

Competition Section seminar: CPD compliance for Irish practising certificate holders



Chair: Matt Evans, partner, Jones Day

Speakers:

- Niall Collins, partner, Mason, Hayes & Curran
- Margaret Gray QC, barrister, Brick Court Chambers
- Alex Storer, international policy advisor (Europe), The Law Society

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About us - The Competition Section

The Competition Section is a subscription-based Law Society membership group. It promotes knowledge and awareness of competition law developments and addresses current issues and challenges facing competition law practitioners

For more information about the Competition Section or to join -
www.lawsociety.org.uk/competition

Your SRA Continuing competency codes:

The Competition Section have compiled a list of competency codes in a new training tracker, to help you record your professional development.

Go to our web site > www.lawsociety.org.uk/competition and then **Home > About us > Keep track of your professional learning** to see the codes to add to your training record.

Here is a sample...

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The Competition Section covered these SRA codes between 1 November 2018 and 31 May 2019

When	Name of product	Product type	SRA codes
Nov 2018	Competition Section webinar: The interface between public procurement and competition law	Inclusive	A2, A5, B1
Nov 2018	Competition Section seminar: UK national security law and merger control	Inclusive	A2, A4, A5, B1, C2
Nov 2018	Competition Section annual dinner and awards: Podcast of keynote speech on Brexit and the future of competition law (Audio)	Inclusive	TBC
Dec 2018	Competition Section seminar: Update on recent pharmaceutical competition cases	Inclusive	A2, A5, B1
Jan 2019	Competition Section webinar: Competition litigation reviewing 2018's key developments	Inclusive	A2, A4
Feb 2019	Competition Section seminar: Data issues and merger control	Inclusive	A2, A4, A5, B6, B7
Mar 2019	Competition Section seminar: UK mergers update	Inclusive	A2
Apr 2019	Competition Section seminar: Review of the Digital Competition Experts Panel report	Inclusive	A1, A2, A4, B1, B3
May 2019	*Competition Section annual conference:	Discounted	A2
May 2019	Competition Section webinar: Avoiding the antitrust perils of illegal information exchange	Inclusive	A2, A4

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2019 Competition Section webinars – listen again

The below are webinars are inclusive to Competition Section members and available to view now:

[Jan 2019 – Webinar: Competition Litigation - reviewing 2018's key developments](#)

- Speakers: Anna Morfey and Scott Campbell, Hausfeld

[May 2019 - Webinar: Avoiding the antitrust perils of illegal information exchange](#)

- Speaker: Graeme Young, partner, CMS

[17 July 2019 – Webinar: Dawn raids - best practices and recent developments](#)

- Speakers: Omar Shah, partner, Morgan Lewis and Jasminder Nakhwal, partner, Peters & Peters

[5 Sept 2019 – Verticals and E-commerce](#)

- Speaker: Richard Eccles, partner, Bird & Bird.

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Upcoming Competition Section seminars 2019 – Book

8 October 2019: A review of Competition Damages Litigation

- Speakers: Sarah Ford QC, Brick Court Chambers and Paul Harris QC, Monkton Chambers

21 November 2019: Competition Section annual dinner and awards

- Speaker: Christina Blacklaws

3 December 2019: Abuse of dominance – recent developments in the UK and Europe

- Speaker: Robert O'Donoghue QC, Brick Court Chambers

Horsfall Turner essay question - £1,000 1st prize

The Horsfall Turner essay question for 2019 is:

'Earlier this year, experts from the European Commission (EC) and a UK Digital Competition Expert Panel both made recommendations to adapt competition law and policy to the challenges of the digital era.

Do you think the EC was right to propose a presumption of anti-competitive conduct, effectively shifting the burden of proof for pro-competitive benefits onto platform operators?'

Essays should be no more than 2,500 words in length.

The entry deadline is 12 noon on Monday 21 October.

