

IRELAND FOR LAW

DRAFT MINUTES OF MEETING OF IMPLEMENTATION GROUP

THURSDAY 31 MARCH 2022 AT 2.00PM *IN PERSON* AT THE DEPARTMENT OF JUSTICE

ATTENDANCE:

John Bruton, Chairman
John Shaw, Department of An Taoiseach
Oonagh Buckley, Department of Justice & Equality
John Laffan, Department of Justice & Equality
Christopher Quattrociochi, Department of Justice & Equality
Liam O'Daly, Office of the Attorney General
Patrick Leonard SC, The Bar of Ireland
Paul McGarry SC, The Bar of Ireland
Michelle Ní Longáin, President, The Law Society of Ireland
Mark Garrett, Director General, The Law Society of Ireland
Liam Kennedy, The Law Society of Ireland
Tara Rogers, The Law Society of Ireland
Sarah Callanan, DFA
Niamh Guihen, DETE
Jean O'Neill, DETE
Justin Sullivan, Department of Finance
James Farrell, IDA
Aidan McCauley, IDA Ireland
Christine Comiskey, CSSO
Rose Fisher, Arbitration Ireland (Secretary)

GUEST ATTENDEES FOR PRESENTATION PURPOSES

Karyn Harty, McCann FitzGerald – (Presentation on DIDW)
Jonathan Newman SC – The Bar of Ireland (Presentation on UPC)

APOLOGIES:

The Chairman, John Bruton, called the meeting to order, thanked those in attendance and the apologies were listed.
The Hon Mr Justice David Barniville, Court of Appeal
Paul Gallagher SC, Attorney General
Patrick Rooney, Office of the Attorney General
Karen Cullen, Department of Finance
Ciara Murphy, The Bar of Ireland
Anna McGillicuddy, Department of Foreign Affairs & Trade
Conor Finn, Department of Foreign Affairs & Trade

APPROVAL OF THE DRAFT MINUTES OF THE PREVIOUS MEETING (4 February 2022):

The draft minutes of the previous meeting were reviewed and approved.

DUBLIN INTERNATIONAL DISPUTES WEEK – PRESENTATION BY KARYN HARTY:

An update was provided on the work to date for the Inaugural Dublin international disputes week between 13-16 June, which would showcase Ireland as a jurisdiction litigating complex conflicts and international disputes. There would be a wide range of topics with a number of international speakers. The Chairman complimented the work being done and thanked all of those involved with the preparations and sponsorship to date.

UPDATE ON PROPOSAL FOR UPC REFERENDUM – PRESENTATION BY JEAN O’NEILL & JONATHAN NEWMAN SC:

The Department indicated that they remained positively disposed to the proposal, and that the timing and opportunity to hold of such a referendum was under review and the timing of such was a matter for Government. The Department would be referendum ready when such an opportunity arose.

A roadmap document had been circulated prior to the meeting which noted that the Court would be in effect from October 2022. At the Administrative Committee of the UPC, held in February, a proposal was made to change the rules of procedure of the Court so that they would be amended to remove the requirement to include ‘common law’ in the content of a European Patent Litigation Certificate (EPLC) course, and that specific qualifications awarded from UK based institutions would no longer be recognized. The adoption of this amendment would have led to Irish patent attorneys who had obtained such certificates losing their right of audience. The proposal also involved removal of the common law element of the qualification which would mean that practitioners before the Court would no longer require any familiarity with common law systems. The Department had responded opposing the amendment. It was noted that at this juncture, that Ireland has moved to an observer status on the Administrative Committee during the provisional application phase, in respect of these developments. A public statement from the Department stating that it was the objective of Ireland to ratify the agreement at the earliest possible juncture was requested by the Implementation group and the Department noted that the request would be taken under consideration.

The importance of quantifying the financial benefit of being a fully ratified member and the potential loss to the Country of not being a fully ratified member was noted. It was acknowledged that the IBEC report only outlined the potential benefit to the economy but not the possible losses. It was recognized to be of equal importance to prepare a report which highlighted the potential losses of not ratifying. The DETE agreed to report back to their office to see what steps could be taken to achieve this endeavor. IBEC would be asked to update their calculations to include the potential losses within their report also. The offer of providing advisory or consultative committee that the Department could obtain advice from on these matters would be considered by the Department. This matter highlighted one of the Ireland for Law objectives which was to assist the Irish Government representatives by referring the various EU Law proposals to the expertise within the private sector to assist and advise in these matters.

