisprudence from the Tax Appeals Commission.

Finally, *The Bar Review* would like to extend a warm welcome to all our new members and with that in mind, in this edition's Closing Argument, Declan Harmon BL reflects on the issues discussed by the Bar Council's Rightsizing and Collaborative Structures Working Group, and raises some important questions in relation to supporting members at the beginning of their career at the Bar.

Specialist Bar Association news

Claiming damages in EU Law

The EU Bar Association (EUBA) closed off the 23/24 legal year with a CPD on July 24. The event was opened by Brian Kennedy SC, Chair of the EUBA. Chaired expertly by Judge John O'Connor, our panellists took us through 'Claiming Damages in EU Law from Francovich to GDPR'. Margaret Grey SC spoke on Francovich damages for breaches of EU law. Barry Doherty BL presented on Francovich and EU Treaty rules and EU legislation. The session was closed with a talk on GDPR damages claims by Tomás Keyes BL. This event concluded with a drinks reception in the Sheds.

ICBA in Athlone

The Irish Criminal Bar Association (ICBA) held its annual conference on Saturday, July 13, 2024, in the Sheraton Hotel, Athlone. This member-only conference was chaired by Mr Justice Patrick McGrath and featured six speakers: James B. Dwyer SC; Miriam Delahunt BL; David Perry BL; Jane McGowan BL; Morgan Shelley BL; and, Matthew Holmes BL. ICBA Chair Simon Donagh BL welcomed delegates to the conference. Topics covered included background evidence in drugs cases, mental illness and sentencing, an overview of Article 40, and much more. The presentations were followed by an AGM to elect the 2024/25 committee, and a dinner.

EBA annual round-up

The Employment Bar Association (EBA) closed off a really successful year with a one-hour CPD from Des Ryan BL. Des expertly took attendees through the significant cases of 2024 with his yearly round-up. This event took place in the Gaffney Room and online on July 10, and boasted a strong turnout. Des dived into cases detailing 'Non-compete clauses and injunctive relief' and 'Employees' right to silence/privilege against self-incrimination'. Topics such as the mandatory retirement age, and employment injunctions – no fault dismissals, were also discussed.

CASSIDY TRAVEL
TAKE THAT WELL DESERVED Break
Book your next luxury getaway with the multi-award winning Cassidy Travel
BOOK WITH OUR TRAVEL EXPERTS - STEPHENS GREEN SHOPPING CENTRE
CALL OR EMAIL US TODAY! (01) 525 3222 | STEPHENSGREEN@CASSIDYTRAVEL.IE

Recent developments in tort law

From left: Cliona Cleary BL; Mergi Hernandez BL; James Nerney BL; and, Moira Flahive SC.

The Tort and Insurance Bar Association (TIBA) held an event on July 19 entitled 'Recent Developments in Tort Law'. Over 60 people were in attendance in the Gaffney Room. Some of the topics included the recent Supreme Court ruling on injuries guidelines, medical negligence, professional standard of care, fraudulent/exaggerated claims, informed consent, and workplace injuries. Jeremy Maher SC, the Chair of the TIBA, opened the event. Attorney General of Ireland Rossa Fanning SC gave closing remarks. Other speakers included Moira Flahive SC, James Nerney BL, Mergi Hernandez BL and Cliona Cleary BL. The event was followed by a BBQ reception in the Sheds.

DIFFNEY
10% OFF
FOR THE BAR OF IRELAND
USE CODE BAR10
• MARY STREET
• BLANCHARDSTOWN
• BLACKROCK
• STILLORGAN
DIFFNEY.IE
*discount does not apply to sale items

PELGBA Annual Conference

The Planning, Environmental & Local Government Bar Association (PELGBA) held its Annual Conference on July 12 in the DDRC in the Distillery Building. This sold-out conference was opened by Stephen Dodd SC, Chair of the PELGBA, and Mr Justice David Holland chaired the event. Rossa Fanning, Attorney General of Ireland, discussed the topic of 'Infrastructure Developments'. Speakers also included Margaret Grey SC, Ellen O'Callaghan BL, John Kenny BL, and James Devlin SC, who spoke on topics such as 'Recent Development in EIA', 'Habitats and SEA', 'Planning Enforcement', 'The Planning List and its Implications', and 'Recent Developments Relating to Climate Action'.

The afternoon session finished with a talk from Prof. Áine Ryall on 'Recent Developments relating to the Aarhus Convention'. Áine took the audience through the workings of the Convention and what it is looking to achieve overall. The conference concluded with a networking opportunity at a drinks reception in the Sheds.

From left: Prof. Áine Ryall; Mr Justice David Holland, and James Devlin SC.

Expert Financial Planning
with Ethical Conviction

5 Marine Terrace, Dun Laoghaire, Co Dublin, A96 H9T8
+353 1 539 7246 | www.everlake.ie

Fermat Point Ltd trading as Everlake is regulated by the Central Bank of Ireland

BOOK NOW FOR AUTUMN 2024

LAW SOCIETY
DIPLOMA CENTRE

POSTGRADUATE COURSES TO SUIT A BUSY SCHEDULE

Leaders in legal education with professional focus and practical insight

- Flexible learning options
- Lectures are live, interactive and online
- Evening and weekend classes
- All lectures are recorded and available to view on demand

Course	Date	Price
LLM Employment Law in Practice	14 September 2024	€3,600
Diploma in Employment Law	Accepting late applications	€2,660
Diploma in Trust and Estate Planning	Accepting late applications	€3,300
Certificate in Aviation Leasing and Finance	Accepting late applications	€1,725
Diploma in Insolvency Law and Corporate Restructuring	Accepting late applications	€2,660
Diploma in Technology and IP Law	8 October 2024	€3,065
Diploma in Construction Law	12 October 2024	€2,660
Diploma in Finance Law	15 October 2024	€2,660
Diploma in Judicial Skills and Decision-Making	19 October 2024	€3,065
Diploma in Sports Law	23 October 2024	€2,660
Certificate in Agribusiness and Food Law	26 October 2024	€1,725
Diploma in Education Law	1 November 2024	€2,660
Certificate in Legal Skills for Legal Secretaries	5 November 2024	€850
Certificate in Immigration Law and Practice	7 November 2024	€1,725

CONTACT DETAILS E: diplomateam@lawsociety.ie | T: 01 672 4802 | W: www.lawsociety.ie/diplomacentre | @LawSocIreland

All lectures are webcast and available to view on playback, allowing participants to catch up on coursework at a time suitable to their own needs. Diploma Centre reserves the right to change the courses that may be offered and course prices may be subject to change.

Demystifying the cost of environmental justice

The Climate Bar Association continued its Natural Justice campaign with a journey to Belfast on June 21, where it co-hosted a conference with Environmental Justice Network Ireland (EJNI), Friends of the Earth NI (FOE NI), The Public Interest Litigation Support Project (PILS), and QUB Centre For Sustainability, Equality and Climate Action (SECA).

Attendees were treated to conversations from experienced environmental and climate litigants from both sides of the border. The cost of litigation was discussed, including cost regimes north and south, and the cost of taking transboundary cases. The last panel of the day focused on how to fund litigation on both sides of the border and various rules within the jurisdictions.

The closing address was given by Marc Willers KC, who reflected on recent developments in international case law.

Dates for your diary

The 24/25 legal year is already shaping up with some annual conferences already booked into the diary. The Immigration, Asylum and Citizenship Bar Association Conference takes place on November 1, the EUBA Annual Conference is on November 7, the EBA Conference takes place on November 15, and the SLBA Conference is on December 6.

The Professional, Regulatory and Disciplinary Bar Association (PRDBA) will hold its Annual Conference on November 8, which will celebrate '10 Years of the PRDBA'. Speakers confirmed so far are Simon Mills SC, Peggy O'Rourke SC, Lorna Lynch SC, Ciara McGoldrick BL, Conor Feeney BL, and Dee Duffy from Medisec. Topics will include 'Registration Appeal', 'Expert Witnesses', 'Informal Resolution of Complaints', and lots more. Have you reserved your ticket yet? If not, you can do so on the events section of The Bar of Ireland members' website – https://ti.to/BarofIreland/prdba10yearsanniversaryconf?source=BR.

THE BAR OF IRELAND
Practice Support & Fee Recovery

Practice Support & Fee Recovery
We are here to help

What we can do for you

- Fee recovery service (for up to three fee notes at a time that are more than six months overdue)
- Information service on best practice in practice management
- A dedicated practice support hub on the members' website
- A range of practice information guides
- Pre-recorded and live information events/CPD events
- Dedicated email accounts for queries

How to get in touch

Visit the 'Practice Support & Fee Recovery' hub on the website and familiarise yourself with the range of best practice information and tips on offer. For those who need to avail of the Fee Recovery service, please contact the team whose details are below. A starter pack will be sent to you together with the terms and conditions of the service. This service is included in your membership subscription and there is no additional cost.

Michelle Farrell
Fee Recovery Manager
Ext: 5053
feerecovery@lawlibrary.ie

Waad Alias
Fee Recovery Administrator
Ext: 5409
feerecovery@lawlibrary.ie

CIBA Annual Conference 2024

From left: Barbara Galvin, William Fry; Sarah Jane O'Keeffe, Azets; Alison Keirse BL; and, Garret Byrne BL.

From left: Mr Justice Brian O'Moore; Ms Justice Mary Finlay Geoghegan; Kelley Smith SC, Chair, CIBA; and, Mr Justice Michael Quinn.

The Corporate & Insolvency Bar Association (CIBA) held its Annual Conference on Friday, July 5, in the Gaffney Room. This conference was opened by Mr Justice Brian O'Moore, who was followed by John Kennedy SC, Vice-Chair of the CIBA, giving a talk on 'Enforcement of Court Orders/Asset Recovery'. Two panel discussions followed, which dealt with shareholder oppression actions and recent developments in liquidations. The panels boasted speakers from Dentons, Kirby Healy Chartered Accountants, Azets, and William Fry, along with leading barristers in the field.

Mr Justice Michael Quinn interviewed Ms Justice Mary Finlay Geoghegan in a discussion that was enlightening and informative. Kelley Smith SC, Chair of the CIBA, closed the event and all delegates attended a networking dinner in the Rose Room of the Clarence Hotel.

Not just a load of cock and bull

From left: Marguerite Kehoe BL; Mr Justice Conor Dignam; and, Dr Paul Rouse (speaking).

The Sports Law Bar Association (SLBA) jumped into the arena to speak about cockfighting, bull-baiting, the law, and the making of modern sport in a CPD held on June 28 in the Atrium of the Distillery Building. This was the first event held by the SLBA since it opened associate membership for solicitors. This event certainly entertained, as we were joined by Dr Paul Rouse, a Professor of History at UCD. Paul gave a detailed history of sport in Ireland and how the changing attitudes of society and legislation shaped the evolution of sport. This event was chaired by Mr Justice Conor Dignam. Marguerite Kehoe BL presented on the Gambling Regulation Bill 2022 and discussed the impact on sports fundraising.

Plough on!

Pictured left: Comfort Odesola BL answers questions at The Bar of Ireland's stall. Pictured right: Cara Jane Walsh BL and Patrick Barrett BL show off court attire.

In September, The Bar of Ireland made its debut at the 93rd National Ploughing Championships in Ratheniska, Co. Laois. Over the three-day event, members of The Bar greeted and spoke with a wide variety of people. Students, business owners and members of the public stopped by to hear about career paths to The Bar, access to advocacy and ADR services, and learn more about the barrister profession in Ireland. Many thanks to all our barrister volunteers who helped over the three days. Your time, enthusiasm, and passion for sharing knowledge about careers in law, and much more, made the event a great experience.

Criminal fees campaign

Following a recommendation from the Council of The Bar of Ireland in June 2024, criminal barristers around the country once again withdrew their services on July 9, 15, and 24. This was an escalation of the unprecedented action taken by criminal barristers all over the country on October 3 last year, with the aim of seeking an independent, meaningful, time-limited and binding mechanism to determine the fees paid to criminal barristers by the Director of Public Prosecutions and under the Criminal Justice (Legal Aid) Scheme. To date, the Government has failed to engage with that independent review process, despite having almost a year to do so.

The Council undertook a series of engagements in advance of the dates with justice and finance spokespersons of all the main political parties, as well as communicating directly with An Taoiseach, the Minster for Finance, the Minister for Public Expenditure, NDP Delivery and Reform, and the Minister for Justice.

Sean Guerin SC, then Chair of the Criminal State Bar Committee, and Sara Phelan SC, then Chair of the Council of The Bar of Ireland, pictured outside the Criminal Courts of Justice, Dublin, in addition to criminal practitioners outside courts across the country on the first day of the withdrawal of service.

A sincere thank you goes out to all the colleagues nationwide who participated throughout the campaign, dedicating their time and effort to make their voices heard. The unified stance of the legal community emphasises the critical importance of addressing this issue for the future of criminal justice in this country.

As we await Budget day in October, The Bar remains steadfast in calling for the restoration of the full range of FEMPI-era cuts, and the link with national wage agreements to prevent further erosion of the real value of pay for professional legal services in the criminal justice system.

Dublin Dispute Resolution Centre

Ireland's premier dispute resolution venue

At the DDRC, we take pride in delivering exceptionally high-quality meeting spaces and supplementary services in close proximity to the Four Courts complex.

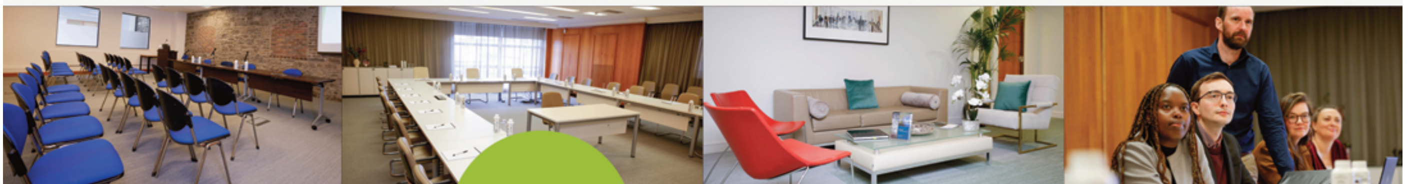
Key features of our center

Neutrality: DDRC serves as a neutral venue for all parties. Conveniently located in the heart of Dublin's legal community, we are easy to access.

Prime location: on the first floor of the Distillery Building, DDRC offers the perfect setting for consultations, arbitrations, mediations, and settlements.

Fully serviced and accessible for all users: we take care of all your business needs. DDRC guarantees a seamless, positive experience.

Flexible hours: meetings can be unpredictable, so we operate 24/7, allowing your meeting to progress in whichever way suits you.



Dublin Dispute Resolution Centre

OPEN 24/7

CONTACT US NOW FOR MORE DETAILS

Distillery Building, 145-151 Church Street, Dublin D07 WDX8, Ireland.

Tel +353 (0)1 817 5277, Email: info@dublinarbitration.com

Bar of Ireland members approved to ICC roles

On July 9, the International Chamber of Commerce (ICC) approved the appointment of 10 nominees of the Irish National Committee to the ICC Commission on Arbitration and ADR. The 10 appointees included five members from the Bar, together with members of the Law Society of Ireland and the Chartered Institute of Arbitrators. The Bar offers its congratulations to Patrick Leonard SC on his appointment as Vice Chair and Member of the Steering Committee of the Commission. Three of the five nominated individuals appointed to the Commission are women – Susan Ahern BL, Lydia Bunni BL and Meg Burke BL – marking a historic first for Irish women barristers in this role. Michael Collins SC will also return to the Commission as a member of the Steering Committee. Congratulations to all! Your leadership and delivery of ADR services and expertise on an international stage are invaluable, and your contributions will undoubtedly enhance the global standards of arbitration.

Clockwise from top left: Susan Ahern BL; Lydia Bunni BL; Meg Burke BL; Cathy Smith SC; Patrick Leonard SC; and, Michael Collins SC.

Dispute resolution in maritime law

On June 6, a seminar entitled 'Arbitration and Alternative Dispute Resolution in Maritime Law – part 2' took place in the Harbour Hotel, Galway. The event, organised by the Irish Maritime Law Association and the AADRC of The Bar of Ireland, was chaired by President of the Irish Maritime Law Association Darren Lehane SC, with additional presentations delivered by John Wilde Crosbie BL, Karina Kinsella BL, and Alan Brady BL. Michael O'Connor also spoke at the seminar. The event was well attended by representatives of the Western Circuit, local solicitors, the port sector, and the maritime sector.

Pension and tax advice

The simplest way to save tax is to put money into your pension. Advisors from The Bar of Ireland Retirement Trust Scheme, operated by Mercer, will be in the Law Library giving a series of clinics during October and November. Here are the details of the dates and locations:

Date	Location	Room
October 31, 2024 deadline		
Thursday, October 31 – 10.00am-2.30pm	Distillery Building, 145/151 Church St	Room 10
November 14, 2024 deadline (ROS)		
Wednesday, November 13 – 10.00am-2.30pm	Church St Building, 158/159 Church St	Room C
Thursday, November 14 – 10.00am-2.30pm	Distillery Building, 145/151 Church St	Room 10
Thursday, November 14 – 10.00am-2.30pm	Law Library, Four Courts, Dublin 7	2nd floor remote meeting room 2

IRLI Irish Rule of Law International presents

Annual Commercial Law Conference 2024

24th October 2024, 4pm-6:30pm
Gaffney Room, The Distillery Building, D07W DX8
CPD Hours: 2

Keynote Speaker: Attorney General Rossa Fanning

Chaired by: Hon. Judge Liam Kennedy

Information

This year's event will see an esteemed panel of speakers including:
David Whelan SC | Joe Jeffers SC | Una Nesdale JC
Kate Harnett (Of Counsel, A&L Goodbody)
Ruadhán Kenny (Matheson LLP)

The panel will provide updates on key and recent commercial litigation updates. Justice Liam Kennedy will then facilitate a Q&A after the panel discussion. A networking event will follow after the conference.

Tickets	Sponsors	Fee
Please visit: https://www.eventbrite.com/e/irli Email: info@irishruleoflaw.ie	Matheson	Qualified Solicitors/ Barristers €40 Students €25

THE BAR OF IRELAND The Law Library | THE BAR of NORTHERN IRELAND | THE LAW SOCIETY OF NORTHERN IRELAND

More Information www.irishruleoflaw.ie info@irishruleoflaw.ie

EDI AND WELL-BEING UPDATE

The Bar of Ireland is committed to building an environment where everyone feels welcomed and valued, and to ensuring the full, equal and effective participation of all members.

Sinéad O'Callaghan,
EDI & Wellbeing Coordinator, The Bar of Ireland

The Equality and Resilience (E&R) Committee, chaired for 2024/25 by Femi Daniyan BL, is the key driver of the development and implementation of initiatives that promote equality, diversity and inclusion (EDI) for members at The Bar of Ireland. Furthermore, this committee is active in supporting members in building resilience and developing their performance in carrying out their professional functions.

Resilience

On the members' CPD portal, in the Personal Professional Development and Practice Management competency, you can rediscover three highly recommended webinars relating to resilience:

- Self-Care for a Resilient Practice Part 1: Nutrition & Physical Activity (2023);
- Self-Care for a Resilient Practice Part 2: Sleep and Stress Management (2023); and,
- Secondary Trauma – What You Need to Know (2021).

More specifically, for the second- to sixth-year members among us, CPD recommendations include those listed above, plus:

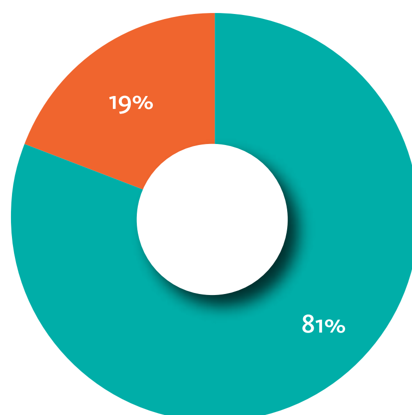
- Life After Devilling – The First Few Years (2018);
- Resilience, Self-Care & My Legal Practise (2021); and,
- Understanding Unconscious Bias and Intersectionality (2021).

We encourage all members to embed practices of self-care, mental healthcare and holistic wellness into your daily routine. Caring for yourself and your own wellness will ensure that you can reach your potential, maintain mental clarity, and perform consistently. We're aware that a career in the legal sector can be stressful, challenging, and at times overwhelming. Through the Bar's Diversity, Inclusion and Working Lives Survey, we're collating data on a range of difficulties that members may experience. You can inform the E&R Committee by completing this survey and using your voice to provide feedback. With members' input, we can develop targeted supports and initiatives that can provide a real impact in supporting you and your work.

Mind your mind

One such initiative, which has just been launched by the Committee, is the 'Mind Your Mind' personal support initiative in collaboration with Clanwilliam Institute. The Bar of Ireland wishes to make available to its membership subsidised psychotherapy services to support members with any personal, professional, family or relationship matters that may

Senior counsel by gender



Male
Female

be affecting them or their practice. This professional support is available to access now for all current members of the Bar.

Clanwilliam Institute is a leading systemic psychotherapy practice that has been in operation in Ireland for over 42 years. The Institute is staffed by experienced professional therapists, all of whom have undertaken postgraduate training and are registered with the Irish Council for Psychotherapy (ICP), the Family Therapy Association of Ireland (FTAI), and the European Association of Psychotherapy (EAP). Therapy sessions at Clanwilliam are conducted by highly trained professionals in a confidential forum. Clanwilliam Institute prides itself on professionalism and confidentiality. For more information, visit the 'Personal Support' section of the members' website.