The image shows a check from The Law Society. The check is dated 21 November 2019 and is payable to the prize winner in the Competition Section's Horsfall Turner essay contest. The amount is £1,000.00, written as 'One thousand pounds' in cursive. The check is signed 'For and on Behalf The Law Society'.

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Niall Collins

MASON HAYES & CURRAN

An overview of the regulation of Irish-registered solicitors

Law Society, 10 September 2019

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Outline

- Legal profession in Ireland
- Regulatory structure
- Law Society Regulatory Committees
- Solicitors' Disciplinary Tribunal
- New regulatory structure

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Legal Profession in Ireland

- Solicitors
- Barristers
- Notaries
- IP Attorneys
- Conveyancers

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Solicitors in Ireland with PCs

	Q2 2019	%
Top 10	2,116	18.2
Next 10	599	5.2
Brexit	748	6.4
Other private practice	5,968 (est.)	51.3
In-house	2,200 (est.)	18.9
PC Total	11,631	

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Solicitors in Ireland

250 – 299

A&L Goodbody

ARTHUR COX

Matheson

MCCANN FITZGERALD

200 – 249

MASON
HAYES &
CURRAN

WILLIAM FRY

150 – 199

100 – 149

BYRNE
WALLACE

LAW FIRM

MAPLES

EVERSHEDS
SUTHERLAND

RONAN
DALY
JERMYN

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Solicitors in Ireland

- 63% in Dublin city and county
- 52% female – in-house 68% female
- UK Brexit admissions as at 30 June 2019:
 - 2,708, more in pipeline
 - 748 with PCs



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Regulatory Structure until 6 October



President of the High Court



Solicitors Disciplinary Tribunal



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OF IRELAND

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Regulatory Committees

- Complaints and Client Relations
- Education
- Money Laundering Reporting
- Professional Indemnity Insurance
- Regulation of Practice

Regulatory Committees

- **Complaints and Client Relations Committee**
- Education Committee
- Money Laundering Reporting Committee
- Professional Indemnity Insurance Committee
- Regulation of Practice Committee

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Complaints

- Complaints and Client Relations Committee
- 3 solicitors, 4 lay members
 - Inadequate professional service
 - Excessive fees
 - Misconduct
 - e.g. failure to notify basis of fees, breach of undertaking, deception or concealment, conflict of interest

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Inadequate Service

- “[Services that are] inadequate in any material respect and were not of the quality that could reasonably be expected”
- Complaints must be made within 5 years
- CCRC seeks to resolve complaint but is not a substitute for client’s civil remedy

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Inadequate Service – sanctions

- Deny all or part of fees
- Direct rectification at solicitor's expense
- Direct “other action in the interests of the client”
- Direct handover of file, even where lien exists
- Impose a formal reprimand
- Direct payment of up to €3,000 compensation
- Uphold complaint but take no action

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Excessive Fees

- Primarily in litigation and private client work
- Pending determination of complaint, solicitor is prohibited from issuing proceedings for recovery of fees without Law Society or Court approval
- Complaints must be made within 5 years
- CCRC seeks to resolve complaint but is not a substitute for taxation of costs
- Sanction - Direct the refund or waiver of all or part of the fees

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Decision procedure

- CCRC makes decision and may apply sanction
- Solicitor can appeal to Court, client can not
- Client can request CCRC reconsideration via reference to Independent Adjudicator
- In absence of an appeal, CCRC decision binding after 21 days

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Misconduct

- Definition *includes* “conduct tending to bring the solicitors’ profession into disrepute” and “contravention of a provision of the Solicitors Acts ... or any order or regulation made thereunder”.
- There is no limitation period
- CCRC seeks to resolve complaint but is not a substitute for client’s civil remedy