IFL STRATEGIC PRIORITIES AND COST PLAN:

The cost plan served to identify the key activities of Ireland for Law over the following three years. In effect, it was intended to travel to key countries within in Europe and the US to promote the Irish legal service offering and to encourage these countries to do their European legal business in Ireland. Several events were planned for 2022, several events were planned for New York in September, two taking place in Brussels and Madrid which would focus on the financial services offering, in particular, the use of Irish Law in derivatives and a presence at a large arbitration event – ICCA 2022 in Edinburgh. The professions were currently supporting and funding the initiative, but further funding was required to ensure the viability of the initiative in the long term. A brief overview of the inception of the initiative was provided to the meeting. It was noted that a meeting would be organised shortly between the DOJ and TBOI/LS representatives to discuss the support for the initiative going forward. It was observed that Ireland for Law featured in the Action Plan recently adopted by the DOJ.

KEY MESSAGING DOCUMENT:

Members of the Group were asked to review this document and to provide additional information/or any amendments, if required. It was noted that this document proved to be an important tool for the representatives/speakers at the various IFL events.

EVENTS TO PROMOTE THE IRELAND FOR LAW INITIATIVE:

The EU Bar Association Event took place 3rd March 2022 at the Irish Embassy London. It was a very successful event and was well attended. Thanks was given to the DFA, Courts Service and Martin McDermott at the Embassy for their assistance with the event.

Paris Event: This event took place in the Irish Embassy in collaboration with Arbitration Ireland during Paris Arbitration Week took place Tuesday, 29th March 2022. Although there was a smaller attendance, it was deemed important to have a presence at these international events to create awareness and heighten profile.

New York: Two events would take place in NY the week of the 12 September 2022 (Wednesday/Thursday morning). It was advised by the Consulate to host morning events to attract senior attendees. One of the events would focus on the use of Irish Courts for complex corporate restructuring and insolvency. Judge Barniville will speak at this event. Matheson are collaborating with 15 other Firms to organise the second event (focusing on insolvency) and would organise key target invitees. The NYSBA International section would host a Thursday night event with one of the Firms and Norton Rose Fulbright were hosting Arbitration Ireland at their offices on Tuesday evening.

Promotion of the ISDA Irish law Master Agreement in the European markets was intended to commence mid to late 2022 with two Capitals identified Madrid/Brussels. The DFA were assisting with arrangements regarding venues in various capitals & DFIN/BPFI were assisting in relation to key contacts to invite.

BPFI Webinar: It was hoped to organise a webinar on Complex Financial Services Disputes in the Irish Courts with the BPFI and other organisations in July. It was envisaged that Barniville J and Judith Lawless would participate as speakers on this webinar.

It was proposed that the General Counsel event at the Law Society would take place sometime in November 2022.

UPDATE ON PROGRESS ON THE IMPLEMENTATION OF REPORT OF THE CIVIL JUSTICE REFORM GROUP:

Progress is being made and an implementation report is imminent which will then be resubmitted for approval. The Report will be delivered in line with approximate timeframes within which the actions are to be achieved.

UPDATE ON PROPOSALS CREDIT REPORTING ACT – STRUCTURED FINANCE:

There is a piece of legislation (the CRA) which requires certain details of loans to be registered with the Central Bank. The unintended effect of that legislation is that it captures loans outside of Ireland in circumstances where that is not what its intention was. One of the successes of the UK is that loans with no connection with the UK are very often subject to English Law. This operates as a barrier to promoting the Irish Law in financial services. A supplementary paper to address these issues was being prepared.

ESTABLISHMENT OF A CLG:

The draft Constitution had not been circulated prior to the meeting. Background was provided in relation to how the issue arose which was by way of taking registrations for the DIDW (to process data in accordance with GDPR). Advice had been received that the Group should not take on being the Data Controller thus a CLG should be constituted to take on this role. It was proposed that the Minister for Justice has the right to nominate any person to be a director of the Company. The Minister for Justice would hold no obligation of power to nominate person(s) to be a director and the Minister for Justice can decide not to nominate a person or number of persons to be a director of the Company. The establishment of a CLG was also important for holding monies/sponsorship etc. It was proposed that the Members/Directors would be the LA/TBOI representatives. The Group requested sight of the draft Constitution before granting approval. This document would be circulated after the meeting.

AOB

N/A

DATE OF NEXT MEETING:

DATE: 6th October 2022

VENUE: DOJ

TIME: 4PM