Gender at the Bar

Recent data shows that we have a membership of 2,084 people at the Bar, of which 64% are male and 36% are female. Some 83% of the membership is registered as junior counsel and 17% are senior counsel. To delve deeper into this 17%, we can see that the ratio of men to women at senior counsel level is approximately 4:1. This finding is representative across the legal sector if we look at private law firms, where the lack of gender balance at partnership levels is also evident. In 2021, we celebrated 100 years of Women at the Bar. In 2022 we launched our Equitable Briefing Policy, and in 2023 we showcased the *'In Plain Sight'* initiative, a project that aims to celebrate the achievements and enhance the visibility of women who have demonstrated significant leadership, influence and contribution to legal practice and education. A series of portraits have been commissioned and will be displayed in both The Bar of Ireland and the Honorable Society of King's Inns.

We are committed to supporting women at the Bar through targeted initiatives, including our Law and Women Mentoring Programme, which was recently rebranded as the Kyle-Deverell Mentoring for Women at the Bar, honouring Francis Kyle and Averil Deverell, the first women to be called to the Bar in Ireland in 1921.

We have trailblazers among us, both men and women, who wish to see the legal sector evolve and embrace diversity, inclusion and equality in tandem with Irish society. This is further showcased by our member-driven partnerships with the wider community, including our most recent clothing drive for Work Equal in Smithfield. A heartfelt thank you to the numerous members who kindly donated items to support Work Equal's image consulting service. Another member-driven inclusion initiative, recently approved by the Council, is the presence of a Maternity/Baby Library, which will be in place this year and will aid in supporting expectant mothers and new parents at the Bar.

Well-being co-ordinator

To further enhance the Bar's commitment to equality, diversity, inclusion and well-being for its members, a newly appointed EDI & Wellbeing Coordinator joined the team in May 2024. The coordinator role is dedicated to supporting members' EDI and well-being needs, and ensuring ownership of key priorities, namely the Bar of Ireland's Equality Action Plan, the Equitable Briefing Policy, the Mind Your Mind initiative, the Consult a Colleague initiative, mental health awareness training for members, and building on our continued partnerships with OUTLaw Network and DisAbility Legal Network.

Dates for your diary

A suite of well-being events has been arranged for members during Michaelmas term, including:

- weekly mindfulness classes – from October 7, 4.30-5.30pm, Sky Café;
- World Mental Health Awareness Day – October 7;
- 'Know Your Bar' Connection & Collegiality Day – October 14-15, 1.00pm-5.30pm;
- 'Mind Your Mind' information webinar – October 22, 4.30-5.30pm;
- Heartbeat health screening – 1:1 appointments for members, October 30;
- The Importance of Mindfulness Webinar – November 4, 4.30-5.30pm;
- Prostate health screening – 1:1 appointments for members, November 7;
- Mental health awareness workshop – November 22, 10.00am-11.30am; and,
- Mental health awareness workshop – December 3, 4.30pm – 6.00pm.

INTERVIEW

DEFENDING THE RULE OF LAW

Aonghus Kelly, Head of the International Crimes Legal Unit at the EU Advisory Mission to Ukraine, talks about his career, and his work advising war crimes investigators.

Aonghus with colleagues attending the World Bar Conference in Belfast in May. Back row (from left): Yuriy Bielousov, Head of the War Crimes Department of the Office of the Prosecutor General (OPG); Sean McHale, Director of Programmes, Irish Rule of Law International; Aonghus Kelly, Head of the International Crimes Legal Unit; Hryhorii Zhurakivskyi, EUAM; and, Oleksii Homaniuk, Head of the Legal Support Unit of the Department for International Legal Cooperation of the OPG. Front row (from left) Iryna Kennedy BL (Bar of Northern Ireland); Olena Shostak, Prosecutor of the Legal Support Unit of the Department for International Legal Cooperation of the OPG; Inna Sofiienko, EUAM; and, Vitalii Brovko, Head of the Department for Supervision of Compliance with Laws by the State Bureau of Investigations at the OPG.

Ann-Marie Hardiman,
Managing Editor, Think Media

The fact that war is a constant around the globe is a harsh reality that many of us would rather not consider as we go about our daily lives. It's a reality that has become harder to ignore for those of us in the 'developed' world in recent times, with the conflicts in Ukraine and Gaza rarely off our screens. One of the factors we might think less about is what happens once the war is over, and the work to rebuild, to develop/reform justice systems, and to investigate and prosecute war crimes begins. It's in this fascinating area of law that Aonghus Kelly, Head of the International Crimes Legal Unit at the EU Advisory Mission (EUAM) to Ukraine, has spent most of his career.

Life changing

It's been a career with many twists and turns, starting when he graduated from UCC with a law degree. Aonghus knew he wanted to travel, so after a short period with a legal firm in Dublin he left for New Zealand: "I went for four months and stayed for four years". A chance encounter with an Irish lawyer in the pub where he was working in Wellington led to a decision to qualify with the New Zealand Law Society, where fused professions meant that he could practise as either a barrister or a solicitor. A cross-qualification agreement with the Law Society of Ireland also meant that when he came back he could qualify as a solicitor here.

On his return to Ireland Aonghus worked with Blake & Kenny solicitors in his home county of Galway, but travel, and the idea of human rights law, were still on the agenda. Two events crystallised these ambitions. One was a trip to Israel and Palestine with friends, which he describes as a "life-changing experience", and the other was a talk by US lawyer, human rights activist and founder of the Equal Justice Initiative, Bryan Stevenson, at University College Galway: "I didn't know who he was, but I thought, 'Oh, that would be interesting'. I went over there, heard him speak, and thought 'Wow. This is why I became a lawyer'. I signed up a few weeks later to do the master's at the Irish Centre for Human Rights at the University of Galway in International Human Rights Law".

From that point onwards, Aonghus's career has taken him all over the world, although he started quite close to home in Birmingham, representing Iraqis at a British Government public inquiry regarding the actions of the British Army in Iraq and for crimes committed during the second Iraq War. From there he travelled to Bosnia, to work in the War Crimes Section of the Prosecutors Office of Bosnia and Herzegovina: "I worked on Srebrenica cases, including the first, and to date the only successful genocide conviction in Bosnia. We had a full executive mandate for undertaking investigations. We were in court. We were out interviewing witnesses. The system in Bosnia was much more like the civil law or even American system, if you will, the prosecution is really heavily involved in the case from the start, and so quite different from the system in Ireland. I loved it. I stayed two and a half years and can honestly say it was my favourite job, out of all the things I've done".

Next came a job with the Special Prosecution Office of the Republic of Kosovo, where he worked under the auspices of the European Union Rule of Law Mission. His role in Kosovo also dealt

with war crimes, but also with organised crime, so he found himself working on cases of organ trafficking, corruption, arms smuggling and people trafficking. After two and a half years in Kosovo he was ready for another change, and this time in terms of the legal work he was doing as well as the location: "I wanted to do some defence work. That's very normal in our [Irish] system, to go back and forth between prosecution and defence, but it's very unusual if you look around the world".

This led him to the Extraordinary Chambers in the Courts of Cambodia, on the defence team in the case of Im Chaem, a woman accused of crimes against humanity during the Khmer Rouge regime. It became clear during the proceedings that the case was unlikely to progress due to insufficient evidence (the charges were subsequently dropped), and Aonghus was on the move again, this time to Libya, where he worked for the European Border Assistance Mission from 2016 until 2019: "The situation was so fragile and fluid in Libya that I spent most of my time living in Tunisia, and travelling back and forth between Tunisia and Tripoli. I was working on criminal justice reform there to advise the Libyan Government and the various relevant Libyan agencies on trying to improve their practice and procedures on criminal justice issues".

More travel followed along with work on the road with the Global Legal Action Network (GLAN), after which he returned to Ireland to take up a role with Irish Rule of Law International (IRLI), an organisation very familiar to members of the Bar for its work in promoting the rule of law on the international stage. Aonghus joined IRLI in late 2019, and says it was an amazing experience: "I would say after my Bosnia job, it was my favourite of all my jobs. The team do really amazing work. I'm biased, obviously, but I think the possibilities are enormous there. I don't think the legal professions in Ireland have fully grasped both the opportunities, but also the potential there on multiple levels: on the level of doing good for the world, of course, but on the commercial side of things also, I think there are enormous opportunities for Irish legal professionals in the international sphere".

Aonghus stayed with IRLI until September 2022, when the opportunity arose to travel to Ukraine with the EU Advisory Mission (EUAM) to advise on the prosecution of international crimes. With the full support of the board of IRLI, he initially took a sabbatical from his role to go to Kyiv, but ultimately resigned from his post to take a permanent position with the EUAM, and is currently Head of the International Crimes Legal Unit.

Advisor

The EUAM has actually been in Ukraine since 2014, but as Aonghus explains, its mandate has changed in light of more recent events: "After the Maidan Revolution, the EU was asked by the Ukrainian Government to come in and assist with civilian security sector reform. Civilian security sector reform is always very difficult if you want to move forward as a society, because it's where power resides. The EU came in here with that focus, but it didn't have an international crimes element. The organisation is still working on things like borders, policing, corruption, organised crime, some parliamentary processes, etc., but after the full-scale invasion, the Council of the European Union decided to extend the mandate to include international crimes".

Irish members of the team, seconded by our Department of Foreign Affairs, work with an international team of lawyers and ex-police officers in two units – the Investigation Unit and the Legal Unit, where Aonghus is based: "We work on prosecution, defence, and judiciary. It was the prosecution unit, but it was expanded in June this year to include defence and judiciary, something we pushed hard for in order to address equality of arms and the rights of the defence, the judiciary and the defence need to work also for the system to work. There are 11 of us at the moment, and hopefully we'll have a team of 19 by early next year".

It's a role for which Aonghus's previous career has prepared him well, although the perspective here is very different in many ways. Whereas before he worked with legal systems and organisations in prosecuting (and defending) cases in the aftermath of war, he is now working during an active conflict, helping to lay the groundwork for future legal cases, many of which will likely take years if not decades to come to court. He also emphasises that this is an advisory mission, with no executive mandate, so his role is to advise and assist his Ukrainian counterparts, but not to prosecute cases. It's a role with many and varied elements, and there's no such thing as a typical day, or indeed week: "It can be a million different things. Today I was trying to organise case reviews, where we review cases from the prosecutors and give them our legal advice. Obviously translation is a big issue, so trying to find the best solution for translation of thousands of pages of documentation is part of that. We're also asked to give our opinions and advise on draft laws, on amendments to the criminal code and the criminal procedure code in the area of international crimes. Because I'm a manager, I'm also managing the team and trying to help them do their jobs. We're going to Dnipro in a few weeks' time to engage with prosecutors there, talking about ongoing cases and also getting them trained in bespoke areas that they've asked for assistance on".

There's an international element too, part of keeping the world aware of what they're doing, and the need for resources to get it done: "We have a big conference next week, so there'll be a lot of senior figures here from the international community, and we're involved in organising that, and speaking at it. Then we have a series of meetings. We've ongoing work with the judiciary. We're also trying to push some countries to give us some more staff to do the job".

Mammoth task

With over 140,000 cases currently under investigation, it's an extraordinary situation for a country that was in the process of reform of its civil and criminal justice structures before the full-scale Russian invasion. For Aonghus, the advisory nature of the role can sometimes be frustrating: "If our local colleagues come and speak to us, you can give them your advice, but they can choose not to act on that advice for any number of good reasons. It is their case not ours and this is

Climate law

While he has no immediate plans to leave Ukraine, Aonghus is already planning the next stage of his career. He misses home, so plans to return to Ireland, and wants to focus on what is undoubtedly the most serious global challenge that we face – climate change. While on one level, we seem to talk about little else, Aonghus fears that people, and governments, have yet to come close to grasping the seriousness of the situation we find ourselves in: "I used to be quite optimistic about lots of things, but climate change has changed the dial to such a degree that I'm not sure if we can put the genie back in the bottle".

Having recently completed a Master's in Sustainability Leadership at the University of Cambridge, he would like his next challenge to be at the intersection of human rights, climate law and business, and acknowledges that the role of the law, and lawyers, is a complex one: "I've written my dissertation on the environmental social governance agenda and the Irish legal professions. There's a lot of difficult questions, a lot of things we need to talk about. Lawyers are key in all of this because we're key to the functioning of any society, particularly Western democratic societies. I think there's a really important conversation to be had about our duties, our responsibilities. I certainly don't have the answers, but we need to start discussing these matters very urgently".

Whatever the result of those conversations, there's plenty of work to be done: "If you look at sustainability and ESG, people pigeonhole them to a degree in the environmental sphere, but they are so much broader than that. If you're talking about all these new directives and regulations coming in from Brussels on corporate sustainability due diligence, on corporate responsibility, on human rights due diligence, on sustainable finance, all these different areas, it's probably going to be a much bigger part of people's lives than any of us realise".

Ukraine, we are advisers. That can be challenging as many of us are used to working with executive powers, but you've just got to keep moving forward doing our best to help our Ukrainian colleagues with the monumental task they face. As one of my Ukrainian colleagues said to me yesterday, one of the important things for you guys, is to keep saying these things to all of us, to keep working with us. Because that process of osmosis, that process of absorption takes time. And the more things are discussed, and the more things are talked about, the more likely changes will take place".

Besides the huge number of investigations, there are, in fact, some prosecutions taking place, although many are tried in absentia, a process permitted under the Ukrainian legal system. For the most part though, the Ukrainian teams and their EU advisors are trying to gather evidence for the future: "This will go on for years and probably decades. That's the reality. Cambodia was in 1975-1979, and I was there in 2015-2016. Bosnia was 1992-1995, I was there from 2010-2012. Kosovo was in 1998-1999. I was there in 2012-2015. I know people who are still working on those issues now in all three of those countries".

The nature and sheer volume of investigations is one that the most hardened professional would find difficult. Cases vary from the murder of civilians, to rape, to the abduction of children. Aonghus says that while his team does of course see evidence and read reports, it is his Ukrainian colleagues who have to deal with these issues on a daily basis. Life in Kyiv is, he says, easier than in many other places he has worked: "Kyiv's a European city. It's drier and warmer than Ireland, but it's as European as Dublin, or Galway, or Belfast. Our complaints are very small, compared to the poor people in the south and east, who are getting hammered every day with shells, and guys who are fighting on the front line, losing their limbs. What happens here is there's a curfew, so everything closes at about 10.30, because you have to be off the street by midnight. Then, of course, there are the missile attacks. You hear the anti-aircraft guns going on outside. It becomes second nature: 'Oh, there's the guns'. Sometimes it's really close and the house shakes".

It can be hard too when investigations don't go as one might wish, or particularly harrowing details are heard, but Aonghus feels it's important to put things in context: "Of course, you come across the evidence and you hear it and read it. But honestly, like a lot of lawyers, who do crime at home, we're dealing with crime on a daily basis. It can be sad. I've seen lots of sad things, cases that we lost or an investigation that didn't work out. I'm sad that we didn't get to complete them in the way we should. We didn't get the justice for the victims, for the survivors, that we would have liked. But I'm lucky. I could have stayed home. My life would be, I don't know about easier, but more standard, I suppose. I'd probably be financially wealthier, but I wouldn't have got to see all the amazing places and meet all the amazing people and made friends from all over the world, seeing really terrible things, but also seeing fantastic people who've done incredible things in the middle of hugely difficult situations. That's something that I'm very lucky and honoured to do and to have had in my life. Also, the other thing is I get the opportunity to give my tuppence worth, for whatever it's worth, to try and make the thing better".

Kyiv Gael

Now that he's finally finished his dissertation, Aonghus is looking forward to having some time off, and has lots of plans for what to do with it, including an unlikely taste of home: "A GAA club just started here, Kyiv Gaels, so I'm going to try to play a bit of football. I like a bit of squash, I like a bit of jogging, I like going out for a drink, and I like watching an occasional film or documentary, or a series. I also like to read and occasionally get back on the rugby field even at my advanced age".

There are obviously travel restrictions in place, but he is hoping to see more of Ukraine too: "It's an amazing country, so we're going to do some tours. I have a list of places I want to go to, such as the Pechersk Lavra, the cave Monastery in Kyiv".

LEGAL UPDATE

VOLUME 29 / NUMBER 4 / OCTOBER 2024

A directory of legislation, articles and acquisitions received in the Law Library from May 2, 2024, to September 5, 2024.
Judgment information supplied by Vlex Justis Ltd.
Edited by Vanessa Curley, Susan Downes and Clare O'Dwyer, Law Library, Four Courts.

ADMINISTRATIVE LAW

Administrative Law – Isaac Wunder Order – Costs – The validity of an Isaac Wunder order made by the Circuit Court in the context of judicial review proceedings – 28/06/2024 – [2024] IECA 169
G.M. v I.M.

AGRICULTURE

Statutory instruments

Agriculture Appeals Act 2001 (Amendment of Schedule) Regulations 2024 – SI 369/2024

ANIMALS

Statutory instruments

Animal Health and Welfare (Export) Regulations 2024 – SI 299/2024

ARBITRATION

Arbitration award – Applicant seeking to set aside an arbitration award – Whether the arbitrator's award contained matters beyond the scope of the submission and evidence in the arbitration – 22/07/2024 – [2024] IEHC 387
Parkdenton Ltd v Euro General Retail Ltd t/a Eurogiant

Library acquisitions

Baruch Bush, R.A., Folger, J.P. *The Promise of Mediation: The Transformative Approach to Conflict*. New York: John Wiley & Sons Inc, 2004 – N398.4

Articles

Holohan, B. Speak to me. *Law Society Gazette* 2024; July: 26-31

ARTIFICIAL INTELLIGENCE

Articles

Hallissey, M. Art in the age of mechanical reproduction. *Law Society Gazette* 2024; July: 52-53
Morrissey, E. It's off to work we go. *Law Society Gazette* 2024; June: 36-39

BANKING

Articles

Murphy, T. The evolution to a higher and broader standard of care within the bank/customer relationship. *Commercial Law Practitioner* 2024; 31 (3): 27-37

Statutory instruments

Central Bank Act 1942 (Section 32D) (Certain Financial Vehicles Dedicated Levy) (Amendment) Regulations 2024 – SI 334/2024

BANKRUPTCY

Bankruptcy summons – Service – Jurisdiction – Creditor seeking to serve bankruptcy summons – Whether the bankruptcy summons could be served outside the jurisdiction – 22/07/2024 – [2024] IEHC 447
Blessville Ltd v Doherty

BUILDING LAW

Library acquisitions

Thomas, D., Lee, K. *Keating on NEC Contracts*. London: Sweet & Maxwell, 2022 – N83.8

Statutory instruments

Building Control (Amendment) Regulations 2024 – SI 361/2024

CHILDREN AND YOUNG PERSONS

Acts

Child Care (Amendment) Act 2024 – Act 19/2024 – Signed on July 8, 2024

Statutory instruments

Institutional Burials Act 2022 (Section 80) Regulations 2024 – SI 287/2024
Child Care (Amendment) Act 2022 (Commencement) Order 2024 – SI 302/2024
Childcare Support Act 2018 (Calculation of amount of financial support) (Amendment) Regulations 2024 – SI 410/2024

COMMERCIAL LAW

Library acquisitions

Linehan, D. *Irish Business and Commercial Law*. Cork: Irish Legal Publications, 1981 – N250.C5

Articles

Little, C. Seize the day. *Law Society Gazette* 2024 (July): 56-59

COMPANY LAW

Company Law – Appeal procedure – Entitlement of defendant/respondent who did not appear before the High Court to pursue an appeal to the Court of Appeal – Abuse of process in bringing an appeal without bona fide intentions – 26/06/2024 – [2024] IECA 165
In the matter of GTLK Europe DAC (in liquidation) v Companies Act 2014
Settlement agreement – Companies Act 2014 s. 212 – Appellant appealing from the judgment and order which decided all of the issues arising in the application to enforce a settlement agreement in favour of the respondent – Whether the judge had failed properly to apply the applicable legal principles to the facts – [2024] IECA 135
McCaughey v McCaughey and ors
Company Law – Liability for costs – Legal principles governing the application to make an individual personally liable for costs in company law proceedings, emphasising factors such as success in the proceedings, conduct, and reasonableness of parties – 11/07/2024 – [2024] IEHC 425
Pena-Herrera v Green Label Short Lets Limited (No 2)

Library acquisitions

Callman, J., Staves, C., Berry, E., Winston, N. *LLP and Partnership Law: A Legal and Practical Guide*. London: Lexis Nexis, 2024 – N267.3

Articles

Gaffney, J. The Corporate Sustainability Due Diligence Directive: scope and company obligations. *Commercial Law Practitioner* 2024; 31 (6): 71-78
Quinn, J. The Rule in Battle – assignment of a cause of action – champerty. *Commercial Law Practitioner* 2024; 31 (4): 48-49

CONSTITUTIONAL LAW

Constitutionality – Declaratory relief – Health Act 1947 (Section 31A – Temporary Restrictions) (Covid-19) Regulations 2020 – Appellant seeking declarations that regulations are unconstitutional – Whether legislation had sufficient oversight – 31/05/2024 – [2024] IEHC 323
Ring and ors v Minister for Health and ors

Articles

Cannon, J.P. The First Amendment and admissibility of rap in United States criminal court. *Trinity College Law Review* 2024; 27 (1): 67-86