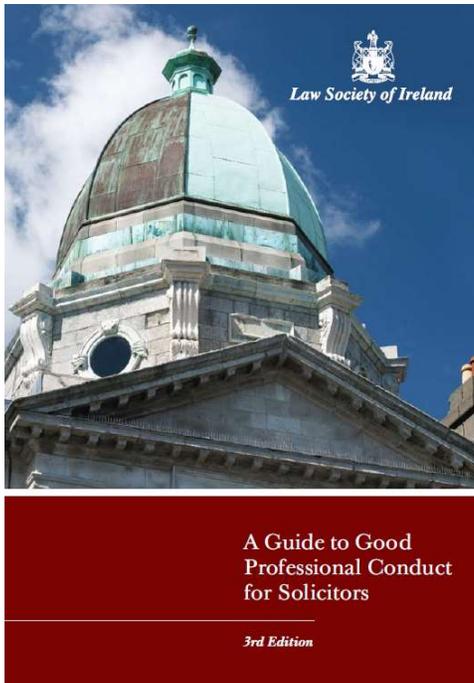
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Misconduct in practice

- Failure to notify basis of fees
 - Failure to send s 68 letter (letter of engagement)
- Breach of undertaking
 - Banks are the usual complainants
- Conflict of interest
 - Only heading where larger firms will feature
- Deceit or concealment

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Conflict of Interest



- 3.1 General
 - Do not act where there is a conflict
- 3.2 Conflict between two clients exists
 - where a solicitor would give different advice about the same matter, or
 - if either client could reasonably take exception to what the other client has asked the solicitor to do

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Conflict of Interest

- 3.3 Real estate transactions
- Prohibition on acting for
 - seller and buyer
 - lender and borrower/guarantor/security provider
- Prohibition on giving undertaking >€75,000
- Recommendation against acting for borrower and guarantor/indemnifier/security provider

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Conflict of Interest

- 3.4 Other matters
- Where clients consent they must know and understand
 - there is a potential conflict
 - solicitor may not be able to advise each client as fully as he/she would, if the solicitor did not act for both parties
 - solicitor may not be in a position to share all the information the solicitor hears from the other side
- “Independent advice” should be from another firm

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Conflict of Interest - examples

- #1 – advisers to a takeover who acted for party in another matter
- #2 – acting in litigation in new matter between former joint clients
- #3 – insurer's solicitor seeking to prevent plaintiff solicitor act again

Misconduct – sanctions

- Refer the matter to the Solicitors' Disciplinary Tribunal
- In conflict of interest, direct solicitor not to act
- Uphold the complaint, but take no action
- Require a contribution, not exceeding €3,000, towards the costs incurred by the Society.
- Impose a formal reprimand

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Misconduct – decision procedure

- CCRC makes decision and may apply sanctions
- Solicitor can appeal to Court, client can not appeal but can bring judicial review
- Client can request reconsideration via Independent Adjudicator
- Client can bypass CCRC and proceed directly to Tribunal
- In absence of appeal, CCRC decision binding after 21 days

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Statistics

	01/07/2015 – 30/06/2016	01/07/2016 – 30/06/2017	01/07/2017 – 30/06/2018
NATURE OF COMPLAINTS			
Service	307	360	356
Excessive fees	80	95	94
Misconduct	1,516	1,146	410
COMPLAINTS MADE BY			
Clients and banks	1,336	1,034	785
Solicitors	180	112	75

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Statistics

Inadequate Service	01/07/2015 – 30/06/2016	01/07/2016 – 30/06/2017	01/07/2017 – 30/06/2018
Delay	114	139	95
Communication	71	83	94
Shoddy work	95	98	138
Other	27	40	29

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Statistics

Excessive Fees	01/07/2015 – 30/06/2016	01/07/2016 – 30/06/2017	01/07/2017– 30/06/2018
Conveyancing	9	11	14
Probate	14	14	14
Litigation	31	34	36
Matrimonial	10	28	19
Other	16	8	11

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Statistics

Misconduct	01/07/2015 – 30/06/2016	01/07/2016 – 30/06/2017	01/07/2017 – 30/06/2018
Undertaking	829	404	153
Retaining file	102	92	97
Failure to account	74	51	41
Delay, Comms	35	30	35
Conflict of interest	9	16	12
Dishonesty	10	13	8
Other	75	85	64