CONSUMER LAW

Consumer Law – Arbitration clause in consumer contract – The case concerns whether an agreement to arbitrate, as opposed to litigate, is an unfair term in a consumer contract, allowing the consumer to avoid arbitration and pursue litigation instead – 14/06/2024 – [2024] IEHC 359
Flatley v Austin Newport Group Limited

Articles

Donnelly, M., Prof. Representative actions: a new frontier for consumer redress? *Commercial Law Practitioner* 2024; 31 (5): 55-63
Grotz, P. Product liability for warning defects in common law, the EU, and the US – differing systems but aligning methods. *Trinity College Law Review* 2024; 27 (1): 149-173

Statutory instruments

Representative Actions for the Protection of the Collective Interests of Consumers Act 2023 (Commencement) Order 2024 – SI 181/2024
Representative Actions for the Protection of the Collective Interests of Consumers Act 2023 (Prescribed Forms) Regulations 2024 – SI 182/2024
Representative Actions for the Protection of the Collective Interests of Consumers Act 2023 (Section 29) (Maximum Fee) Regulations 2024 – SI 183/2024

CONTRACT

Library acquisitions

Liew, Y.K. Guest & Liew on the Law of Assignment (5th ed.). London: Sweet & Maxwell, 2024 – N102.2

CORONERS

Library acquisitions

Matthews, P., Dolan, B., Harris, A. Jervis on the Office and Duties of Coroners: with Forms and Precedents (15th ed.). London: Sweet & Maxwell, 2024 – L254

COSTS

Costs – Guardians ad litem – Contempt – Guardian ad litem seeking an order for costs against the defendant – Whether the guardian ad litem was a necessary notice party in the proceedings – 04/07/2024 – [2024] IEHC 461
B (a minor) v Child and Family Agency [No.4]
Legal costs – Entitlement to costs – The court ruled that the successful party in proceedings is entitled to costs against the unsuccessful party, unless the court orders otherwise – 17/06/2024 – [2024] IECA 147
Criminal Assets Bureau v Routeback Media AB and anor
Costs – Guardians ad litem – Special care orders – Applicant seeking an order for costs in each case against the guardians ad litem – Whether s. 26 of the Child Care Act 1991 makes provision for the award of costs against a Court-appointed guardian – 04/07/2024 – [2024] IEHC 460
K. (a minor) v L., K. (a minor) v Child and Family Agency
Costs – *Henderson v Henderson* – Legal Services Regulation Act 2015 s. 169 – Respondent seeking costs – Whether appeal involved issue of general public importance – 31/07/2021 – [2024] IESC 41
Munnelly v Hassett, Cremin and City Learning Ltd
Costs – Discovery – Examination – Plaintiffs seeking costs – Whether costs should follow the event – 13/08/2024 – [2024] IEHC 503
O'Connor v Lackabeg Ltd
Civil procedure – Costs – The Court of Appeal issued rulings regarding costs in an appeal concerning the recognition of a judgment from Poland, considering the possibility of a Moorview costs order – 17/06/2024 – [2024] IECA 146
Scully v Coucal Limited
Legal costs – Equality of arms – Root and branch analysis – Appellant seeking to recover expenses on foot of a cost order in his favour – Whether the costs claimed were recoverable under the developed jurisprudence relating to costs – 30/07/2024 – [2024] IECA 201
Skoczylas v Minister for Finance

COURTS

Statutory instruments

Rules of the Superior Courts (Garda Síochána (Compensation) Act 2022) 2024 – SI 228/2024
Rules of the Superior Courts (Particulars) 2024 – SI 229/2024
Circuit Court Rules (Garda Síochána (Compensation) Act 2022) 2024 – SI 230/2024
District Court (Garda Síochána (Compensation) Act 2022) Rules 2024 – SI 231/2024
Courts and Civil Law (Miscellaneous Provisions) Act 2023 (Part 4 and section 118) (Commencement) Order 2024 – SI 321/2024
District Court (Assisted Decision-Making (Capacity) Act 2015) Rules 2024 – SI 326/2024
Rules of the Superior Courts (Order 11) 2024 – SI 362/2024
Rules of the Superior Courts (Interrogatories) 2024 – SI 363/2024
District Court (Civil Restraining and Behaviour Orders) Rules 2024 – SI 364/2024
District Court (Days and Hours) (August sittings) Order 2024 – SI 368/2024
Courts, Civil Law, Criminal Law and Superannuation (Miscellaneous Provisions) Act 2024 (Part 4 and Section 14(d)) (Commencement) Order 2024 – SI 397/2024
Courts, Civil Law, Criminal Law and Superannuation Act 2024 (Sections 27, 28, 29, 30 and 31) (Commencement) Order 2024 – SI 400/2024
Courts, Civil Law, Criminal Law and Superannuation (Miscellaneous Provisions) Act 2024 (Section 30(b)) (Commencement) Order 2024 – SI 422/2024

CRIMINAL LAW

Conviction – Murder – Admissibility of evidence – Appellant seeking to appeal against conviction – Whether the trial judge erred in admitting the disputed traffic and location data into evidence – 31/07/2024 – [2024] IESC 39
DPP v Dwyer
Sentencing – Failure to deliver a VAT return – Undue leniency – Applicant seeking review of sentence – Whether sentence was unduly lenient – 11/06/2024 – [2024] IECA 156
DPP v Gargan
Criminal law – Interpretation of legal phrase – Interpretation of the phrase 'person charged with an offence' in the Road Traffic Act 2010 – whether a defendant who has been convicted of an offence can still be considered as 'charged' for the purposes of an appeal process – 11/07/2024 – [2024] IESC 29
DPP v Gordon
Sentencing – Defilement of a child under 15 years of age – Undue leniency – Applicant seeking review of sentence – Whether sentence was unduly lenient – 15/04/2024 – [2024] IECA 88
DPP v M.(D.)
Criminal law – Exclusion of evidence – The case concerns the exclusion of telephone metadata evidence obtained in breach of Article 8 of the EU Charter of Fundamental Rights and Freedoms in a criminal prosecution for attempted murder and possession of a firearm with intent to endanger life – 17/06/2024 – [2024] IESC 22
DPP v Smyth
Criminal offences – Fitness for trial – Criminal Law (Insanity) Act 2006 – Applicant seeking the reversal of the decision that he remain in the court system – Whether the appellant should be retained within the criminal justice system – 20/06/2024 – [2024] IESC 25
DPP v X.(F.)
Criminal prosecution – Blameworthy prosecutorial delay – Prejudice – Applicant seeking to restrain a criminal prosecution – Whether there had been blameworthy prosecutorial delay – 29/05/2024 – [2024] IEHC 314
McCann v DPP
Reactivated sentence – Certiorari – Criminal Justice Act 2006 s. 99 – Applicant seeking certiorari quashing reactivated sentence – Whether s. 99(11) of the Criminal Justice Act 2006, in dictating the sequence of sentences imposed for the triggering offence and then for any reactivated sentence, meant no more than that the second sentence be imposed after the first – 24/07/2024 – [2024] IEHC 458
McCormack v DPP

Library acquisitions

Keenan, M., Zinsstag, E. *Sexual Violence and Restorative Justice: Addressing the Justice Gap*. Oxford: Oxford University Press, 2022 – M544
King, M. *Psychology In and Out of Court: A Critical Examination of Legal Psychology*. London: Pergamon Press, 1986 – M500.12
Lidén, M. *Confirmation Bias in Criminal Cases*. Oxford: Oxford University Press, 2023 – M582
McMahon, M., McGorrery, P. *Criminalising Coercive Control: Family Violence and the Criminal Law*. Singapore: Springer-Verlag, 2021 – N175
Orange, G. *Police Powers in Ireland (2nd ed.)*. Dublin: Bloomsbury Professional, 2024 – M615.C5
O'Sullivan, L. *Criminal Legislation in Ireland (4th ed.)*. Dublin: Bloomsbury Professional, 2024 – M500.C5.Z14
Simpson, K. *Forensic Medicine (8th ed.)*. London: Edward Arnold (Publishers) Ltd., 1979 – M608

Articles

Daly, G. 'Hate crime' bill requires significant changes. *Law Society Gazette* 2024; July: 20-21
de Brún, L. Hate speech law goes far beyond what EU requires. *Law Society Gazette* 2024; July: 21-23
Hamilton, C., Prof. Night of the long knives. *Law Society Gazette* 2024; June: 24-25
Kelly, K. In all fairness. *The Bar Review* 2024; 29 (3): 38-41

Statutory instruments

Criminal Justice (Terrorist Offences) Act 2005 (Section 42) (Restrictive Measures concerning Certain Persons and Entities Associated with the ISIL (Da'esh) and Al-Qaida Organisations) (No.2) Regulations 202 – SI 211/2024
Criminal Justice (Engagement of Children in Criminal Activity) Act 2024 (Commencement) Order 2024 – SI 232/2024
Criminal Justice (Miscellaneous Provisions) Act 2023 (Commencement) Order 2024 – SI 378/2024
Criminal Justice (Terrorist Offences) Act 2005 (Section 42) (Restrictive Measures concerning Certain Persons and Entities with a view to Combating Terrorism) (No. 3) Regulations 2024 – SI 388/2024
Criminal Law (Sexual Offences and Human Trafficking) Act 2024 (Commencement) Order 2024 – SI 391/2024

DAMAGES

Library acquisitions

McGregor, H., Edelman, J., Varuhas, J.N.E., Higgins, A. *McGregor on Damages (22nd ed.)*. London: Sweet & Maxwell, 2024 – N37.1

DATA PROTECTION

Due diligence – Declaratory relief – Order of mandamus – Appellant seeking a declaration that the respondent failed to carry out an investigation into a complaint with all due diligence – Whether the respondent could defer the investigation of one element of the complaint – 24/06/2024 – [2024] IECA 152
Ryan v Data Protection Commission

Articles

Connolly, M. Will the EU-US Data Privacy Framework survive Schrems III? *Trinity College Law Review* 2024; 27 (1): 87-124

DEFAMATION

Defamation law – Defamatory article – The plaintiff brings a claim for damages against the defendants alleging that certain portions of an article published in a newspaper were baseless and defamatory, causing serious harm to his reputation – 13/06/2024 – [2024] IEHC 34
Burke v Mediahaus Ireland Limited and ors

DISCOVERY

Discovery – Inspection of documents – Public interest privilege – Applicant seeking discovery – Whether documents should be made available for inspection – 31/07/2024 – [2024] IEHC 487
Harrington v Minister for Defence, Ireland and The Attorney General
Constitutional Law – Discovery – The case concerns an appeal in respect of discovery, addressing the issue of whether a claim for damages can be maintained against the privileges and immunities of members of the Oireachtas and the proceedings in the Oireachtas contained in Article 15 of the Constitution – 18/06/2024 – [2024] IESC 24
Kerins v Dáil Eireann, Ireland and the Attorney General
Discovery – Relevance – Proportionality – First defendant seeking discovery of documents – Whether the discovery sought was relevant, necessary or proportionate – 02/08/2024 – [2024] IEHC 494
Start Mortgages Designated Activity Company v Kavanagh and another

Library acquisitions

Hollander, C. *Documentary Evidence (15th ed.)*. United Kingdom: Sweet & Maxwell, 2024 – N386

EDUCATION

Judicial review – Educational rights – Discrimination – Applicants seeking to challenge the legality of the marking scheme for a Leaving Certificate examination – Whether the policy choice as to the form of characters was unlawful – 29/05/2024 – [2024] IEHC 313
B (a minor) and anor v Minister for Education and ors

Statutory instruments

Industrial Training (Social Work Industry) Order 2024 – SI 177/2024
Education and Training Boards Act 2013 (Composition of Local Authority Membership) Order 2024 – SI 243/2024
Education and Training Boards Act 2013 (Local Authority Members) (Amendment) Regulations 2024 – SI 244/2024
Education (Delegation of Ministerial Functions) Order 2024 – SI 325/2024
Student Part-Time Fee Scheme for Specified Undergraduate Courses 2024 – SI 370/2024
Student Part-Time Fee Regulations for Specified Undergraduate Courses 2024 – SI 371/2024
Research and Innovation Act 2024 (Commencement) Order 2024 – SI 373/2024
Research and Innovation Act 2024 (Establishment Day) Order 2024 – SI 375/2024
Qualifications and Quality Assurance (Education and Training) (Amendment) Act 2019 (Commencement of Certain Provisions) Order 2024 – SI 426/2024
Qualifications and Quality Assurance (Education and Training) Act 2012 (Capacity and Capability Criteria) Regulations 2024 – SI 427/2024
Qualifications and Quality Assurance (Education and Training) Act 2012 (Protection of Enrolled Learners Annual Charge) Regulations 2024 – SI 427/2024
Qualifications and Quality Assurance (Education and Training) Act 2012 (Protection of Enrolled Learners Annual Charge) Regulations 2024 – SI 428/2024
Qualifications and Quality Assurance (Education and Training) Act 2012 (International Education Mark Annual Charge) Regulations 2024 – SI 429/2024
Qualifications and Quality Assurance (Education and Training) Act 2012 (Learner Protection Fund) Regulations 2024 – SI 430/2024

ELECTORAL LAW

Statutory instruments

Electoral Act, 1992 (Section 165) Regulations, 2024 – SI 238/2024
Electoral (Amendment) (No. 2) Regulations 2024 – SI 372/2024
Seanad Electoral (University Members) (Prescribed Matters) (Amendment) Regulations 2024 – SI 409/2024

EMPLOYMENT LAW

Employment law – Garda vetting – Job offer revoked based on incorrect criminal convictions revealed during the garda vetting process – Legal proceedings over the revocation of the job offer – 28/06/2024 - [2024] IECA 167
Lawless v Technological University of the Shannon Midlands Formerly Athlone Institute of Technology and ors
Interlocutory injunction – Termination of employment – Misconduct – Plaintiff seeking an interlocutory injunction – Whether the plaintiff was dismissed for misconduct – 21/06/2024 – [2024] IEHC 368
Nolan v Science Foundation Ireland

Library acquisitions

Ratti, L., Brameshuber, E. Pietrogiovanni, V. *The EU Directive on Adequate Minimum Wages: Context, Commentary and Trajectories*. Camden: Bloomsbury Publishing, 2024 – W130

Articles

Blake, R., Rooney, C., Gaitonde, S., Beecher, C. Watching the clock. *Law Society Gazette* 2024; May: 38-43

Statutory Instruments

Private Security (Licensing and Qualifications) (Amendment) Regulations 2024 – SI 204/2024
Private Security (Licence Fee) (Amendment) Regulations 2024 – SI 206/2024
Employment Regulation (Amendment) Order (Contract Cleaning Industry Joint Labour Committee) 2024 – SI 255/2024
Employment Equality Act 1998 (Section 20A) (Gender Pay Gap Information) (Amendment) Regulations 2024 – SI 259/2024
Registered Employment Agreement (Overhead Powerline Contractors Group) Order 2024 – SI 267/2024
Employment Regulation (Amendment) Order (Early Years' Service Joint Labour Committee) Order No. 1 2024 – SI 296/2024
Employment Regulation (Amendment) Order (Early Years' Service Joint Labour Committee) Order No. 2 2024 – SI 297/2024
Parent's Leave and Benefit Act 2019 (Extension of Periods of Leave) Order 2024 – SI 300/2024
Employment (Collective Redundancies and Miscellaneous Provisions) and Companies (Amendment) Act 2024 (Commencement) Order 2024 – SI 303/2024
Employment Regulation Order (Security Industry Joint Labour Committee) 2024 – SI 319/2024
Protection of Employment Act 1977 (Notification of Proposed Collective Redundancies) Regulations 2024 – SI 324/2024
Employment Permits (Amendment) (No. 3) Regulations 2024 – SI 328/2024

ENERGY

Statutory instruments

European Union (National Emission Ceilings) Regulations (Amendment) 2024 – SI 185/2024
European Communities (Reporting of Energy Statistics) Regulations 2024 – SI 194/2024
European Union (Reporting of Electricity and Natural Gas Prices) Regulations 2024 – SI 195/2024
Gas (Amendment) and Miscellaneous Provisions Act 2024 (Commencement) Order 2024 – SI 208/2024
Gas (Amendment) and Miscellaneous Provisions Act 2024 (Vesting Day) Order 2024 – SI 218/2024
Gas (Amendment) and Miscellaneous Provisions Act 2024 (Transfer Day) Order 2024 – SI 219/2024
Electricity Supply Board (Superannuation) Order 2024 – SI 289/2024
Electricity Regulation Act 1999 (Public Service Obligations) (Amendment) (No. 1) Order 2024 – SI 377/2024

EQUALITY

Library acquisitions

Ford, G., Koch, S., Armstrong, J. *The Accidental Sexist: A Handbook for Men on Workplace Diversity and Inclusion*. Norfolk: Rethink Press, 2021 – 331.4133

Articles

Forristal, C. Recognition and identity: a feminist approach to the legal recognition of non-binary and gender-diverse identities. *Trinity College Law Review* 2024; 27 (1): 193-230
Gannon, P. Strength in diversity. *Law Society Gazette* 2024; July: 54-55
McGreal, C., Whelan, I. Neurodiversity and equal treatment of workers with unseen disabilities. *Irish Employment Law Journal* 2024; 21 (1): 4-13

EQUITY AND TRUSTS

Library acquisitions

Howells, C.I. *Equity*. London: Sweet and Maxwell, 1966 – N200

EUROPEAN UNION

Library acquisitions

Andersson, H. *Dawn Raids Under Challenge: Due Process Aspects on the European Commission's Dawn Raid Practices (2nd ed.)*. Oxford: Hart Publishing, 2024 – W110.4
Bonelli, M., Eliantonio, M., Gentile, G. *Article 47 of the EU Charter and Effective Judicial Protection. Volume 1: The Court of Justice's Perspective. Volume 2: The National Courts' Perspectives*. Botley: Hart Publishing, 2024 – W71
Lazic, V., Mankowski, P., Pein, L. *The Brussels I-bis Regulation: A Handbook and Practical Guide*. Cheltenham: Edward Elgar Publishing Limited, 2023 – W73

Articles

Hickey, M.W. Run through the jungle. *Law Society Gazette* 2024; May: 52-55

Statutory instruments

European Union (Temporary Increase of Official Controls and Emergency Measures on Imports of Food and Feed of Non-Animal Origin) (Amendment) Regulations 2024 – SI 176/2026
European Union (Restrictive Measures concerning Mali) (No.2) Regulations 2024 – SI 178/2024
European Union (Restrictive Measures concerning Moldova) (No.2) Regulations 2024 – SI 179/2024
European Communities (IntraCommunity Transfers of Defence Related Products) (Amendment) Regulations 2024 – SI 188/2024
European Union (Restrictive Measures in respect of Myanmar/Burma) Regulations 2024 – SI 191/2024
European Union (Bank Recovery and Resolution) Resolution Fund Levy (Amendment) Regulations 2024 – SI 192/2024
European Union (Restrictive Measures concerning Ukraine) (No.5) Regulations 2024 – SI 241/2024
European Union (Restrictive Measures against Cyber-attacks threatening the Union or its Member States) Regulations 2024 – SI 242/2024

European Union (Restrictive Measures concerning Niger) Regulations 2024 – SI 245/2024
European Union (Restrictive Measures concerning Venezuela) (No. 2) Regulations 2024 – SI 246/2024
European Union (Restrictive Measures concerning Iran) Regulations 2024 – SI 247/2024
European Union (Restrictive Measures Against Serious Human Rights Violations and Abuses) Regulations 2024 – SI 248/2024
European Union (Restrictive Measures concerning Hamas and the Palestinian Islamic Jihad) Regulations 2024 – SI 249/2024
European Union (Foreign Subsidies Distorting the Internal Market) Regulations 2024 – SI 258/2024
European Union (Restrictive Measures concerning Ukraine) (No.6) Regulations 2024 – SI 270/2024
European Union (Restrictive Measures concerning Russia) Regulations 2024 – SI 271/2024
European Union (Data Governance Act) Regulations 2024 – SI 272/2024
European Union (Restrictive Measures concerning the Democratic Republic of the Congo) (No. 2) Regulations 2024 – SI 273/2024
European Union (Adjustments of Size Criteria for Certain Companies and Groups) Regulations 2024 – SI 301/2024
European Union (Animal Identification and Tracing) (Poultry Hatchery) (Amendment) Regulations 2024 – SI 306/2024
European Union (Restrictive Measures concerning Somalia) (No.2) Regulations 2024 – SI 309/2024
European Union (Official Controls in relation to Food Legislation) (Imports of Food of Non-Animal Origin) (Amendment) (No. 2) Regulations 2024 – SI 310/2024
European Union (Restrictive Measures concerning Sudan) (No.2) Regulations 2024 – SI 313/2024
European Union (Restrictive Measures against Cyber-attacks threatening the Union or its Member States) (No.2) Regulations 2024 – SI 314/2024
European Union (Capital Requirements) (Amendment) Regulations 2024 – SI 315/2024
European Union (Restrictive Measures concerning Ukraine) (No.7) Regulations 2024 – SI 323/2024
European Union (Corporate Sustainability Reporting) Regulations 2024 – SI 336/2024
European Union (Restrictive Measures concerning the Democratic People's Republic of Korea) (No. 2) Regulations 2024 – SI 341/2024
European Union (Restrictive Measures concerning Syria) (No. 2) Regulations 2024 – SI 342/2024
European Union (Restrictive Measures concerning South Sudan) Regulations 2024 – SI 343/2024
European Union (Restriction of Certain Hazardous Substances in Electrical and Electronic Equipment) (Amendment) Regulations 2024 – SI 344/2024
European Union (Restrictive Measures concerning Ukraine) (No.8) Regulations 2024 – SI 346/2024
European Union (Restrictive Measures concerning Belarus) (No.2) Regulations 2024 – SI 347/2024
European Union (Paints, Varnishes, Vehicle Refinishing Products and Activities) (Amendment) Regulations 2024 – SI 356/2024
European Union (Installations and Activities Using Organic Solvents) (Amendment) Regulations 2024 – SI 357/2024
European Union (Invasive Alien Species) Regulations 2024 – SI 374/2024
European Union (Hague Maintenance Convention) (Amendment) Regulations 2024 – SI 381/2024
European Union (Restrictive Measures concerning Haiti) (No. 2) Regulations 2024 – SI 382/2024
European Union (Restrictive Measures concerning Hamas and the Palestinian Islamic Jihad) (No. 2) Regulations 2024 – SI 383/2024
European Union (Restrictive Measures concerning Iran) (No. 2) Regulations 2024 – SI 384/2024
European Union (Restrictive Measures Against Serious Human Rights Violations and Abuses) (No. 2) Regulations 2024 – SI 385/2024
European Union (Restrictive Measures Against the Proliferation and Use of Chemical Weapons) Regulations 2024 – SI 386/2024
European Union (Common Agricultural Policy) (Scrutiny of Transactions) Regulations 2024 – SI 390/2024
European Union (Restrictive Measures concerning Libya) (No.2) Regulations 2024 – SI 392/2024
European Union (Restrictive Measures concerning Belarus) (No.3) Regulations 2024 – SI 393/2024
Designation Under Regulation 17 of The European Union (Official Controls in Relation to Food Legislation) Regulations 2020 – SI 395/2024
European Union (Statistics) (Intra-Union Trade in Goods) Regulations 2024 – SI 396/2024
European Union (Food Intended for Infants and Young Children, Food for Special Medical Purposes, and Total Diet Replacement for Weight Control) (Amendment) Regulations 2024 – SI 411/2024
European Union (Restrictive Measures concerning Yemen) Regulations 2024 – SI 415/2024

EXTRADITION LAW

Extradition law – Surrender under European Arrest Warrant – Extradition of the respondent to the Republic of Croatia to face charges for war crimes – Objections raised by the respondent regarding the suitability of invoking the ticked box procedure under the Framework Decision – 28/06/2024 – [2024] IEHC 391
Minister for Justice and Equality v Rakanovic
Waiver of defence rights – Execution of sentences – European Arrest Warrant Act 2003 s. 22(7) – Appellant appealing against the judgment and order by which a request for consent to proceedings being brought against the respondent for the purpose of executing sentences of imprisonment imposed on him was refused. Whether the judge correctly concluded that the respondent did not appreciate the consequences of his behaviour – 10/05/2024 – [2024] IECA 119
Minister for Justice v Szlachcikowski

Statutory instruments

European Arrest Warrant (Amendment) Act 2024 (Commencement) Order 2024 – SI 180/2024

FAMILY LAW

International child abduction – Views of the child – Determination of the appropriate exercise of discretion concerning the return of children to their habitual residence under the Hague Convention on the Civil Aspects of International Child Abduction – 24/06/2024 – [2024] IECA 164
K. v E.
Family reunification – Constitutionality – International Protection Act 2015 s. 56(9)(d) – Appellant seeking permission for her daughter to enter the State and to reside with her – Whether s. 56(9)(d) of the International Protection Act 2015 is unconstitutional – 30/07/2024 – [2024] IECA 206
Sibanda v Minister for Justice and Equality and others
Wrongful retention – Return of children – Guardianship of Infants Act 1964 – Appellant seeking orders for the return of his children to Ireland's jurisdiction for the purpose of giving effect to an order made by the District Court – Whether the matter ought to be disposed of solely in the context of the respondent's wilful breach of the District Court order – 02/08/2024 – [2024] IECA 214
W.A. v A.T.

Articles

Byrne, A. Be my baby. *Law Society Gazette* 2024; May: 25-29
Hardiman, A.-M. A just approach. *The Bar Review* 2024; 29 (3): 15-17

FINANCIAL SERVICES

Library acquisitions

Gleeson, S. *Chalmers and Guest on Bills of Exchange and Cheques (19th ed.)* – N306.2

Articles

Bullman, T. Update: The Digital Operational Resilience Act ("DORA") and its impact on the financial sector. *Commercial Law Practitioner* 2024; 31 (5): 64-68
Johnston, W. Avanti – so what's new for practitioners? *Commercial Law Practitioner* 2024; 31 (4): 43-47

Statutory instruments

Finance (State Guarantees, International Financial Institution Funds and Miscellaneous Provisions) Act 2024 (Section 3) Order 2024 – SI 367/2024

FISHERIES

Maritime law – Fishing Quotas Regulation – Council Regulation (EC) No. 1224/2009 – Implementing Commission Regulation (EU) No. 404/2011 concerning the weighing of fish catches at the quayside in the presence of officials despite the existence of a derogation and control plan approved by the Commission – 11/07/2024 – [2024] IECA 17
McDowell and ors v Sea Fisheries Protection Authority

Statutory instruments

Control of Salmonella Regulations 2024 – SI 305/2024
Sea-Fisheries (Bluefin Tuna) Regulations 2024 – SI 352/2024

FOOD

Statutory instruments

Food Safety Authority of Ireland Act 1998 (Amendment of First Schedule) Order 2024 – SI 284/2024
European Union (Marketing Standards for Poultry and Hatching Eggs) Regulations 2024 – SI 307/2024
National Milk Agency (Election Day) Regulations 2024 – SI 339/2024
National Milk Agency (Conduct of Elections) (Amendment) Regulations 2024 – SI 340/2024

GARDA SÍOCHÁNA

Statutory instruments

Policing, Security and Community Safety Act 2024 (Commencement) Order 2024 – SI 214/2024
Garda Síochána (Recording Devices) Act 2023 (Commencement) Order 2024 – SI 215/2024
Garda Síochána (Recording Devices) Act 2023 (Code of Practice) Order 2024 – SI 216/2024

GOVERNMENT

Statutory instruments

Science Foundation Ireland (Transfer of Departmental Administration and Ministerial Functions) Order 2024 – SI

186/2024
Appointment of Special Advisers (Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media) Order 2024 – SI 212/2024
Appointment of Special Adviser (Minister of State at the Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media) Order 2024 – SI 213/2024
Foreshore (Transfer of Departmental Administration and Ministerial Functions) Order 2024 – SI 236/2024
Appointment of Special Adviser (Minister of State at the Department of Rural and Community Development) Order 2024 – SI 239/2024
Rural and Community Development (Delegation of Ministerial Functions) Order 2024 – SI 240/2024
Tourism, Culture, Arts, Gaeltacht, Sport and Media (Delegation of Ministerial Functions) Order 2024 – SI 253/2024
Tourism, Culture, Arts, Gaeltacht, Sport and Media (Delegation of Ministerial Functions) (No. 2) Order 2024 – SI 254/2024
Appointment of Special Advisers (Minister for Enterprise, Trade and Employment) Order 2024 – SI 260/2024
Appointment of Special Adviser (Minister of State at the Department of Enterprise, Trade and Employment) Order 2024 – SI 261/2024
Appointment of Special Adviser (Minister for Rural and Community Development) Order 2024 – SI 265/2024
Appointment of Special Advisers (Minister of State at the Department of Transport) Order 2024 – SI 279/2024
Appointment of Special Advisers (Ministers of State at the Department of Health) Order 2024 – SI 280/2024
Appointment of Special Advisers (Minister for Health) Order 2024 – SI 281/2024
Appointment of Special Advisers (Leader and Minister for the Environment, Climate and Communications) Order 2024 – SI 282/2024
Environment, Climate and Communications (Delegation of Ministerial Functions) Order 2024 – SI 288/2024
Appointment of Special Adviser (Minister of State at the Department of Finance) Order 2024 – SI 290/2024
Appointment of Special Advisers (Minister for Finance) Order 2024 – SI 291/2024
Agriculture, Food and the Marine (Delegation of Ministerial Functions) Order 2024 – SI 308/2024
Appointment of Special Advisers (Minister for Agriculture, Food and the Marine) Order 2024 – SI 329/2024
Appointment of Special Adviser (Minister of State at the Department of Agriculture, Food and the Marine) Order 2024 – SI 330/2024
Appointment of Special Adviser (Minister of State at the Department of Agriculture, Food and the Marine) (No. 2) Order 2024 – SI 331/2024
Appointment of Special Adviser (Minister of State at the Department of Children, Equality, Disability, Integration and Youth) Order 2024 – SI 332/2024
Appointment of Special Adviser (Minister of State at the Department of Children, Equality, Disability, Integration and Youth) Order 2024 – SI 333/2024
Appointment of Special Adviser (Minister for Social Protection) Order 2024 – SI 345/2024
Appointment of Special Advisers (Minister for Public Expenditure, National Development Plan Delivery and Reform) Order 2024 – SI 350/2024
Appointment of Special Adviser (Minister of State at the Department of Public Expenditure, National Development Plan Delivery and Reform) Order 2024 – SI 351/2024
Justice (Delegation of Ministerial Functions) Order 2024 – SI 355/2024
Appointment of Special Advisers (Minister for Justice) Order 2024 – SI 359/2024
Appointment of Special Adviser (Minister of State at the Department of Justice) (No. 2) Order 2024 – SI 360/2024
Appointment of Special Advisers (Minister for Further and Higher Education, Research, Innovation and Science) Order 2024 – SI 379/2024
Appointment of Special Adviser (Minister of State at the Department of Education) Order 2024 – SI 402/2024
Appointment of Special Advisers (Minister for Education) Order 2024 – SI 403/2024
Appointment of Special Advisers (Minister for Education) (No. 2) Order 2024 – SI 404/2024
Civil Service Regulation Act 1956 (Retirement of Prison Officers) Regulations 2024 – SI 405/2024
Regulation of Lobbying Act 2015 (Designated Public Officials) Regulations 2024 – SI 424/2024

HEALTH

Library acquisitions

Murray F., Fowler C. *Health Service Executive. Action Man: Top Tips for Men's Health*. Dublin: Health Service Executive, 2024 – 613.0423

Articles

Schmied, E.R. (Rietz). Safeguarding adults in Ireland: legislative developments and challenges. *Irish Journal of Family Law* 2024; 27 (2): 29-38

Statutory instruments

Health (Delegation of Ministerial Functions) Order 2024 – SI 209/2024
Health (Delegation of Ministerial Functions) (No. 2) Order 2024 – SI 210/2024
Health Act 1970 (Section 67E) (Prescription of Further Age to Whom Contraceptive Services Will Be Made Available Without Charge) (Amendment) Regulations 2024 – SI 286/2024
Health (Miscellaneous Provisions) Act 2024 (Commencement) Order 2024 – SI 406/2024
Health Insurance Act 1994 (Section 11E(2)) Regulations 2024 – SI 412/2024

HERITAGE

Statutory instruments

Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023 (Commencement) Order 2024 – SI 252/2024

HOUSING

Statutory instruments

Housing Loans (Amendment) Regulations 2024 – SI 221/2024
Housing, Local Government and Heritage (Delegation of Ministerial Functions) Order 2024 – SI 234/2024
Housing, Local Government and Heritage (Delegation of Ministerial Functions) (No. 2) Order 2024 – SI 268/2024
Housing, Local Government and Heritage (Delegation of Ministerial Functions) (No. 2) Order 2024 – SI 269/2024
Housing Purchase and Renovation Loans Regulations 2024 – SI 353/2024
Residential Tenancies (Amendment) Act 2024 (Commencement) Order 2024 – SI 358/2024

HUMAN RIGHTS

International protection – Declaratory relief – Irish Human Rights and Equality Act 2014 s. 41 – Applicant seeking declaratory relief – Whether mandatory orders should be made – 01/08/2024 – [2024] IEHC 493
Irish Human Rights and Equality Commission v Minister for Children

Library acquisitions

Zimmermann, A., Einarsen, T., Herrmann F.M. *The 1951 Convention Relating to the Status of Refugees and its 1967 Protocol (2nd ed.)*. Oxford: Oxford University Press, 2024 – C200

Articles

Treacy, S. Revisiting the "effectiveness" of the European Convention on Human Rights from the perspective of Article 4. *Irish Law Times* 2024; 42 (7): 75-79

IMMIGRATION

Refugee status – State protection – Fear of persecution – Applicants seeking partial severance of the first respondent's decision to refuse refugee status – Whether the first respondent's decision should be quashed in its entirety – 31/07/2024 – [2024] IECA 186
B.D. and others v International Protection Appeals Tribunal and another
Judicial review – International protection – Mootness – Applicant seeking liberty to amend his statement of grounds – Whether the case was entirely moot – 17/04/2024 – [2024] IEHC 211
C.(A.) v International Protection Appeals Tribunal and ors
Immigration Law – Refugee status assessment – Judicial review of a decision by the International Protection Appeals Tribunal rejecting the applicant's claims for refugee status and subsidiary protection based on his assertion of being an openly gay man fearing persecution – 07/06/2024 – [2024] IEHC 343
C.(F.B.) v International Protection Appeals Tribunal and anor
Immigration law – Judicial review – Appeal from the High Court's refusal of leave to seek certain reliefs by way of judicial review in relation to the rejection of international protection claims and the consideration of a nexus to a Refugee Convention ground – 10/06/2024 – [2024] IECA 138
G. and ors v International Protection Appeals Tribunal and ors
Immigration law – Visa application – Judicial review of a decision refusing a visa application based on marital status and financial considerations. The appellants appealed the decision but were unsuccessful in challenging the refusal of the visa application – 14/06/2024 – [2024] IECA 145
M.(S.) and A.(M.T.) v The Minister for Justice

Articles

Leonard, D. A balanced view. *The Bar Review* 2024; 29 (3): 42

Statutory instruments

Immigration Act 2004 (Visas) (Amendment) (No. 2) Order 2024 – SI 335/2024
International Protection Act 2015 (Application for International Protection Form) Regulations 2024 – SI 366/2024
Immigration Act 2003 (Carrier Liability) Regulations 2024 – SI 401/2024

INFORMATION TECHNOLOGY

Articles

Aylmer, T.K. The EU needs to be blunt: the issue with the lack of a declared right to refuse cookies. *Trinity College Law Review* 2024; 27 (1): 125-148
Twiggs, L. Tales from the crypto. *Law Society Gazette* 2024; July: 37-41

Statutory instruments

Digital Services (Levy) Act 2024 (Commencement) Order 2024 – SI 408/2024

INSURANCE

Library acquisitions

Merkin, R., Goldrein, I. *Insurance Disputes (3rd ed.)*. London: Informa Law from Routledge, 2011 – N290

Articles

Canny, M. The case for cover. *The Bar Review* 2024; 29 (3): 33-37

INTERNATIONAL LAW

Articles

Bogachenk, P. A Step towards justice. *Law Society Gazette* 2024; June: 56-57

O'Regan, D. The tension between sociological and moral legitimacy in the International Court of Justice. *Trinity College Law Review* 2024; 27 (1): 12-34

Statutory instruments

International Protection Act 2015 (Safe Countries of Origin) (Amendment) (No.2) Order 2024 – SI 327/2024

IRISH LANGUAGE

Statutory instruments

Official Languages (Amendment) Act 2021 (Commencement) Order 2024 – SI 320/2024

JUDICIAL REVIEW

Judicial review – Damages – Mootness – Appellant appealing against a judgment refusing her reliefs sought by way of judicial review in respect of a decision taken by the first respondent – Whether the trial judge erred in finding that the proceedings were moot – 24/06/2024 – [2024] IECA 163

A.(A.) v The Minister for Children, Equality, Disability, Integration and Youth and anor

Judicial review – Strike out – Abuse of process – Respondent seeking to strike out the judicial review proceedings – Whether the judicial review proceedings were premature – 26/07/2024 – [2024] IEHC 464

A.(O.) v Minister for Justice

Judicial review – Integrated Pollution Control Licence – Injunction – Appellant seeking judicial review of the decision of the first respondent to refuse to consider the appellant's application for an Integrated Pollution Control Licence – Whether the first respondent's decision to refuse to consider the appellant's licence application on the basis that its peat extraction activity required planning permission was a valid one – 31/07/2024 – [2024] IECA 202

Environmental Protection Agency v Harte Peat Ltd

LAND LAW

Statutory instruments

Land Development Agency Act 2021 (Part 9 Exemption) Order 2024 – SI 295/2024

LANDLORD AND TENANT

Landlord and tenant law – Tenant estoppel from claiming rent – Dispute between a landlord and a tenant regarding the validity of a Notice of Forfeiture due to significant arrears of rent, service charges, and insurance premiums, with the tenant claiming estoppel from paying rent based on a side letter suspending payments until premises were refurbished and trading – 18/06/2024 – [2024] IEHC 355

Lindat Limited v The PW Plaza Café Bar Limited

Library acquisitions

Byrne, M. *Landlord and Tenant Law: The Commercial Sector (2nd ed.)*. Dublin: Round Hall, 2024 – N90.C5

Articles

Veale, A. Breaking the boundaries: a breach of exclusive user clause unveiled. *Irish Law Times* 2024; 42 (7): 80-84

LEGAL HISTORY

Articles

Power, J. My brother's keeper: a theoretical justification for a positive duty to rescue under Irish law. *Trinity College Law Review* 2024; 27 (1): 265-288

LEGAL PROFESSION

Library acquisitions

Barnes, V., Honkala, N., Wheeler, S. *Women, their Lives, and the Law: Essays in Honour of Rosemary Auchmuty*. Oxford: Hart Publishing, 2023 – L240.1

Articles

Hardiman, A.-M. Responding to global challenges. *The Bar Review* 2024; 29 (3): 18-22

Statutory instruments

Solicitors Acts 1954 to 2015 (Awards of Merit) Regulations 2024 – SI 425/2024

LOCAL GOVERNMENT

Statutory instruments

Local Government (Mayor of Limerick) and Miscellaneous Provisions Act 2024 (Commencement) (No. 2) Order 2024 – SI 207/2024

Local Government (Mayor of Limerick) and Miscellaneous Provisions Act 2024 (Establishment Day) Order 2024 – SI 233/2024

Local Government (Audit Committee) (Amendment) Regulations 2024 – SI 256/2024

Local Government Act 2001 (Retirement of Firefighters) Regulations 2024 – SI 420/2024

Local Government Act 2001 (Section 237A) (Amendment) Regulations, 2024 – SI 257/2024

Local Government (Regional Assemblies) (Establishment) (Amendment) Order 2024 – SI 264/2024

Local Authority Members (Gratuity) Regulations 2024 – SI 276/2024

Local Government (Expenses of Local Authority Members) (Amendment) Regulations 2024 – SI 283/2024

Local Government (Mayor of Limerick) and Miscellaneous Provisions Act 2024 (Commencement) (No. 3) Order 2024 – SI 285/2024

Bathing Water Quality (Amendment) Regulations 2024 – SI 322/2024

Local Government Abatement of Rates in respect of Vacant Properties Regulations 2024 – SI 348/2024

Local Government Waiver of Rates Regulations 2024 – SI 349/2024

Local Government (Superannuation) (Consolidation) (Amendment) Scheme 2024 – SI 421/2024

LOTTERY

Statutory instruments

Prize Bonds (Amendment) Regulations 2024 – SI 376/2024

MARITIME LAW

Statutory instruments

Maritime Area Planning Act 2021 (Section 6) (Commencement) Order 2024 – SI 202/2024

Planning and Development, Maritime and Valuation (Amendment) Act 2022 (Section 44) (Commencement) Order 2024 – SI 203/2024

Maritime Safety (Weighing of Goods Vehicles) Regulations 2024 – SI 316/2024

MEDICAL LAW

Articles

Komolafe Akinlabi, R., Dr. Informed consent in Nigeria: addressing cultural challenges to the norm of individual autonomy. *Irish Law Times* 2024; 42 (8): 91-96

Statutory instruments

Medical Scientists Registration Board Approved Qualifications Bye-Law 2024 – SI 220/2024

NATIONAL ASSET MANAGEMENT AGENCY

Statutory instruments

National Treasury Management Agency (Amendment) Act 2014 (State Authority) Order 2024 – SI 193/2024

National Treasury Management Agency (Delegation of Claims Management Functions) Order 2024 – SI 337/2024

National Treasury Management Agency (Delegation of Claims for Costs Management Functions) Order 2024 – SI 338/2024

PERSONAL INJURIES

Personal injuries – Liability – Damages – Appellant seeking leave to apply for judicial review – Whether the appellant identified arguable grounds on which the respondent's determination might be impugned – 02/07/2024 – [2024] IECA 216

Nowak v The Judicial Council and another

Articles

Cass, C. Vulnerability and the Irish personal injury plaintiff. *Irish Law Times* 2024; 42 (10): 112-120

Verbruggen, J. Could we, should we do more? *Law Society Gazette* 2024; June: 20-23

Statutory instruments

Personal Injuries Resolution Board Act 2022 (Commencement) Order 2024 – SI 187/2024

PLANNING AND ENVIRONMENTAL LAW

Planning and development – Appropriate assessment – Article 6(3) of the Habitats Directive 92/43/EEC – Applicant seeking certiorari quashing a decision of the respondent to grant planning permission for a development – Whether there was a failure by the respondent to properly assess the impact of the development on the receiving environment – 27/05/2024 – [2024] IEHC 318