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Regulatory Committees

- Complaints and Client Relations Committee
- **Education Committee**
- Money Laundering Reporting Committee
- Professional Indemnity Insurance Committee
- Regulation of Practice Committee

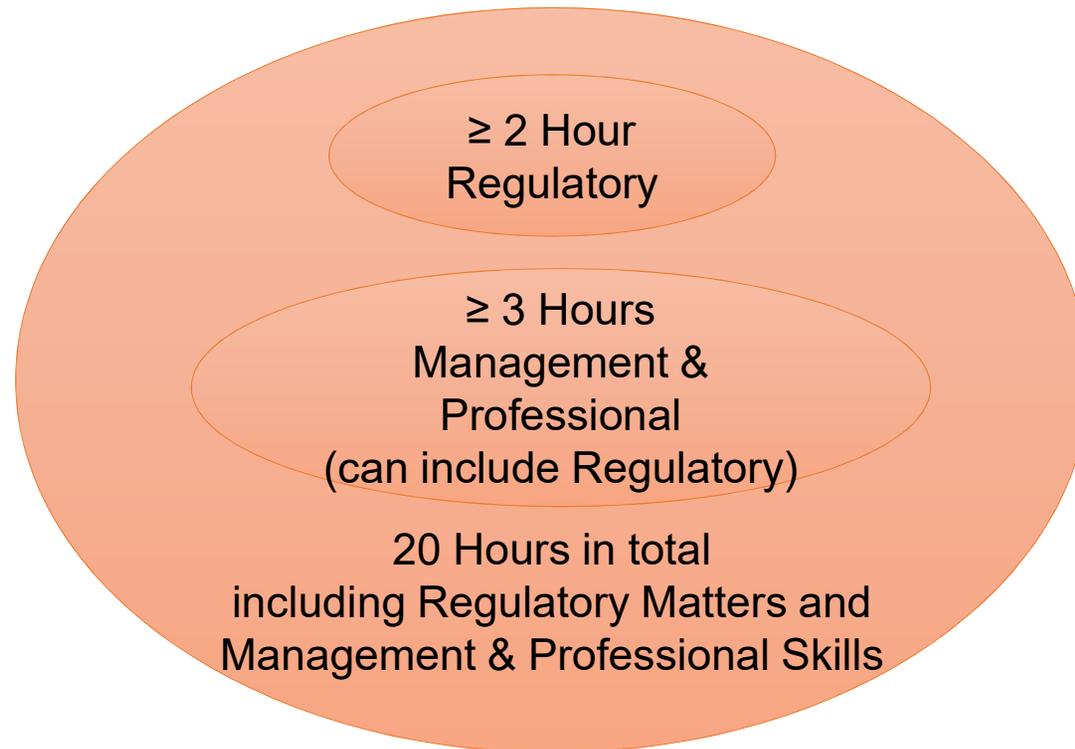
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Education Committee

- All solicitors: LSI, external, Council members
- Admission as a solicitor, academic equivalences
- Examination rechecks, transfers of training contract
- Operation of LSI Law School
- Enforcement and waivers of 20 hours CPD

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CPD Requirement



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CPD Requirement

- 20 hours (remaining unchanged)
 - At least 10 hours in group study (may reduce to 8)
 - Up to 10 hours by webinar etc.(may increase to 12)
- No formal accreditation of providers
 - Common sense approach
- Declaration on annual Practising Certificate form
- <https://www.lawsociety.ie/globalassets/documents/cpd-scheme/2019-cpd-booklet.pdf>

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Money Laundering Reporting

- Complaints and Client Relations Committee
- Education Committee
- **Money Laundering Reporting Committee**
- Professional Indemnity Insurance Committee
- Regulation of Practice Committee