Dark Sky Roscommon v An Bord Pleanála

Environmental law – Industrial Emissions Licence – Appeals challenging the granting of a revised Industrial Emissions Licence (IEL) by the Environmental Protection Agency – Air emissions assessment – 24/06/2024 – [2024] IECA 162

Hayes and anor v Environmental Protection Agency and ors

Planning and environment – Judicial review process – The case discusses the importance of exhausting all appropriate administrative remedies before seeking judicial review of a decision related to planning and development matters – 12/06/2024 – [2024] IEHC 344

Hughes and anor v Dublin City Council

Planning and environment – Challenge to decision – The case involves a challenge to a decision authorising the erection of a bus stop directly outside an applicant's front door, with the central issue focusing on arguments related to disproportionality and lack of reasons – 19/06/2024 – [2024] IEHC 364

Kelly v An Bord Pleanála

Planning law – Unauthorised development – The High Court addresses an application for a planning injunction under Section 160 of the Planning and Development Act 2000 in a case involving unauthorised development, focusing on the refusal to stay enforcement orders and the restoration of lands to their original state – 18/06/2024 – [2024] IEHC 342

McCann v Furlong

Planning and environment – Judicial Review – The case involves a challenge to a planning permission granted by a board, focusing on the lawfulness of the decision-making process and the translation of planning-related concerns into valid legal grounds for review – 07/06/2024 – [2024] IEHC 335

Save Roscam Peninsula CLG and ors v An Bord Pleanála and ors

Library acquisitions

Doyle, A. *Planning Enforcement Manual*. Dublin: Philpot Press, 2014 – N96.C5
Jones, G., Scotford, E. *The Strategic Environmental Assessment Directive*. Camden: Bloomsbury Publishing, 2019 – N94

Articles

Flynn, T. The challenges to reduce greenhouse gas emissions. *Irish Planning and Environmental Law Journal* 2023; (3) 94
McCay, C., Dr. The criminalisation of environmental damage in international law through the introduction of ecocide. *Trinity College Law Review* 2024; 27 (1): 35-66
Noonan, J. Draft Planning and Development Bill 2023 – costs provisions. *Irish Planning and Environmental Law Journal* 2023: 3: 95-97 [part 1]; *Irish Planning and Environmental Law Journal* 2023; 3: 98-99 [part 2]

Statutory instruments

Planning and Development (Street Furniture Fees) Regulations 2024 – SI 196/2024
Dublin Docklands Development Authority (Dissolution) Act 2015 (Docklands Oversight and Consultative Forum – Prescribed Bodies) (Amendment) Order 2024 – SI 205/2024
Planning and Development (Fees for Certain Applications) Regulations 2024 – SI 226/2024
Sea Pollution (Control of Pollution by Noxious Liquid Substances in Bulk) (Amendment) Regulations 2024 – SI 235/2024
Waste Management (Food Waste) (Amendment) Regulations 2024 – SI 294/2024
Planning and Development Act 2000 (Section 181(2)(a)) Order 2024 – SI 365/2024
Future Ireland Fund and Infrastructure, Climate and Nature Fund Act 2024 (Commencement) Order 2024 – SI 387/2024
Planning and Development Act 2000 (Section 181(2)(a))(No.2) Order 2024 – SI 399/2024
Planning and Development (Increase in maximum number of Ordinary Board Members of An Bord Pleanála) Order 2024 – SI 414/2024
Water Environment (Abstractions and Associated Impoundments) Act 2022 (Commencement) Order 2024 – SI 417/2024
Water Environment (Abstractions and Associated Impoundments) Regulations 2024 – SI 419/2024
Water Environment (Abstractions and Associated Impoundments) (Licensing Fees) Regulations 2024 – SI 418/2024

PRACTICE AND PROCEDURE

Civil procedure – Statute of limitations – Personal injury claim – Statute barred – Defendant's liability for the accident – 26/06/2024 – [2024] IEHC 384
Anglade v Transdev Dublin Light Rail Limited and ors
Default judgment – Order 27, rule 15 of the Rules of the Superior Courts – Defendants seeking to set aside a default judgment – Whether special circumstances existed that explained and justified the failure to deliver and file the defence on time – 24/06/2024 – [2024] IEHC 369
Farrell v RAS Medical Ltd (trading as Auralia Clinic) and ors
Civil procedure – Frivolous and vexatious claims – Appeal against a High Court order refusing an application to set aside proceedings struck out for being frivolous and vexatious – 17/06/2024 – [2024] IECA 148
Lavery v Humphreys and ors
Court procedures – Inordinate delay in legal proceedings – Application to strike out the plaintiff's action for alleged professional negligence against the defendants due to significant and inexcusable delay in the progression of the case – 17/06/2024 – [2024] IEHC 365
McGivern v Fitzpatrick and ors
Abuse of process – Bound to fail – Vexatious action – Appellant appealing against a decision striking out the action against the respondents – Whether the appellant's right to a fair hearing was infringed – 19/04/2024 – [2024] IECA 81
Moyne v Todd and ors
Civil procedure – Immunity from court summons – Alleged failure to file a defense – Rejection of claims as baseless and abusive of court processes – 28/06/2024 – [2024] IEHC 377
O'Hara v Ireland and ors
Breach of contract – Malicious falsehood – Conspiracy – Defendants seeking to strike out the proceedings – Whether the proceedings disclosed no reasonable cause of action and/or were bound to fail – 13/08/2024 – [2024] IEHC 500
O'Malley v National Standards Authority of Ireland
Frivolous and vexatious proceedings – Bound to fail – Reasonable cause of action – Defendant seeking to strike out the plaintiff's proceedings – Whether the plaintiff's proceedings disclosed no reasonable cause of action – 14/05/2024 – [2024] IEHC 294
Osbourne v Gorey Business Park [Ramstown] Limited
Want of prosecution – Inordinate and inexcusable delay – Abuse of process – Appellants seeking to have the proceedings dismissed on the basis of the delay of the respondent – Whether the balance of justice favoured dismissal – 31/07/2024 – [2024] IECA 207
Padden v McDarby and others practicing under the style and title of Michael McDarby and Company Solicitors
Court record – Access – Interests of justice – Applicant seeking access to the court record – Whether it would be in the interests of justice to grant access – 29/07/2024 – [2024] IESC 37
Student Transport Scheme Ltd v Minister for Education and Skills
Civil procedure – Striking out proceedings – Defendant's successful application to strike out plaintiff's proceedings on the grounds that they are frivolous, vexatious, and bound to fail – 11/06/2024 – [2024] IEHC 351
Waliszewski v Republic of Ireland

Articles

Gormley, E. McCool run-ins: *Feniton v McCool* and its impact on non-bank plaintiffs in summary summons procedure. *Trinity College Law Review* 2024; 27 (1): 290-301

PROBATE

Administration of estate – Gross delay – Executor – Applicants seeking the respondent's removal as the executor of the testator's estate – Whether the respondent was guilty of gross delay in the administration of the estate – 31/07/2024 – [2024] IEHC 403
Conway v Conway

PROPERTY

Property law – Loans and mortgages – Dispute over loans obtained by the plaintiffs, their mortgage agreements, and the registration of a *lis pendens* – 07/06/2024 – [2024] IEHC 345
Corcoran and anor v Permanent TSB PLC and ors
Sale of property – Accounting adjustments – Land and Conveyancing Law Reform Act 2009 s.31 – Plaintiff seeking an order directing the sale of property – Whether it was appropriate to make an order directing the sale of the commercial premises pursuant to s.31 of the Land and Conveyancing Law Reform Act 2009 – 13/08/2024 – [2024] IEHC 501
Dan & Ellen Comerford Ltd [in voluntary liquidation] v Enright
Interlocutory reliefs sought – Restraining order against trespassing – Receiver appointment over Leitrim properties – Stay on execution of orders for five months – Entitlement of Everyday under mortgage – 10/05/2024 – [2024] IEHC 276
Everyday Finance DAC and another v Gormley
Trespass – Possession of property – Adverse possession – Plaintiff seeking interlocutory orders restraining the defendants from trespassing and to yield up possession of the property – Whether the first defendant had made out an arguable case for his plea of adverse possession – 06/08/2024 – [2024] IEHC 268
Fox v Walshe
Possession order – Jurisdiction – Land and Conveyancing Law Reform Act 2013 s.3(1) – Second defendant appealing from a possession order – Whether the Circuit Court had jurisdiction to allow the plaintiff's application for possession to be brought in the Circuit Court – 25/07/2024 – [2024] IEHC 473
Mars Capital Finance Ireland DAC v Morton and another
Possession of property – Registration of Title Act 1964 s.62(7) – Plenary hearing – Second plaintiff seeking possession of two properties pursuant to s.62(7) of the Registration of Title Act 1964 – Whether the proceedings should be adjourned to plenary hearing – 29/07/2024 – [2024] IEHC 467
Permanent TSB Plc formerly Irish Life and Permanent Plc and another v Donohoe
Landlord's fixtures – Findings of fact – Ownership – Parties claiming ownership of stained glass windows – Whether the stained glass windows were tenant's fixtures – 31/07/2024 – [2024] IECA 199
RGRE Grafton Ltd v Bewley's Café Grafton Street Ltd and another
Well charging order – Judgment mortgage – Cross examination – Respondents appealing against a well charging order – Whether the first respondent had an interest in the property – 22/07/2024 – [2024] IECA 193
Roberts v Roberts

Articles

Dwyer, L. An overview on ground rents. Conveyancing and Property Law Journal 2024; 1: 8-11
O'Neill, L. This old house. *Law Society Gazette* 2024; July: 24-25

ROAD TRAFFIC

Road traffic accident – Liability – Costs – Plaintiff seeking costs – Whether a differential costs order should be granted – 11/07/2024 – [2024] IEHC 445
Kazmierczak v Gaizauskas

Articles

Pierse, R. Road to hell. *Law Society Gazette* 2024; May: 34-37

Statutory instruments

Road Traffic and Roads Act 2023 (Commencement) Order 2024 – SI 197/2024
Road Traffic Act 2024 (Commencement) Order 2024 – SI 198/2024
Road Traffic (Electric Scooters) Regulations 2024 – SI 199/2024
Road Traffic (Signs) Regulations 2024 – SI 200/2024

European Union (Road Vehicles: Type-Approval and Market Surveillance) (Amendment) Regulations 2024 – SI 201/2024
Road Traffic (Traffic and Parking) (Amendment) Regulations 2024 – SI 222/2024
Road Traffic Act 1994 (Detention of Personal Powered Transporters) Regulations 2024 – SI 223/2024
Road Traffic (Use of Powered Personal Transporters) Regulations 2024 – SI 224/2024
Road Traffic Act 2010 (Part 3) (Fixed Charge Offences) Regulations 2024 – SI 227/2024
Road Traffic Act 2024 (Commencement) (No. 2) Order 2024 – SI 251/2024
Road Traffic Act 2016 (Part 2) (Commencement) Order 2024 – SI 292/2024
Road Traffic and Roads Act 2023 (Commencement) (No. 2) Order 2024 – SI 293/2024
Road Traffic (Recognition of Foreign Driving Licences) (Georgia) Order 2024 – SI 317/2024
Road Traffic Act 2024 (Commencement) (No. 3) Order 2024 – SI 398/2024

SOCIAL WELFARE

Social welfare law – Child Benefit eligibility – Whether a child of migrant workers has the right to apply for child benefit in their own capacity under Irish law – 27/06/2024 – [2024] IEHC 386
Drutu v Minister for Social Protection and ors
Social welfare law – Disability Allowance eligibility – Appeal on points of law challenging the decision of the Appeals Officer – 28/06/2024 – [2024] IEHC 388
N.I. (a person of unsound mind not so found suing through his mother and next friend, J.M.) v Minister for Social Protection and ors

Statutory instruments

Social Welfare (Consolidated Claims, Payments and Control) (Amendment) (No. 8) (Child Maintenance and Liable Relatives) Regulations 2024 – SI 262/2024
Social Welfare and Civil Law (Miscellaneous Provisions) Act 2024 (Part 2) (Commencement) Order 2024 – SI 263/2024
Social Welfare (Consolidated Claims, Payments and Control) (Amendment) (No. 7) (Domiciliary Care Allowance – Temporary Residence in an Institution) Regulations 2024 – SI 274/2024
Social Welfare (Consolidated Claims, Payments and Control) (Amendment) (No. 6) (Carer's Benefit and Carer's Allowance – Earnings Disregard) Regulations 2024 – SI 275/2024
Social Welfare (Miscellaneous Provisions) Act 2023 (Section 15(b)) (Commencement) Order 2024 – SI 277/2024
Social Welfare (Consolidated Claims, Payments and Control) (Amendment) (No. 9) (Household Budgeting) Regulations 2024 – SI 278/2024

SPORTS LAW

Articles

Curran, M.A. Skating on thin ice. *The Bar Review* 2024; 29 (3): 28-32

STATISTICS

Statutory instruments

Statistics (Business Expenditure on Research and Development Survey) Order 2024 – SI 190/2024
Statistics (Global Value Chains) Order 2024 – SI 394/2024

STATUTE OF LIMITATIONS

Defamation – Extension of time – Date of knowledge – Plaintiff seeking an extension of time to bring defamation proceedings – Whether the court should apply a date of knowledge test similar to that provided by statute for a personal injuries claim by s.2(1) of the Statute of Limitations (Amendment) Act 1991 – 22/04/2024 – [2024] IEHC 459
Coleman v Coleman

TAXATION

Library acquisitions

Fennell, D. *Direct Tax Acts: Finance Act 2023 (28th ed.)*. Dublin: Irish Tax Institute, 2024 – M335.C5.
Keogan, A., Scully, E. *Law of Capital Acquisitions Tax, Stamp Duty and Local Property Tax: Finance Act 2023 (13th ed.)*. Dublin: Irish Taxation Institute, 2024 – M337.16.C5
Maguire, T. *Irish Capital Gains Tax 2024*. Dublin: Bloomsbury Professional, 2024 – M337.15.C5
Maguire, T. *The Taxation of Companies 2024*. Dublin: Bloomsbury Professional, 2024 – M337.2.C5
Reade, M. *Law of Value-Added Tax: Finance Act 2023 (25th ed.)*. Dublin: Irish Taxation Institute, 2024 – M337.45.C5

TELECOMMUNICATIONS

Statutory instruments

Wireless Telegraphy (Telemetry Licence) Regulations 2024 – SI 266/2024
Wireless Telegraphy (Liberalised Use and Preparatory Licences in the 800MHz, 900MHz and 1,800MHz Bands) (Amendment) Regulations 2024 – SI 380/2024

TORT

Articles

Sun, S. Sticks and stones: a three-pronged approach to redressing racial discrimination through tort law. *Trinity College Law Review* 2024; 27 (1): 231-264

TRADE

Statutory instruments

Control of Exports Act 2023 (Commencement) Order 2024 – SI 413/2024
Control of Exports (National Military Export Control List) Regulations 2024 – SI 416/2024
Microenterprise Loan Fund Scheme (Amendment) Regulations 2024 – SI 423/2024

TRANSPORT

Statutory instruments

European Union (TransEuropean Transport Network Streamlining) Regulations 2024 – SI 184/2024
Disabled Drivers and Disabled Passengers (Tax Concessions) (Amendment) Regulations 2024 – SI 217/2024
Transport (Delegation of Ministerial Functions) Order 2024 – SI 225/2024
Railway Safety Act 2005 (Section 26) Levy Order 2024 – SI 237/2024
Merchant Shipping (Passenger Ships) (Amendment) Rules 2024 – SI 250/2024
Irish Aviation Authority (Operations) Order, 2024 – SI 298/2024
Merchant Shipping (SOLAS V – Navigational Equipment) Rules 2024 – SI 311/2024
Merchant Shipping (SOLAS V - Navigational Equipment) (No. 2) Rules 2024 – SI 312/2024
European Union (International Road Haulage Market) (Amendment) Regulations 2024 – SI 318/2024
Transport (Delegation of Ministerial Functions) (No. 2) Order 2024 – SI 354/2024
Commission for Railway Regulation (Employees) Superannuation Scheme 2024 – SI 407/2024

TRIBUNAL OF INQUIRY

Statutory instruments

Mother and Baby Institutions Payment Scheme Act 2023 (Commencement) (No. 2) Order 2024 – SI 189/2024
Tribunals of Inquiry (Evidence) Act 1921 (Appointment of Tribunal) Instrument 2024 – SI 304/2024
Residential Institutions Statutory Fund Board Staff Superannuation Scheme 2024 – SI 389/2024

VULNERABLE ADULTS

Wardship – Capacity – Decision-making representative – Decision Support Service seeking to discharge a decision-making representative – Whether the decision-making representative ought to be replaced – 09/07/2024 – [2024] IEHC 495
In the matter of an application to discharge a decision-making representative
Wardship – Capacity – Assisted decision-making – Applicant seeking review of orders made in relation to the provision of treatment and care to the respondent – Whether the orders made were in the respondent's best welfare interests – 29/07/2024 – [2024] IEHC 497
In the matter of K.L. (a ward of court)
Ward of court – Capacity assessment – Assisted Decision-Making Capacity Act 2015 – Capacity of a respondent with an intellectual disability – Orders appointing a decision-making representative for specific areas of decision-making until a co-decision-making agreement is registered – 24/06/2024 – [2024] IEHC 419
In the matter of S.D. (a ward of court)
Wardship – Capacity – Decision-making representative – Applicant seeking an order discharging the respondent from wardship – Whether the respondent lacked capacity – 03/07/2024 – [2024] IEHC 449
In the matter of S.M. (a ward of court)
Wardship – Capacity – Assisted decision-making – Applicant seeking a review of orders made in relation to the respondent's care and treatment – Whether the orders made were in the respondent's best welfare interests – 26/07/2024 – [2024] IEHC 498
In the matter of W.D. (a ward of court)

Library acquisitions

Slattery, E. *The Assisted Decision-Making Handbook*. Dublin: Bloomsbury Professional, 2024 – N155.3.C5

Bills initiated in Dáil Éireann during the period May 2, 2024, to September 5, 2024

[pmb]: Private Members' Bills are proposals for legislation in Ireland initiated by members of the Dáil or Seanad. Other Bills are initiated by the Government.

Agriculture Appeals (Amendment) Bill 2024 – Bill 55 of 2024
Aircraft Noise (Dublin Airport) Regulation (Transfer of Functions) Bill 2024 – Bill 47/2024 [pmb] – Deputy Duncan Smith
Arts (Recognition of Comedy) (Amendment) Bill 2024 – Bill 53/2024 [pmb] – Deputy Aengus Ó Snodaigh
Child Care (Amendment) Bill 2024 – Bill 46/2024
Companies (Corporate Governance, Enforcement and Regulatory Provisions) Bill 2024 – Bill 62/2024
Defamation (Amendment) Bill 2024 – Bill 67/2024
Digital Services (Levy) Bill 2024 – Bill 45/2024
Education (Amendment) Bill 2024 – Bill 59/2024 [pmb] – Deputy Ruairí Ó Murchú and Deputy Sorca Clarke
Education (Smartphones in Primary Schools) Bill 2024 – Bill 38/2024 [pmb] – Deputy Peadar Tóibín
Electricity Regulation (Amendment) Bill 2024 – Bill 42/2024 [pmb] – Deputy

Darren O'Rourke and Deputy Rose Conway-Walsh
Emergency Price Controls Bill 2024 – Bill 41/2024 [pmb] – Deputy Richard Boyd Barrett, Deputy Paul Murphy, Deputy Bríd Smith, Deputy Gino Kenny and Deputy Mick Barry
Family Law (Divorce) (Amendment) Bill 2024 – Bill 35/2024 [pmb] – Deputy Patrick Costello
Finance (Provision of Access to Cash Infrastructure) Bill 2024 – Bill 65/2024
Grocery Price Caps Bill 2024 – Bill 37/2024 [pmb] – Deputy Paul Murphy, Deputy Richard Boyd Barrett, Deputy Bríd Smith, Deputy Gino Kenny and Deputy Mick Barry
Health Information Bill 2024 – Bill 61/2024
Health (Miscellaneous Provisions) (No. 2) Bill 2024 – Bill 31/2024
Houses of the Oireachtas (Members) Bill 2024 – Bill 60/2024 [pmb] – Deputy Violet-Anne Wynne
Mental Health Bill 2024 – Bill 66/2024
Merchant Shipping (Investigation of Marine Accidents) Bill 2024 – Bill 64/2024
Motor Insurance Insolvency Compensation Bill 2024 – Bill 43/2024
Protection of Hedgerows Bill 2024 – Bill 39/2024 [pmb] – Deputy Marc Ó Cathasaigh, Deputy Brian Leddin and Deputy Steven Matthews
Public Health (Tobacco) (Amendment) Bill 2024 – Bill 51/2024
Residential Tenancies (Amendment) (No. 2) Bill 2024 – Bill 54/2024
Residential Tenancies (Amendment) (No. 3) Bill 2024 – Bill 63/2024
Residential Tenancies (Illegal Evictions) (Amendment) Bill 2024 – Bill 34/2024 [pmb] – Deputy Eoin Ó Broin
Restriction of Imports (States in violation of obligations under the Genocide Convention and Occupied Territories) Bill 2024 – Bill 33/2024 [pmb] – Deputy Michael McNamara, Deputy Thomas Pringle and Deputy Catherine Connolly
Social Welfare (Miscellaneous Provisions) Bill 2024 – Bill 36/2024
Údarás na Gaeltachta (Amendment) Bill 2024 – Bill 56/2024
Voluntary Assisted Dying Bill 2024 – Bill 50/2024 [pmb] – Deputy Gino Kenny

Bills initiated in Seanad Éireann during the period May 2, 2024, to September 5, 2024

Courts, Civil Law, Criminal Law and Superannuation (Miscellaneous Provisions) Bill 2024 – Bill 48/2024
Bail (Amendment) Bill 2024 – Bill 58/2024 [pmb] – Senator Vincent P. Martin, Senator Róisín Garvey, Senator Victor Boyhan, Senator Gerard P. Craughwell, Senator Malcolm Byrne, Senator Mary Seery Kearney and Senator Tom Clonan
Domestic Violence (Amendment) (No. 2) Bill 2024 – Bill 40/2024 [pmb] – Senator Vincent P. Martin, Senator Alice-Mary Higgins, Senator Pauline O'Reilly, Senator Mark Wall, Senator Fiona O'Loughlin, Senator Tom Clonan, Senator Mary Seery Kearney, Senator Gerard P. Craughwell, Senator Lynn Ruane, Senator Frances Black, Senator Erin McGreehan, Senator Robbie Gallagher and Senator Sharon Keogan
Health (Postponement of Certain Leave) Bill 2024 – Bill 49/2024 [pmb] – Senator Catherine Ardagh, Senator Denis O'Donovan, Senator Paul Daly, Senator Mary Fitzpatrick and Senator Malcolm Byrne
Health (Scoliosis Treatment Services) Bill 2024 – Bill 44/2024 [pmb] – Senator Michael McDowell, Senator Tom Clonan, Senator Sharon Keogan, Senator Rónán Mullen, Senator Victor Boyhan and Senator Gerard P. Craughwell
Protection of Children (Online Age Verification) Bill 2024 – Bill 57/2024 [pmb] – Senator Rónán Mullen, Senator Sharon Keogan, Senator Gerard P. Craughwell, Senator Erin McGreehan, Senator Diarmuid Wilson, Senator Aidan Davitt and Senator Michael McDowell
Protection of Retail Workers Bill 2024 – Bill 32/2024 [pmb] – Senator Malcolm Byrne
Third-Party Funding Contracts (Certain Proceedings) Bill 2024 – Bill 52/2024 [pmb] – Senator Vincent P. Martin, Senator Mary Seery Kearney, Senator Malachai O'Hara, Senator Tom Clonan and Senator Róisín Garvey

Progress of Bills and Bills amended in Dáil Éireann during the period May 2, 2024, to September 5, 2024

Automatic Enrolment Retirement Savings System Bill 2024 – Bill 22/2024 – Report Stage – Passed by Dáil Éireann
Charities (Amendment) Bill 2023 – Bill 98/2023 – Committee Stage – Report Stage – Passed by Dáil Éireann
Child Care (Amendment) Bill 2024 – Bill 46/2024 – Committee Stage
Civil Registration (Electronic Registration) Bill 2024 – Bill 26/2024 – Report Stage – Passed by Dáil Éireann
Courts, Civil Law, Criminal Law and Superannuation (Miscellaneous Provisions) Bill 2024 – Bill 48/2024 – Committee Stage
Criminal Law (Sexual Offences and Human Trafficking) Bill 2023 – Bill 62/2023 – Passed by Dáil Éireann
Defence (Amendment) Bill 2024 – Bill 29/2024 – Committee Stage – Report Stage
Digital Services (Levy) Bill 2024 – Bill 45/2024 – Committee Stage
Future Ireland Fund and Infrastructure, Climate and Nature Fund Bill 2024 – Bill 21/2024. – Report Stage
Gambling Regulation Bill 2022 – Bill 114/2022 – Passed by Dáil Éireann
Health (Assisted Human Reproduction) Bill 2022 – Bill 29/2022 – Report Stage – Passed by Dáil Éireann
Health (Miscellaneous Provisions) Bill 2024 – Bill 5/2024 – Report Stage
Health (Miscellaneous Provisions) (No. 2) Bill 2024 – Bill 31/2024 – Report Stage – Passed by Dáil Éireann
Motor Insurance Insolvency Compensation Bill 2024 – Bill 43/2024 – Committee Stage
Planning and Development Bill 2023 – Bill 81/2023 – Report Stage
Research and Innovation Bill 2024 – Bill 1/2024 – Report Stage
Road Traffic Bill 2024 – Bill 4/2024 – Report Stage – Passed by Dáil Éireann
Social Welfare (Miscellaneous Provisions) Bill 2024 – Bill 36/2024 – Committee Stage
Report Stage

Progress of Bills and Bills amended in Seanad Éireann during the period May 2, 2024, to September 5, 2024

Automatic Enrolment Retirement Savings System Bill 2024 – Bill 22/2024 – Committee Stage
Child Care (Amendment) Bill 2024 – Bill 46/2024 – Committee Stage
Criminal Law (Sexual Offences and Human Trafficking) Bill 2023 – Bill 62/2023 – Committee Stage
Defence (Amendment) Bill 2024 – Bill 29/2024 – Committee Stage – Report Stage
Digital Services (Levy) Bill 2024 – Bill 45/2024 – Committee Stage
Employment (Collective Redundancies and Miscellaneous Provisions) and Companies (Amendment) Bill 2023 – Bill 76/2023 – Committee Stage
Future Ireland Fund and Infrastructure, Climate and Nature Fund Bill 2024 – Bill 21/2024 – Committee Stage
Employment Permits Bill 2022 – Bill 91/2022 – Committee Stage – Report Stage
Health (Assisted Human Reproduction) Bill 2022 – Bill 29/ 2022 – Committee Stage
Health (Miscellaneous Provisions) Bill 2024 – Bill 5/2024 – Committee Stage
Health (Termination of Pregnancy Services) (Safe Access Zones) Bill 2023 – Bill 54/2023 – Report Stage
Planning and Development Bill 2023 – Bill 81/2023 – Committee Stage
Protection of Private Residences (Against Targeted Picketing) Bill 2021 – Bill 139/2021 – Committee Stage
Research and Innovation Bill 2024 – Bill 1/2024 – Report Stage
Social Welfare (Miscellaneous Provisions) Bill 2024 – Bill 36/2024 – Committee Stage

Supreme Court determinations – Leave to appeal granted
Published on Courts.ie – May 2, 2024, to September 5, 2024

ACE Autobody Limited v Motorpark Limited, Brecol Limied and JDM Automotive Limited [2024] IESCDET 97 – Leave to appeal from the High Court granted on 29/07/2024 – (Dunne J., Murray J. and Collins J.)
Bank of Ireland Mortgage Bank U.C. v Brian Murray and Attracta Murray [2024] IESCDET 85 – Leave to appeal from the Court of Appeal granted on 16/07/2024 – (O'Malley J., Murray J., Collins J.)
William Bird v Iconic Newspapers Limited [2024] IESCDET 85 – Leave to appeal from the Court of Appeal granted on 09/07/2024 – (O'Malley J, Woulfe J, Murray J.)
Patrick Dillon v Irish Life Assurance Public Limited Company [2024] IESCDET 92 – Leave to appeal from the High Court granted on 22/07/2024 – (Dunne J., Murray J., Collins J.)
DOE (No.1) v The Director of Public Prosecutions [2024] IESCDET 102 – Leave to appeal from the Court of Appeal granted on the 23/08/2024 – (Dunne J., O'Malley J., and Hogan J.)
DOE (No.2) v The Director of Public Prosecutions [2024] IESCDET 103 – Leave to appeal from the High Court granted on the 23/08/2024 – (Dunne J., O'Malley J., Hogan J.)
F.S.H., F.S. Applicant No. 3 (a minor), Applicant No. 4 (a minor), Applicant No. 5 (a minor), Applicant No. 6 (a minor) v The Minister for Justice [2024] IESCDET 63 – Leave to appeal from the Court of Appeal granted on the 05/06/2024 – (Charleton J., Woulfe J., Collins J.)
G.B. (a minor) suing by his mother and next friend C.Y. v The Child and Family Agency and ors [2024] IESCDET 74 – Leave to appeal from the High Court granted on the 18/06/2024 – (Dunne J, Woulfe J, Murray J.)
Minister for Justice v James Coffey [2024] IESCDET 66 – Leave to appeal from the High Court granted on 05/06/2024 – (Dunne, Hogan, Donnelly JJ.)
Minister for Justice v Daniel O'Brien [2024] IESCDET 65 – Leave to appeal from the High Court granted on 05/06/2024 – (Dunne, Hogan, Donnelly JJ.)
Minister for Justice v Patrick Sparling [2024] IESCDET 64 – Leave to appeal from the High Court granted on 05/06/2024 – (Dunne, Hogan, Donnelly JJ.)
The people at the suit of the Director of Public Prosecutions v J.B. and The people at the suit of the Director of Public Prosecutions v S.M. [2024] IESCDET 84 – Leave to appeal from the Court of Appeal granted on 08/07/2024 – (O'Malley J, Woulfe J, Murray J.)

For up-to-date information, please check the courts website: https://www.courts.ie/determinations

CHAPTER AND VERSE

Chapter 3 of the Civil Law and Criminal Law (Miscellaneous Provisions) Act, 2020 regarding the admission of business records has the potential to be used in a broad range of civil litigation contexts.

Gráinne Fahey BL

It has been almost four years since Chapter 3 of the Civil Law and Criminal Law (Miscellaneous Provisions) Act, 2020 (the 2020 Act) came into force.

What is Chapter 3?

Section 13 of the 2020 Act provides: "Subject to this Chapter, in civil proceedings any record in document form compiled in the ordinary course of business shall be presumed to be admissible as evidence of the truth of the fact or facts asserted in such a document where such a document complies with the requirements of this Chapter".

The provisions of Chapter 3 of the 2020 Act bring the rules applying to admission of business records in civil cases into line with the rules that have applied to criminal trials since 1992 by creating an inclusionary exception to the rule against hearsay for ordinary business records in civil trials. The enactment of Chapter 3 was preceded by judgments in summary proceedings flagging the need for legislative reform as regards the admission of business records. A review of relevant case law suggests that while the provisions are used to great effect in summary proceedings, in other areas of litigation there are lessons to be learned from how the provisions are applied.

Chapter 3 has the potential to be used in a broad range of contexts in civil litigation, for proving medical records, contracts, terms and conditions, company instruments, receipts, invoices, bank statements, correspondence, training records, and any records of State bodies, in this jurisdiction or abroad. Records of a business that has ceased to exist continue to be admissible in accordance with Chapter 3. Section 18 provides that copies of ordinary business records can be admitted, whether or not the original document is still in existence, subject to being "authenticated in such manner as the court may approve, including as to its reliability".

What kind of records are covered by Chapter 3?

The provisions are surprisingly useful, particularly with regard to records emanating from outside of the State. Section 12 defines business as any trade, profession or occupation carried on for profit or otherwise, and includes State bodies, charities, EU institutions, other countries' local or national authorities, and any international organisation. Section 12 also defines a "document" as including a map, plan, drawing or photograph, or a reproduction in permanent legible form, by a computer or other means, of information in non-legible form.

What are the criteria a record must contain to be presumed admissible under section 13?

Section 14 sets out the conditions to be met, which are as follows:

(i) the information must have been compiled in the ordinary course of business;

(ii) the information must have been supplied by a person (whether or not he or she compiled it and is identifiable) who had or may reasonably be supposed to have had personal knowledge of the matters dealt with – if the information was supplied indirectly, then the information is only admissible if it was supplied in the ordinary course of a business;

(iii) in the case of information in non-legible form that has been reproduced in permanent legible form, it must have been reproduced in the course of the normal operation of the reproduction system concerned; and,

(iv) in the case of information expressed in terms unintelligible to the average person without explanation, an explanation of the information shall also be admissible if: a) given orally by a person competent to do so; or, (b) contained in a document that purports to have been signed by such a competent person.

A review of case law in summary judgment proceedings suggests that averments on affidavit of the following facts will satisfy the criteria set out in section 14:

1. The deponent's means of knowledge – usually that the deponent has personally reviewed and familiarised themselves with the records.
2. Confirmation that the documents exhibited in support of the application are documents compiled in the ordinary course of business.
3. In the case of documents that came into the possession of the deponent from another party, identification of the entity or person that compiled the documents.
4. An explanation of how the documents came into the possession of the moving party.
5. In the case of seeking to rely on copies of business records, an explanation as to how the deponent believes that the copies are authentic and reliable (for example that the documents were reproduced either from the original documents where available or from scanned versions or computer records, with the party having held such original/computer records being identified) and that the reproductions were made in the course of normal operations.[1]

These provisions largely reflect averments commonly made in summary judgment proceedings prior to the enactment of Chapter 3. In *UB v Greene* 2023 IEHC 445, Egan J. noted as follows:

"In any event, with one exception (with which I will deal at para. 72 below), I am satisfied as to the means of knowledge of the deponents who have sworn the affidavits on behalf of Ulster Bank DAC. I am also satisfied that the key documents relied upon by Ulster Bank DAC in these proceedings comprise business records within the meaning of the Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020. In the main, these documents comprise agreements with the defendant (for example, the facility letter and the loan facility), correspondence with the defendant and statements of account. Each such document was provided to the defendant (in the form of exhibits to the affidavits sworn by Ulster Bank DAC) sufficiently far in advance of the hearing before me. Having regard to the contents and source of these documents and to the circumstances in which they were compiled and exhibited before the court, I am satisfied as to their reliability. The admission of these business records will therefore cause no unfairness to the defendant".[2]

An instance where there was an unsuccessful attempt to rely on Chapter 3 in a plenary hearing in found in *Nolan and ors v Dildar Limited and ors* 2024 IEHC 4. McDonald J. noted (by way of *obiter* comments) that the application to admit ordinary business records was made in the absence of: (i) direct evidence of the business carried out by two third-party entities whose records were sought to be admitted; (ii) direct evidence that the information contained in the documents was compiled in the ordinary course of business; and, (iii) an indication of the origin of a document. The Court also noted, with regard to two letters that the plaintiff sought to have admitted, that the letters were not intelligible on their own terms "on their face", and that it would be necessary to provide further information to make the letters intelligible. The Court suggested that copies of other correspondence referred to in those letters could be submitted along with an explanation of the technical terms and abbreviations used in the letters.[3]

What kind of records are specifically excluded by Chapter 3?

A number of documents are excluded by Chapter 3:

(i) documents containing information that is privileged from disclosure;
(ii) documents containing information supplied by a person who would not be compellable to give evidence at the instance of the party wishing to give the information in evidence; and,[4]
(iii) documents containing information compiled for the purposes of or in contemplation of any criminal investigation or inquiry carried out pursuant to or under any enactment, civil or criminal proceedings, or proceedings of a disciplinary nature.[5]

In *Cave Projects Limited v Peter Gilhooley, John Kelly, John Moroney, Rory O'Brien and Joseph O'Hara* [2023] IECA 241, the Court of Appeal approved the decision of the High Court to admit documents under Chapter 3 and noted:

"She (the trial judge) correctly identified the one exception – under s. 14(3)(c) the information in the demand letter of 5 January 2011 could not be presumed admissible or true as it was 'information compiled for the purposes or in contemplation of – (iii) civil …proceedings'".

What are the procedural requirements?

In the case of documents not already served on the other party/parties to a civil trial (for example by way of discovery or as exhibits to an affidavit), a party seeking to rely on Chapter 3 must, not later than 21 days before the commencement of the civil trial, serve on each of the other parties to the proceedings a notice of intention to give the information in evidence pursuant to section 15, together with a copy of the document/s. A party on whom such notice is served and who wishes to object to such documents being admitted

at a civil trial must in turn, no later than seven days before the commencement of the civil trial, serve on each of the parties to the proceedings a notice objecting to the admissibility of the information.

As noted above, the service of a notice is not a precondition to relying on Chapter 3 where copies of the documents have already been served on the other party/parties. In such an instance, a notice objecting to the admission of such records is also not required. McDonald J. in *Nolan and ors v Dildar*, in dealing with an objection to the application by reason of the absence of a section 15 notice, held that this objection ignored the fact that the documents had been provided as part of discovery and he was satisfied that the requirements of section 15(1)(a) of the 2020 Act had been met.

Discretion not to admit where court is of the opinion that in the interests of justice the information or part thereof ought not to be admitted

Section 16(1) provides a court with discretion not to admit any information that is otherwise admissible under section 14. In order to exclude the information, the court must form the opinion that in the interests of justice the information or part thereof ought not to be admitted. Pursuant to section 16(2), in considering the interests of justice, the court must have regard to all of the circumstances, including the following:

(i) whether there is a reasonable inference that the information is reliable – having regard to the contents and source of the information, and the circumstances in which it was compiled;
(ii) whether there is a reasonable inference that the document is authentic, having regard to the nature and the source of the document containing the information and the circumstances in which it was compiled; and,
(iii) any risk, having regard to whether it is likely to be possible to controvert the information where the person who supplied it does not attend to give oral evidence in the proceedings, that its admission or exclusion will result in unfairness to any other party to the proceedings.

In *Nolan and ors v Dildar,* McDonald J. considered the application of section 16(2)(c) at paragraphs 289 to 295 of the judgment. The Court refused to admit the documents, noting that if the persons who supplied the documents had been called to prove the documents then the defendants would be in a position to explore whether there were conditions attached to the agreement sought to be admitted. This issue arose out of answers to interrogatories relied upon by the plaintiffs by a person who had not been called as a witness by the plaintiff. McDonald J. stated:

"…the defendants would have the opportunity to explore that issue with them and in particular to probe whether, for example, the documents represent the whole of the agreement between EFG Bank and CVSSA or whether there was any conditionality to the pledge as suggested by Mr Desmond in response to the interrogatories discussed above".

The Court also had regard to the fact that this was not a situation where:

"for example, as counsel for the Kenny defendants had suggested on the previous day, Mr Desmond had died or emigrated to Brazil or could not be located or where EFG Bank had been dissolved or where, for some other reason, it was impossible for the plaintiffs to get any evidence from any of those parties under any of the normal methods by which evidence could be obtained from abroad. There are well-established processes which can be followed in order to obtain evidence from a foreign witness who is unwilling to travel to Ireland for the purposes of giving evidence. What is very striking here is that the plaintiffs do not appear to have given any sufficient thought to the question of proof in advance of the trial".

Section 16 was also examined by O'Higgins J. in *Reid v Valiant Pharmaceuticals Ireland trading as Bausch & Lomb* 2023 IEHC 540. The Court, in exercising its discretion not to admit the documents under section 16, noted:

"It seems to me that the test requires the court to consider all of the circumstances of the case in the round and, where there is potential prejudice on both sides, strike a balance between the competing interests, all the time keeping to the forefront of the court's mind the overarching test within s.16(1) as to whether in the interests of justice the information or part of the information ought not to be admitted.

"Dealing firstly with the Dunphy report itself, it seems to me questionable whether the report meets the criteria within s.14(b) for admission of business records….

"Since the Dunphy report was authored by a number of different people, and since it is not clear which contributor wrote which part, it is very difficult for the court to be satisfied that the information in the report that is sought to be admitted was supplied by a person with personal knowledge of the matters dealt with. Secondly, the report strikes me as being a rather partial document, lacking balance. The conclusion part of the report reads like a litigation report, which is what at some stage the document became. Mr Power properly accepted that the report commenced life as a health and safety enquiry but ultimately developed into a litigation report. That being so, that calls into question whether, in accordance with s.16(2)(a) of the Act, the information in the report can be regarded as fully reliable. On that second basis, I decline to admit the main body of the report".[6]

Weight to be given to Chapter 3 evidence

Section 16(3) provides that the weight to be attached to the information must be estimated by reference to all of the circumstances from which any inference can

reasonably be drawn as to its accuracy or otherwise. This provision appears not to have been considered in case law published to date.

Evidence as to credibility of the supplier of the information

Section 17 overlaps with section 16. Section 17 provides that, where information is given pursuant to Chapter 3:

(i) any evidence which, if the person who originally supplied the information had been called as a witness, would have been admissible as relevant to his or her credibility as a witness shall be admissible for that purpose;
(ii) evidence may, with the leave of the court, be given of any matter which, if that person had been called as a witness, could have been put to him or her in cross-examination as relevant to his or her credibility as a witness but of which evidence could not have been adduced by the cross-examining party; and,
(iii) evidence tending to prove that that person, whether before or after supplying the information, made (whether orally or not) a statement which is inconsistent with it shall, if not already admissible by virtue of section 14, be admissible for the purpose of showing that he or she has contradicted himself or herself.

A review of published case law suggests that section 17 has not received any judicial scrutiny. It is difficult to see how these provisions would not fall to be considered within section 16, and therefore how this could operate as a stand-alone provision.

Relying on copies

Section 18 provides that where business records are admissible under Chapter 3:

"(1) The information may be given in evidence, whether or not the document is still in existence, by producing a copy of the document, or of the material part of it, authenticated in such manner as the court may approve, including as to its reliability.
"(2) It is immaterial for the purposes of subsection (1) how many removes there are between the copy and the original, or by what means (which may include transmission by means of electronic communication) the copy produced or any intermediate copy was made".

In *Nolan and ors v Dildar,* McDonald J. expressed the view that the terms of section 18 plainly contemplated some form of authentication and that any authentication would have to address the question of reliability. In terms of what would be sufficient authentication, the Court noted:

"Everything would depend on the circumstances. In cases where the document is of major importance in the proceedings, I believe that a court would be concerned to ensure that credible evidence is given that the copy document is a true copy of the original. On the other hand, I can readily see that, in the case of documents of secondary importance, a court might well be prepared to proceed on the basis of something less than oral evidence".[7]

In considering an objection to the admission of copy business records in *Pepper Finance DAC v Kenny*,[8] Phelan J. made no reference to the requirement of authentication or reliability, and the only reference to section 18 in that judgment is:

"I am further satisfied that s.18 of the 2020 Act addresses the defendants' complaint regarding reliance on copy documents as opposed to originals, noting that the defendants have not exhibited any correspondence seeking production of documentation in accordance with their right to do so under the Rules of the Superior Court, 1986".[9]

Conclusion

As is apparent from the case law, Chapter 3 has the potential to be relied upon to admit a broad range of documents. It is therefore likely to become an increasingly regular feature of civil trials. Because it is an application that can be made and objected to on notice or without notice, depending on whether the documents have been served in advance, it is advisable to consider its provisions in advance of any civil trial.

References

1. *Pepper Finance DAC v Kenny* [2023] IEHC 115 paras 12-14; *Cabot Financial (Ireland) Ltd v Hamill and another* [2023] IEHC 405 paragraphs 20, 26 and 27.
2. *UB v Greene* [2023] IEHC 445 at paragraph 54.
3. *Nolan and ors v Dildar Limited and ors* 2024 IEHC 4 at paragraph 267.
4. Except where the difficulty with compellability arises from the fact that the business records originate outside the State pursuant to section 14(6)(a).
5. This limitation expressly excludes certain documents, for example a map, plan, drawing or photograph including any explanatory material in or accompanying the document concerned, or a record of the receipt, handling, transmission, examination or analysis of anything by any person acting on behalf of any party, or a record by a registered medical practitioner of an examination of a living or dead person.
6. *Reid v Valient* 2023 IEHC 540 paragraphs 114-115.
7. *Nolan and ors v Dildar* 2024 IEHC 4 at paragraph 285.
8. [2023] IEHC 115.
9. Ibid (*Kenny*) paragraph 34.

TRICKY TIMES FOR DEMOCRACY

Aoife McMahon BL

The EU and the Irish Government are taking a number of steps to protect democratic processes from disinformation in the political sphere.

In June 2024, the European Commission reported that institutions and fact checkers had detected numerous attempts to mislead voters with manipulated information in recent months.

"FIMI [foreign information manipulation and interference] poses a major threat to liberal democracies, which rely on free and open information. If information is manipulated, our society and the way we engage in public debate cannot work".[1]

FIMI takes various forms. In June 2024, the European Commission reported that institutions and fact checkers had detected numerous attempts to mislead voters with manipulated information in recent months:

"Disinformation actors have pushed false information about how to vote, discouraged citizens from voting, or sought to sow division and polarisation ahead of the vote by hijacking high-profile or controversial topics [and] have also employed networks of fake accounts as well as fake or impersonated media outlets to manipulate the information environment. Recent revelations by the EEAS and national authorities of EU Member States include the False Façade, Portal Kombat and Doppelgänger operations".[2]

A notable example of the use of AI tools in the dissemination of disinformation is that identified by Microsoft in June 2024:

"According to the technology company, 'Russian influence actors' had been working to discredit the 2024 Olympic Games in Paris since at least June 2023. For instance, they created 'Olympics Has Fallen', a faux Netflix documentary narrated by an AI-generated Tom Cruise voice, which they promoted across social media using AI-edited videos of American celebrities. In addition, they replicated reputable media outlets and public bodies like the CIA and a French intelligence agency to disseminate Kremlin talking points under the guise of authoritative sources".[3]

In the Irish context, Global Witness identified an online bot network that abruptly shifted focus from the UK to Ireland, specifically related to the recent anti-immigration protests in Coolock. It stated that "in a moment when everyone is worried about democracy, it is shocking how easy it has been to find accounts that appear to be bots spreading division about the UK vote, and then to watch them jump straight into political discussions in the US and Ireland, frequently responding with hate and conspiracy".[4]

The European Digital Media Observatory (EDMO) published information from one of its fact-checking sources on how disinformation sparked the riot in Dublin in November 2023 after the stabbing of three children at a school.[5] In the immediate aftermath of the attack, a lot of information was shared online, much of which was false. A number of social media posts incorrectly referred to the attacker as an "illegal immigrant". Prominent names associated with far-right political groups posted such messages online as "1,000 people are already at the spire. All hands on deck. Defend our kids", and a false rumour that the girl who was attacked had died shortly afterwards was shared in a YouTube livestream of an anti-immigrant protest in Fermoy. Thirty-four people were arrested by public order units at the site of the riot, but none of the organisers of the initial protest were detained.[6]

In light of these increasingly intelligent tools of political interference, what is being done to address this threat to democracy? This article will consider a number of steps taken by the EU to protect its democratic processes, as well as relevant provisions of the Irish Electoral Reform Act 2022.

EU-level response

In April 2018, a Commission Communication on tackling online disinformation[7] announced the launch of a Code of Practice on Disinformation. It also set out the broad approach the Commission would take to tackling disinformation based on four principles: transparency; diversity; credibility; and, inclusive solutions.

The principle of transparency has been advanced through the adoption of Regulation 2024/900 on the Transparency and Targeting of Political Advertising (RTTPA). It entered into force on April 9, 2024, and most of its provisions will apply from October 10, 2025.[8]

The co-operation of online platforms as an inclusive solution is the focus of Regulation 2022/2065 on a Single Market for Digital Services (Digital Services Act). This entered into force on November 16, 2022, and became applicable from February 17, 2024.[9]

Code of Practice on Disinformation

A strengthened version of the Code of Practice on Disinformation was adopted in June 2022. It is a voluntary code, which may be opted into by companies, organisations and associations, and is stated to be without prejudice to other initiatives aimed at tackling disinformation.[10]

The Code defines "disinformation" as "false or misleading content that is spread with an intention to deceive or secure economic or political gain, and which may cause public harm". "Misinformation" is defined as "false or misleading content shared without harmful intent though the effects can be still harmful, e.g., when people share false information with friends and family in good faith". This distinction is notable – only disinformation involves an intent to deceive or secure economic or political gain.

The Code comprises 44 voluntary "commitments". Commitment 1 on the demonetisation of disinformation could drive significant inroads into disinformation campaigns, if enforced by online platforms. In this commitment, signatories participating in advert placements commit to defund the dissemination of disinformation and improve the policies and systems that determine the eligibility of content to be monetised. Other commitments aim to ensure the integrity of services through the adoption of clear policies on impermissible manipulative behaviours and transparency obligations for AI systems. There are also commitments to empower service users, the research community, and the fact-checking community.

As this is a voluntary Code, beyond reporting requirements, publication of information in the transparency centre (a common online point of reference for the effective implementation of the Code),[11] and independent audits in respect of very large online platforms (VLOPs) and very large online search engines (VLOSEs),[12] there are no means of enforcing its provisions.

In April 2018, a Commission Communication on tackling online disinformation announced the launch of a Code of Practice on Disinformation.

RTTPA

The title of the RTTPA gives its content away – it focuses on transparency in respect of political advertising and the techniques used to target same. Article 5 is a key provision – subsection 1 aims to protect the free movement of advertising services across the member states. Subsection 2 restricts this general freedom during election periods. It provides that in the last three months preceding an election or referendum organised at Union or national level, political advertising services shall only be provided to a sponsor who declares itself to be a citizen of the Union, a permanently resident third-country national with voting rights, or a legal person established in the Union that is not ultimately owned or controlled by a third-country national or by a legal person established in a third country.

This is a significant step in terms of protecting democratic processes from foreign interference; however, it is confined to political advertisements (so does not cover other online content such as social media) and only applies for three months preceding an election or referendum.

Articles 7 to 17 set out transparency and due diligence obligations on political advertising service providers. These include requiring, through contractual arrangements, a sponsor to make a declaration that the advertisement is a political advertisement, to provide information on the identity of the sponsor to the service provider, and to clearly label political advertisements.

Articles 18 and 19 set out obligations on service providers in respect of targeting techniques[13] and advert delivery techniques.[14] Obligations under Article 18 include the requirement to obtain the express consent of the service user for the use of these techniques. There is also a preclusion on the use of these techniques if they involve profiling as defined in article 4(4) of the General Data Protection Regulation (GDPR).[15] Article 19 sets out transparency requirements in respect of these techniques, including the publication of the service provider's policy on their use and the publication of an annual risk assessment on how their use affects fundamental rights and freedoms.

These transparency requirements may go some way to improving the credibility of political advertisements but are limited to this form of online content. Recital 47 makes clear that the RTTPA is not intended to apply to content uploaded by a user of an online intermediary service, such as an online platform, and disseminated by the online intermediary service without consideration, unless the user has been remunerated by a third party for the political advertisement. This latter proviso is interesting and may open the door to the application of the RTTPA to social media content where the service user is being remunerated by a third party for publishing a message that is liable and designed to influence the outcome of an election or referendum.

Digital Services Act

The Digital Services Act (DSA) places obligations on intermediary services to take certain steps to address illegal online content. Intermediary services are online services provided by a service provider that has no editorial control over the content held in or appearing on the service. The DSA aims to achieve a balance between three interests: the free movement of services; the protection of service users from illegal content; and, the freedom of expression of service users. Key provisions of the E-Commerce Directive are adopted into the DSA in order to protect the free movement of services. Articles 4, 5 and 6 DSA[16] exempt such service providers from civil liability under certain specified conditions. In respect of hosting services, the conditions are that the service provider does not have actual knowledge of illegal content or, upon obtaining such knowledge, acts expeditiously to remove or to disable access to the illegal content. Article 8 DSA[17] sets out a prohibition of any obligation on intermediary services to generally monitor their services.[18]

In respect of the other interests at play, this depends to a large degree on what constitutes "illegal content", which is defined as "any information that, in itself or in relation to an activity, including the sale of products or the provision of services, is not in compliance with Union law or the law of any Member State which is in compliance with Union law, irrespective of the precise subject matter or nature of that law".[19] Recital 12 DSA makes clear that "illegal content" includes illegality under both civil and criminal law and under Union law or national law. Examples given in this recital convey its very broad scope:

"Examples include the sharing of images depicting child sexual abuse, the unlawful non-consensual sharing of private images, online stalking, the sale of non-compliant or counterfeit products, the sale of products or the provision of services in infringement of consumer protection law, the non-authorised use of copyright-protected material, the illegal offer of accommodation services or the illegal sale of live animals …"

> **The Code defines "disinformation" as "false or misleading content that is spread with an intention to deceive or secure economic or political gain, and which may cause public harm".**

For disinformation to be illegal content within the meaning of Article 3 of the DSA, it must be prescribed as such under EU or national law. The Irish Electoral Reform Act 2022 is a notable development in this respect and will be considered further below.

Intermediary service providers are obliged to put in place a 'notice and action mechanism' to allow any individual or entity to notify them of the presence on their service of specific items of information that the individual or entity considers to be illegal content.[20] Such notices are considered to give rise to actual knowledge for the purposes of Article 6 DSA, where they allow a diligent provider of hosting services to identify the illegality of the information without a detailed legal examination. So, unless the service provider acts expeditiously to remove or to disable access to the illegal content notified, they will lose their exemption from liability under Article 6 DSA.

A number of provisions facilitate disputes on whether online content is illegal. The service provider must inform both the notice provider and the affected service user of its decision in respect of the notice and must put in place an internal complaints mechanism.[21] Service users have a further right to lodge a complaint to the national Digital Services Coordinator (DSC) against providers of intermediary services alleging an infringement of the DSA.[22] Coimisiún na Meán has been designated as the Irish DSC.[23]

Intermediary service providers are also obliged to comply with orders to act against illegal content issued by national judicial or administrative authorities.[24] Service providers must specify to the issuing authority "if and when effect was given to the order". The use of the terms "if and when" here is notable. There may be legitimate differences of views on whether certain content is illegal, especially given the countervailing right to freedom of expression, which may be time sensitive. Intermediary service providers must also comply with orders issued by the relevant national authorities to provide information about specific individual recipients of the service.[25]

Article 45 DSA links the DSA to the Code of Practice on Disinformation. It provides for the drawing up of voluntary codes of conduct at Union level to contribute to the proper application of the DSA, "taking into account in particular the specific challenges of tackling different types of illegal content and systemic risks".

Response in Irish law

Parts 4 and 5 of the Irish Electoral Reform Act 2022 are key developments in Irish law to tackle disinformation in the political sphere. Neither part has yet been commenced. They were notified to the European Commission under the Technical Regulations Information system (TRIS) procedure of Directive 2015/1535 and are being examined in light of observations made by the Commission with a view to being commenced as soon as practicable.[26]

Part 4 is similar in content to the RTTPA, with a focus on transparency provisions in respect of political advertisements. It is currently being brought into alignment with the provisions of the RTTPA to ensure effective implementation of that Regulation.[27]

Part 5 is called 'Regulation of electoral process information, online electoral information and manipulative or inauthentic behaviour'. Section 149 requires online platforms to put mechanisms in place to allow any individual or entity to notify it of the presence on the platform of information that the individual or entity considers to be disinformation or misinformation.[28] The Electoral Commission is empowered to issue a number of notices/orders to act against online disinformation, misinformation or bot activity that constitutes manipulative or inauthentic behaviour, or the use of an undisclosed bot. Certain of these notices/orders may only be issued during an election campaign period and others may be issued at any time.

Members of the public may also report instances of such online content/activity directly to the Commission.[29] The Electoral Commission is also empowered to request information from online platforms,[30] carry out monitoring and investigations,[31] and to issue communications to the public.[32]

Part 5 of the 2022 Act includes a criminal law limb, setting out a series of offences in ss. 165 to 168, and provisions in respect of prosecutions in ss. 169 and 170.

Conclusion

The RTTPA marks a significant development in addressing foreign interference in political processes in the EU through greater transparency of political advertisements and the identity of their sponsors, and through the prohibition on foreign sponsorship during campaign periods. However, its scope does not extend to other forms of online content, such as commentary on social media. Further, it does not create powers to address disinformation or misinformation beyond powers to address non-compliance with its transparency provisions.

The RTTPA marks a significant development in addressing foreign interference in political processes in the EU through greater transparency of political advertisements and the identity of their sponsors, and through the prohibition on foreign sponsorship during campaign periods.

The Code of Practice on Disinformation contains important commitments on the part, in particular, of online platforms. Demonetising disinformation by taking steps to avoid the placement of advertising next to disinformation content or on sources that repeatedly violate policies on disinformation can be an effective measure, as can the enforcement of policies on impermissible manipulative behaviours. Collaboration with the European Commission and with the research and fact-checking communities are also key components of this Code. However, it remains in effect a voluntary mechanism. For this reason, it could not be said that "disinformation" under the Code amounts to "illegal content" for the purposes of the DSA. Recital 104 of the DSA sets out a more limited implication of non-compliance with the Code – refusal on the part of a VLOP or VLOSE to participate in such a Code may be taken into account, where relevant, when determining whether the obligations of the DSA have been infringed. If such a Code became mandatory, it would arguably breach the prohibition on general monitoring of Article 8 DSA.

The DSA has been mandatory since February 17, 2024. The requirement on all intermediary services to put in place a notification mechanism and to act expeditiously to remove or to disable access to illegal content notified are core aspects of this Regulation. However, disinformation is only "illegal content" under the DSA if it is prescribed as illegal under EU or national law. Beyond the voluntary Code of Practice on Disinformation, there is no harmonised definition or prohibition of disinformation at EU level. The risk

assessment (and mitigation measures) required to be carried out by VLOPs and VLOSEs does serve to address disinformation, but only to the extent that it must include an assessment of the systemic risk of "any actual or foreseeable negative effects on civic discourse and electoral processes, and public security".[33]

As enacted, Part 5 of the 2022 Act addresses many of the shortcomings of the above measures. Most significantly, it aims to proscribe "disinformation" as illegal, bringing that form of online content within the scope of the DSA. The obligations on providers of online platforms under the Act are confined to taking action on obtaining actual knowledge of such illegal content (through the notification mechanism or on being served with a notice or order by the Electoral Commission), in this way ensuring that such service providers are not required to engage in general monitoring. The Electoral Commission itself is envisaged to have general monitoring and investigatory powers. The Act also aims to address disinformation through criminal enforcement. Watch this space for its commencement.

References

1. Josep Borrell Fontelles, EU High Representative for Foreign Affairs and Security Policy. Foreword to the Second EEAS Report on Foreign Information Manipulation and Interference Threats. January 2024. Available from: https://www.eeas.europa.eu/sites/default/files/documents/2024/EEAS-2nd-Report%20on%20FIMI%20Threats-January-2024_0.pdf.
2. European Commission. European elections: EU institutions prepared to counter disinformation. Press release, June 5, 2024. Available from: https://ec.europa.eu/commission/presscorner/detail/en/ip_24_3124.
3. Soula, E., Avgoustidis, A. Bribes and Lies: Foreign Interference in Europe in 2024. German Marshall Fund of the United States. July 24, 2024. Available from: https://www.gmfus.org/news/bribes-and-lies-foreign-interference-europe-2024.
4. Gallagher, C. Far-right bot networks turn focus to Ireland. *The Irish Times*, August 3, 2024.
5. European Digital Media Observatory. How misinformation and far-right groups sparked a riot in Dublin after the stabbing of three children at a school. November 28, 2023. Available from: https://edmo.eu/publications/how-misinformation-and-far-right-groups-sparked-a-riot-in-dublin-after-the-stabbing-of-three-children-at-a-school/.
6. Gallagher, C. 'Seven o'clock, be in town. Everyone bally up, tool up': How the far right lit the fuse of violence in Dublin. *The Irish Times*, November 24, 2023. Available from: https://www.irishtimes.com/crime-law/2023/11/24/seven-oclock-be-in-town-everyone-bally-up-tool-up-how-the-far-right-lit-the-fuse-of-violence-in-dublin/.
7. COM(2018) 236.
8. Article 30.
9. Article 93.
10. Recital (r) of the Preamble.
11. The Code of Practice on disinformation. Available from: https://disinfocode.eu/.
12. Commitment 44.
13. "Targeting techniques" are defined as "techniques that are used to address a political advertisement only to a specific person or group of persons, or to exclude them, on the basis of the processing of personal data".
14. "Ad-delivery techniques" are defined as optimisation techniques that are used to increase the circulation, reach or visibility of a political advertisement on the basis of the automated processing of personal data and that can serve to deliver the political advertisement to a specific person or group of persons only".
15. Article 4(4) of the General Data Protection Regulation 2016/679: "Profiling means any form of automated processing of personal data consisting of the use of personal data to evaluate certain personal aspects relating to a natural person, in particular to analyse or predict aspects concerning that natural person's performance at work, economic situation, health, personal preferences, interests, reliability, behaviour, location or movements".
16. Articles 12, 13 and 14 of E-Commerce Directive 2000/31/EC.
17. Article 15 of E-Commerce Directive 2000/31/EC.
18. See C-360/10 *SABAM v Netlog* and C-70/10 *Scarlet Ex v SABAM*, in which the CJEU emphasised the importance of this prohibition.
19. Article 3(h).
20. Article 16 DSA. Notices received from "trusted flaggers" must be given priority pursuant to article 22 DSA.
21. Articles 17 and 20 DSA.
22. Article 53 DSA.
23. Section 8 of the Irish Digital Services Act 2024.
24. Article 9 DSA.
25. Article 10 DSA. Given that such orders may be issued by national administrative authorities, this provision may reduce the need for Norwich Pharmacal orders.
26. Parliamentary Questions, December 7, 2023, question 66.
27. *Ibid*.
28. Section 149 of the 2022 Act.
29. Section 160 of the 2022 Act.
30. Section 148 of the 2022 Act.
31. Section 150 of the 2022 Act.
32. Section 159 of the 2022 Act.
33. Article 34(1)(c) DSA.

TAXING APPEALS

Since the establishment of the Tax Appeals Commission in 2016, the number of tax appeals that come before the courts has risen significantly, so a practical overview of tax litigation is timely.

Lorna Gallagher BL

This article provides an overview of the practice of tax litigation in Ireland and the impact of legislative reform on tax litigation and jurisprudence in recent years. Drawing on the author's experience, it provides practical insights into the litigation process in its present day context.

Introduction and background

Tax litigation in Ireland is initiated by appealing an assessment or a decision/determination of the Revenue Commissioners. The appeals body tasked with hearing and adjudicating appeals between taxpayers (individual and corporate) and the Revenue Commissioners is the Tax Appeals Commission (TAC). The TAC has unlimited financial jurisdiction and is a tribunal of first instance for all tax appeals.

Where a taxpayer has appealed a decision/determination of the Revenue Commissioners, the Tax Appeal Commissioners may vary the decision or determination, or may determine that the decision/determination be allowed to stand (section 949AL). The governing legislation is contained in Part 40A of the Taxes Consolidation Act 1997, as amended (TCA 1997). Where an assessment to tax is appealed, the Tax Appeal Commissioners have power to increase or reduce the amount of tax on an assessment, to allow the assessment to stand, or to reduce the assessment to nil (section 949AK).

The TAC was established in March 2016, following the enactment of the Finance (Tax Appeals) Act 2015, which contained a suite of provisions designed to implement reform of the tax appeals system, which included, *inter alia,* enhanced case management powers and procedures for the processing of appeals, the power to dismiss an appeal or to treat an appeal as withdrawn, and the abolition of the Circuit Court rehearing appeal mechanism. Central to the reforms was the requirement that all determinations issue in written form and the requirement of anonymised publication of all determinations. Heretofore, determinations of the Office of the Appeal Commissioners (OAC) took the form of detailed *ex tempore* judgments of which a note or transcript was sometimes taken. It follows that those determinations were far less accessible to tax practitioners. They were notably inaccessible to the public at large.

The TAC caters for corporates, non-corporates and individuals, including litigants in person. It is important that individuals, if they so choose, can navigate the appeals process without legal representation and indeed numerous taxpayers opt to represent themselves. The vast majority of appellants elect to have their cases heard in camera (section 949Y TCA 1997). Some appellants will be reluctant to forego their anonymity by appealing an unsuccessful determination to the High Court, where the hearing will take place in public.

Certain large and/or complex cases will likely be appealed irrespective of the outcome of the TAC appeal. For these cases, the TAC will be the first step in a lengthier legal process. However, for many appellants, the TAC is the first and final step in the tax appeals process.

A notable aspect of tax litigation is that the TAC is the sole arbiter of fact. Witness evidence is heard only before the TAC. Inferences or conclusions made by the Appeal Commissioners from primary facts can be set aside by the High Court, but only if such inferences or conclusions are ones that no reasonable Commissioner could draw or if they are based on a mistaken view of the law. Therefore, the conduct of litigation before the TAC is highly consequential for the hundreds of cases that are heard and determined before the TAC Commissioners each year.

Once a determination has been received by the parties following a TAC adjudication, either party may appeal to the High Court via case stated on a point of law.[1] From the High Court, cases may be appealed further to the Court of Appeal and, subject to a successful application for leave, to the Supreme Court.

Prior to the establishment of the TAC, appeals to the High Court were less frequent, due in part to the existence of the appeal *de novo* mechanism to the Circuit Court. In addition, the previous process of appealing by way of case stated lacked the legislative rigour of the present day appeal provisions, which drive appeals of determinations forward via a series of strict statutory deadlines.

In the years since the establishment of the TAC in 2016, the number of tax appeals received by the courts has risen significantly and the number of tax judgments being delivered by the courts has seen a consequent substantial increase.

Tax litigation, practice and procedure

The legislative provisions governing procedure before the TAC are contained in Part 40A of the TCA 1997, as amended. In this regard, some points worth noting are set out below.

Jurisdiction

The limitations of the scope and jurisdiction of the TAC can lead to confusion on the part of some appellants at hearing. This is because the jurisdiction of the TAC does not extend to matters pertaining to equitable or declaratory relief, nor to the provision of remedies available in High Court judicial review proceedings.[2] Parties who inadvertently stray into this territory in their submissions tend to do so by arguing one or more of the following:

- that the Revenue Commissioners did not have power or authority to raise the assessment;
- that the assessment was raised otherwise than in accordance with fair procedures;
- that the conduct of the Revenue Commissioners in raising the assessment has been flawed, improper or unfair; and,
- that the assessment itself is procedurally flawed, unfair and/or invalid, and should be struck out or reduced to zero.

Practitioners will be aware of course that arguments challenging the validity of and/or the raising of an assessment do fall squarely within the TAC's jurisdictional limits where those arguments relate to the time limits for making enquiries and amending assessments (formerly sections 955 and 956 of Part 41 TCA, at present contained in Part 41A TCA). Submissions of this nature are routinely advanced and are regularly adjudicated and determined by the TAC. Practitioners will be aware of the recent High Court judgment of Mulcahy J. in *Tobin v Revenue Commissioners* [2024] IEHC 196, which examines the time limit provisions in very significant detail.[3]

Grounds of appeal

The first step in appealing an assessment or Revenue determination is to file a notice of appeal with the TAC. Section 949I TCA 1997 requires that the notice set out the grounds of appeal "in sufficient detail". Subsection 6 provides that during the proceedings, a party shall not be entitled to rely on any ground of appeal that is not specified in the notice "unless the Appeal Commissioners are satisfied that the ground could not reasonably have been stated in the notice".

An Appeal Commissioner faced with a request for the inclusion of an additional ground of appeal post filing of the notice of appeal may struggle to accede to such a request if the appellant is unable to demonstrate that he/she meets the requirements of the statutory test.

To guard against a situation where a further ground of appeal is identified post filing of the notice of appeal, close attention should be paid to the drafting of a notice of appeal. As assessments must be appealed within 30 days, a practitioner may consider in a given case that there is insufficient time to adequately interrogate documents/material furnished by a client, especially if instructions are just recently received.

In such a situation, and if there is a lack of clarity around a putative ground of appeal, it may be appropriate to consider including rather than excluding the ground, especially if it relates to a time limit point. If there is concern around whether all grounds of appeal have been or can be adequately articulated at the notice of appeal stage, then it may be appropriate to include a broadly worded ground based on the information received, tailored insofar as it can be to the facts and circumstances of the case in question.

If a practitioner is not in a position to file the notice within the 30-day appeal period, regard should be had to the provisions of section 949O TCA 1997, which provide for the admission of late appeals where the appellant can show that he/she was prevented from making the appeal within time due to "absence, sickness or other reasonable cause", and where the appeal is "made thereafter without unreasonable delay".

Cases stated

Sections 949AP and 949AQ TCA 1997 deal with appeals to the High Court against TAC determinations and the case stated process. A detailed consideration of those provisions falls beyond the scope of this article, but suffice it to say that the recently updated time limits are as follows:

- if a determination is being appealed to the High Court, parties must file a notice of appeal with the TAC within 42 days;
- the Appeal Commissioner will send a draft case stated to the parties as soon as practicable but not later than three months after receipt of the notice of appeal;
- the parties have a period of 42 days to make representations to the Appeal Commissioner in relation to the draft; and,
- the Appeal Commissioner must finalise the draft within 21 days of receiving the representations, and must send the signed and completed case stated to the parties.

It is important for practitioners to be aware that once representations are received, the Appeal Commissioner has 21 days to finalise the case stated.

Parties and practitioners may not be cognisant of the fact that, at that stage, they may not be contacted further. In other words, if a legal representative is acting for an appellant and he/she sends a detailed list of representations to the Appeal Commissioner, requesting various changes or inclusions, it is possible that the legal representative could receive the final case stated without any or all of these amendments and inclusions made.

One of the reasons this situation may arise is that an Appeal Commissioner is not obliged to consult with parties on what specific representations he/she is minded to include in the signed case stated, although of course he/she may choose to do so in a given case. A discretion regarding inclusion of representations is afforded to the Commissioner under section 949AQ(4) TCA 1997, which provides that: "The Appeal Commissioners shall have regard to any representations so made and may, if they consider it appropriate to do so, modify the draft of the case stated before completing and signing it".

It is not unusual for an Appeal Commissioner to receive very detailed representations from an appealing party and to receive a detailed (and largely opposing) set of representations from the respondent. The Appeal Commissioner has a relatively short window of 21 days and will be focused on finalising the case stated within the specified statutory period while, at the same time, considering including the requested representations within the legal constraints of the case stated process.

To guard against a situation where a legal representative must return to a client and explain that their instructions/representations have not been included in the signed case stated, a representative might consider: (a) seeking agreement with the other party to the appeal in advance of submitting the representations, so that the Appeal Commissioner receives just one set of agreed representations; or, (b) if that is not possible (or even if it is) a legal representative could consider requesting that if the Appeal Commissioner is minded not to include some of the representations, that he/she might provide the reason for not including any particular representation.

If a legal representative feels that the signed and completed case stated has omitted pertinent information/representations, a request may be made to the High Court to send the case stated back to the TAC for amendment pursuant to section 949AR TCA 1997.

Attendance at appeal hearings

Section 949AA TCA provides that the appellant "shall attend any hearing unless the Appeal Commissioners excuse the appellant from attending".

Of course the appellant is entitled to be represented at the appeal hearing by his/her representative. Nonetheless, section 949AA(2) provides that where an appellant fails to attend the hearing, the hearing shall be treated as withdrawn.

In cases that do not involve evidence, and that turn on legal submissions (for example, a case concerning the proper interpretation of a particular legislative provision), an appellant may not consider that he/she needs to attend the hearing in person. In such circumstances it is important to note that it will be necessary to write to the TAC in advance of the hearing date, requesting that the appellant be excused from attending the hearing. This step should be taken to guard against any suggestion on the day of the hearing that the appeal should be treated as withdrawn pursuant to section 949AA(2) TCA 1997.

Requests for directions

Parties may request the Appeal Commissioner to make directions in relation to the conduct or disposal of an appeal. Directions seeking that documents be furnished by one party to the other can be requested pursuant to subsection 949E(2)(a) TCA 1997. A point worth nothing in relation to this type of direction is that the direction must be "relevant to the adjudication of the matter under appeal".

It is important to ensure, when requesting documentation, that the documentation does not relate to the appeal of a different taxpayer or an alleged similarly situated taxpayer. Applications of this nature cannot succeed.

Also, a request for documentation under this subsection will not succeed where the request concerns documentation that relates to a challenge that does not fall within the jurisdiction of the TAC, e.g., documentation that relates to the conduct of the Revenue Commissioners in raising the assessment or documentation that seeks to impugn the validity of the assessment other than validity based on the time limits for the raising of assessments.

Adjournments

Adjournment applications form part and parcel of the legal process and arise in ordinary course in TAC litigation. In considering an application for an adjournment, a Commissioner will seek to balance the need for efficiency and expedition in the progression of an appeal against the reason(s) specified by a party for making the adjournment application.

Applications likely to be successful are those that are materially grounded. An adjournment for medical reasons will in general be granted. If the appeal has not been set down for hearing and the parties have entered into meaningful negotiations and subsequently request an adjournment on consent to progress these negotiations, an application for an adjournment is likely to succeed. If the appeal has been set down for hearing and a request for an adjournment on this basis is made, the application is less likely to be successful, particularly if it arises proximate to the hearing. Adjournment applications based on the unavailability of a witness will turn on the reason a witness is unable to attend. Applications for adjournments based on counsel unavailability tend to be unsuccessful.

If settlement attempts have not resulted in a resolution prior to the hearing date, it may be possible to settle on the hearing date, even after the hearing has commenced. In general, Commissioners will be slow to adjourn or rise to allow time for discussions during the hearing itself, but will remind the parties that talks can continue outside hearing hours.

If the evidence in a case concludes in circumstances where there is time to commence closing submissions but not to conclude them, the parties will sometimes seek to adjourn closing to a date(s) upon which both parties can conclude closings in one sitting. Applications of this nature tend to be granted. The delivery and review of transcripts (if available) in the intervening period means that both parties will have the benefit of the transcripts during closing submissions and both will have time to cross-reference their arguments to specific portions of the evidence on the transcript in closing.

Burden of proof

In appeals before the TAC, the burden of proof rests on the appellant, who must prove on the balance of probabilities that the assessments to tax are incorrect. Jurisprudence in relation to the burden of proof is cited in many determinations. It is clear from the jurisprudence that the burden of proof is not a preliminary aspect or a preliminary point. It does not precede the consideration of relevant evidence but is invoked after the evidence has been adduced, considered and assessed.

Documentation

One of the most significant risks in litigation is the impact of the passage of time on the availability of evidence. Witness availability can diminish over time, people move on from organisations, and dates, details and conversations may become more difficult to recollect. Crucially, however, documents remain the same. A concentrated focus on transaction documentation at the drafting and execution stage is worth attending to and could prove valuable in time.

Conclusion

Tax jurisprudence in Ireland is developing at pace due to the significant legislative reform of Ireland's tax appeals system over the past eight years. The importance to taxpayers (including corporates, SMEs, financial institutions, instruments, partnerships, individual taxpayers, and foreign direct investment) of having a system where tax appeals can be processed with transparency and expedition cannot be overstated.

For the reasons discussed above, the landscape of tax litigation in Ireland is at present a dynamic one. The production and delivery of tax judgments by the Superior Courts has increased substantially in recent years, and the clarification and legal certainty provided by this jurisprudence, which so often resonates beyond individual cases, is beneficial to taxpayers and is greatly welcomed by the wider tax-legal community.

Lorna Gallagher is a practising barrister and a former Tax Appeals Commissioner. She commenced practice at the Bar in 2002 and practised as a barrister for 13 years prior to being appointed to the office of the Appeal Commissioners in December 2015. Following the establishment of the Tax Appeals Commission in March 2016, she served as a Tax Appeals Commissioner for seven years before returning to practice at the Bar in 2023.

References

1. Section 949AP (appealing against determinations) and section 949AQ (case stated for High Court).
2. See *Lee v Revenue Commissioners* [2021] IECA 18, *Stanley v The Revenue Commissioners* [2017] IECA 279, and *Menolly Homes Ltd v The Appeal Commissioners* [2010] IEHC 49.
3. This case was discussed in detail in a Bar of Ireland podcast produced in conjunction with the Tax Bar Association, available on Spotify and on www.taxbar.ie.

FUTUREPROOFING THE BAR

The Bar of Ireland's Rightsizing and Collaborative Structures Working Group has made recommendations regarding the business model at the Bar in an effort to meet some of the challenges faced by the profession.

Declan Harmon BL

The report of The Bar of Ireland's Rightsizing and Collaborative Structures Working Group was unanimously endorsed by the membership at the AGM in July 2024. As the motion approved at the AGM mandated the incoming Bar Council to progress the report's recommendations, it is timely to reflect on some of them.

Core challenges

The Rightsizing and Collaborative Structures Working Group was formed following a mandate given at the 2023 AGM to continue deliberations on the business model of the independent referral Bar, and to proffer options to mitigate the challenges faced by the profession. The Working Group, of which this author was a member, explored scenarios in order to assess the benefits and disadvantages of any enhancements or changes to the current model of practice at the Bar. While recognising that the Bar has many strengths, the Working Group also identified some core challenges. These included:

1. Difficulties in securing sufficient workflow in the early years of practice, while some more established members have more work than they can reasonably attend to.
2. The fact that new entrants coming to the Law Library are unregulated in terms of numbers.
3. The challenge in earning an income and securing payment, including the challenge of managing cashflow.
4. The increasing competition in attracting talent to the Bar given the more financially attractive opportunities that exist by pursuing a legal career through well-paid solicitor traineeships.

Fee subsidies

Of course, none of these challenges will come as a surprise to us and the Bar has long taken steps to assist colleagues in building their career. One longstanding way in which this has been done is through the progressive scale of membership subscription fees, whereby more senior members of the Bar subsidise junior members.

However, it is notable that a cohort of colleagues join the Bar as pupils having had successful careers outside the Bar or enjoying substantial pensions. Those colleagues are less in need of the support given by the reduced subscription fee levels paid in the earlier years at the Bar.

In order to ameliorate the position between entrants joining the Bar as their first career and entrants having had a prior career, our colleagues at the Bar of Northern Ireland developed a fee subsidy scheme, whereby new entrants may apply to pay a reduced level of annual fees, with eligibility based on income earned prior to joining the Bar.

On joining the Bar of Northern Ireland, the income of the applicant over the seven preceding tax years (based on submission of revenue records) is assessed. Where this income is over a threshold value (currently the National Living Wage plus 21%), a year of subsidy is removed. If a new member has never earned over the threshold amount, then they are entitled to a full subsidy and pay Year 1 fees on entry to the Bar.

The Working Group was impressed with how our colleagues in the North have approached this issue. The Group recommended that consideration be given to reviewing the fee structure for members in years 1-7 in order to ensure that new entrants who do not have prior income (verified by their revenue returns) benefit from lower subscription rates, while new entrants with prior declared income pay subscription rates more commensurate with their means.

Working structures

The Working Group also met online with colleagues from sets of Chambers in England and from Stables in Scotland. While acknowledging that there are distinct advantages from the structures that exist in those jurisdictions compared to our own, it was recognised that no structure is perfect, nor can any structure simply be transplanted onto The Bar of Ireland. The Working Group recommended that consideration be given by the Council to the issues involved in actively transferring to a different operating structure, whether that structure is based on the Chambers or Stables model, or on a different model uniquely developed to suit The Bar of Ireland.

Given its unanimous endorsement at the recent AGM, it is now incumbent on the current Council to take forward the recommendations in the Working Group's report, and to reflect on the changes required to protect the core values of The Bar of Ireland within a sustainable, fair and competitive structure.

THE BAR OF IRELAND
The Law Library
BARRA NA hÉIREANN
An Leabharlann Dlí

There's a buzz about the Bar these days.

The Bar of Ireland Law Library is taking steps to welcome biodiversity to our spaces. New planters here at The Sheds are the first step; introducing nature-friendly plants for everyone to enjoy.

Working with award-winning social enterprise Pocket Forests we have added 15 new planters with a variety of native and pollinator-friendly plants in peat-free compost. The large circular pots are made from recycled plastic in a factory powered by wind energy. Plants were sourced from Caherhurley Nursery in Co Clare, an organic-certified plant nursery.

We will be introducing native hedgerow plants and trees to the yard later this year. And in winter a side garden bordering St Mary of the Angels Church (pictured) will be planted with a 150 native shrub and tree Pocket Forest.

On the second floor balcony 5 planters have been filled with new native and pollinator friendly plants.

The 21 plants here at The Sheds are:

Natives:
Allium Ampeloprasum Babingtonii (Wild Leek)
Agrimonia Eupatoria (Sticklewort)
Cardamine Pratensis (Cuckoo flower)
Dipsacus Fullonum (Wild teasel)
Fragaria Vesca (Wild strawberry)
Geranium Sanguineum (Bloody Cranesbill)
Inula Helenium (Elecampane)
Lychnis Flos-cuculi (Ragged-robin)
Pimpinella Saxifraga (Burnet-Saxifrage)
Primula Vulgaris (Common Primrose)
Tanacetum Parthenium (Feverfew)
Tanacetum Vulgare (Tansy)
Anthriscus Sylvestris (Cow Parsley)
Galium Verum (Yellow Bedstraw)

Pollinator Friendly Perennials:
Salvia Superba (Woodland Sage)
Nepeta Hill Grounds (Catmint)
Rudbeckia Fulgida Fulgida (Orange Coneflower)
Achillea (Yarrow)
Scabiosa Ochroleuca (Cream Pincushions)
Saponaria Sicula Intermedia (Common Soapwort)
Monarda Bradburiana (Eastern Beebalm)

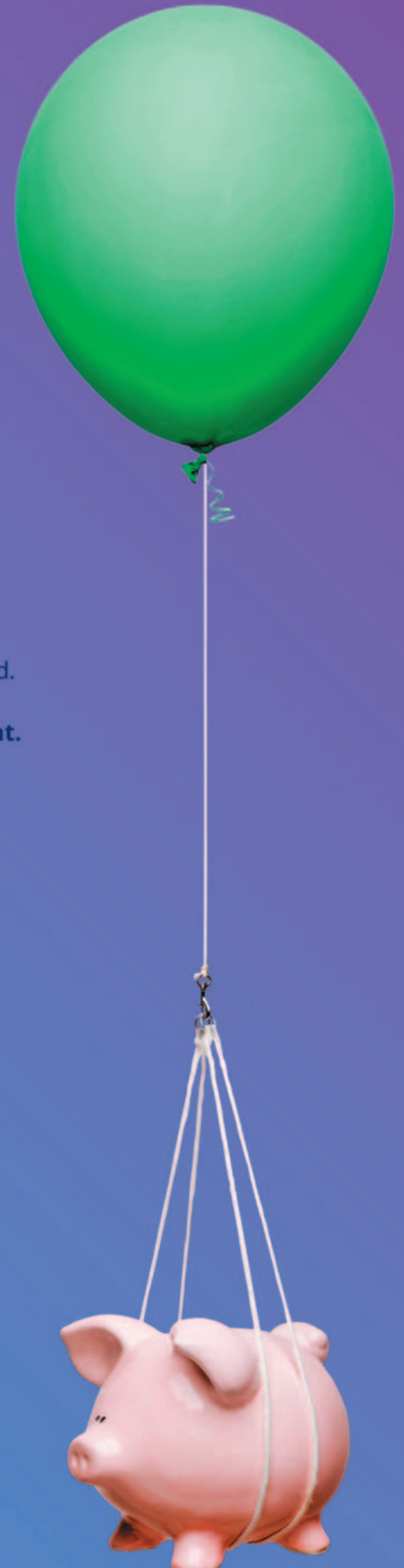
By supporting Pocket Forests The Bar Council is supporting nature reconnection and a restorative justice project in Shelton Abbey Open Prison, where Pocket Forests have a native tree nursery with more than 2000 native trees being cared for by prisoners.

Mercer

welcome to brighter

what's the simplest way to save up to 40% of income tax?

Put money in your pension



Even the terms and conditions are simple. The earnings limit is €115,000 and the amount of relief varies according to your age (see below).

With a pension, you save tax when you put money in and you save tax when you take it out. You can take up to 25% out tax free (subject to conditions) and all investment gains accumulate tax free within your fund.

Remember, prosperity needs to be planned - especially for retirement. Be sure to avail of our help.

The Bar of Ireland Retirement Trust Scheme

Open to all members of the Law Library under 75 years of age.

Age	Maximum tax relief on pension contribution (as a percentage of earnings)
Up to 29	15%
30-39	20%
40-49	25%
50-54	30%
55-59	35%
60 and over	40%

Contact your Mercer Bar of Ireland Pension Team on **01 636 2700** or Donal Coyne via email at **donal.coyne@mercer.com**.

www.mercer.ie

A business of Marsh McLennan

Mercer (Ireland) Limited, trading as Mercer is regulated by the Central Bank of Ireland. Copyright 2021 Mercer LLC. All rights reserved.