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Money Laundering Reporting

- All solicitors: LSI, external, Council members
- Money Laundering Reporting Committee
- Solicitors must undertake KYC for all clients, regardless of any money receipt, holding or transmission
- Inspections by Law Society, reports to the Irish police
- For trust, company secretarial and notarial clients, inspection is done directly by the Ministry of Justice

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Professional Indemnity Insurance

- Complaints and Client Relations Committee
- Education Committee
- Money Laundering Reporting Committee
- **Professional Indemnity Insurance Committee**
- Regulation of Practice Committee

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Professional Indemnity Insurance

- Professional Indemnity Insurance Committee
- Solicitors (LSI, external, Council members) and one lay member
- PI insurance is compulsory at a level of €1,500,000
- Committee drafts regulations which are then made by the Law Society Council

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Regulation of Practice

- Complaints and Client Relations Committee
- Education Committee
- Money Laundering Reporting Committee
- Professional Indemnity Insurance Committee
- Regulation of Practice Committee

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Regulation of Practice Committee

- Regulation of Practice (Compensation Fund) Committee
- Solicitors (LSI, external, Council members) and one lay member
- Primary function: Solicitors' Accounts Regulations
 - No “mixing up” of client and office funds
 - No credit balance on an office account
 - Clear records of instructions

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Regulation of Practice Committee

- Methodology similar to CCRC
- Solicitors are exempt from investment intermediary money transmission rules where money is received and transmitted as part of the solicitor's legal practice
- Clients who are individuals (i.e. not corporates) have a Law Society guarantee of repayment of up to €700,000 in the event of a solicitor default

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Solicitors' Disciplinary Tribunal

- Divisions of 3 members
 - 2 solicitors
 - 1 lay member
- Power:
 - to impose fines
 - to impose conditions on practice
 - to refer to the President of the High Court

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Legal Services Regulation Act 2015

- Overhauls complaints system, commences 7 October 2019
 - Lay chairs of complaints committees
- Introduces as of 7 October 2019:
 - “Legal Partnerships” of solicitors and barristers
 - LLPs
 - Direct access to barristers
- Reforms legal costs agreements and assessment

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Regulatory Structure from 7 October



President of the High Court



Solicitors Disciplinary Tribunal

Legal Practitioners
Disciplinary Tribunal



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Regulatory Committees

- *Complaints and Client Relations*
- Education
- Money Laundering Reporting
- Professional Indemnity Insurance
- Regulation of Practice



Regulatory Committees
Complaints and Client Relations

Misconduct under 2015 Act

- fraud or dishonesty
- legal services, to a substantial degree of an inadequate standard
- improper conduct outside the practice of law
- committing an arrestable offence
- committing a crime or offence outside Ireland equivalent to an arrestable offence
- seeking grossly excessive fees
- withdrawal from a case where client in custody

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Status of Lawyers and LPP

Competition Law Section (Irish Update)
Law Society of England & Wales
10 September 2019

Margaret Gray Q.C.

**Brick Court Chambers, London
and
Law Library, Dublin**

Outline

1. Status of lawyers in the EU and Ireland
 - Pleading before CJEU
 - Legal Professional Privilege
2. Irish law and LPP
3. The EU right to LPP: *AM & S* and *Akzo Nobel*
4. Article 8 ECHR and LPP
5. CCBE and LPP
6. Future developments

1. Status of lawyers in EU and Ireland

Rights and privileges afforded to solicitors under EU law are grounded in Member State rules and practices in national laws and in legislation

For example, only a lawyer *“authorised to practise before a court”* of a MS or EEA State may represent or assist a party before the EU courts

STATUTE OF THE COURT OF JUSTICE OF THE EU

TITLE III

PROCEDURE BEFORE THE COURT OF JUSTICE

Article 19

The Member States and the institutions of the Union shall be represented before the Court of Justice by an agent appointed for each case; the agent may be assisted by an adviser or by a lawyer.

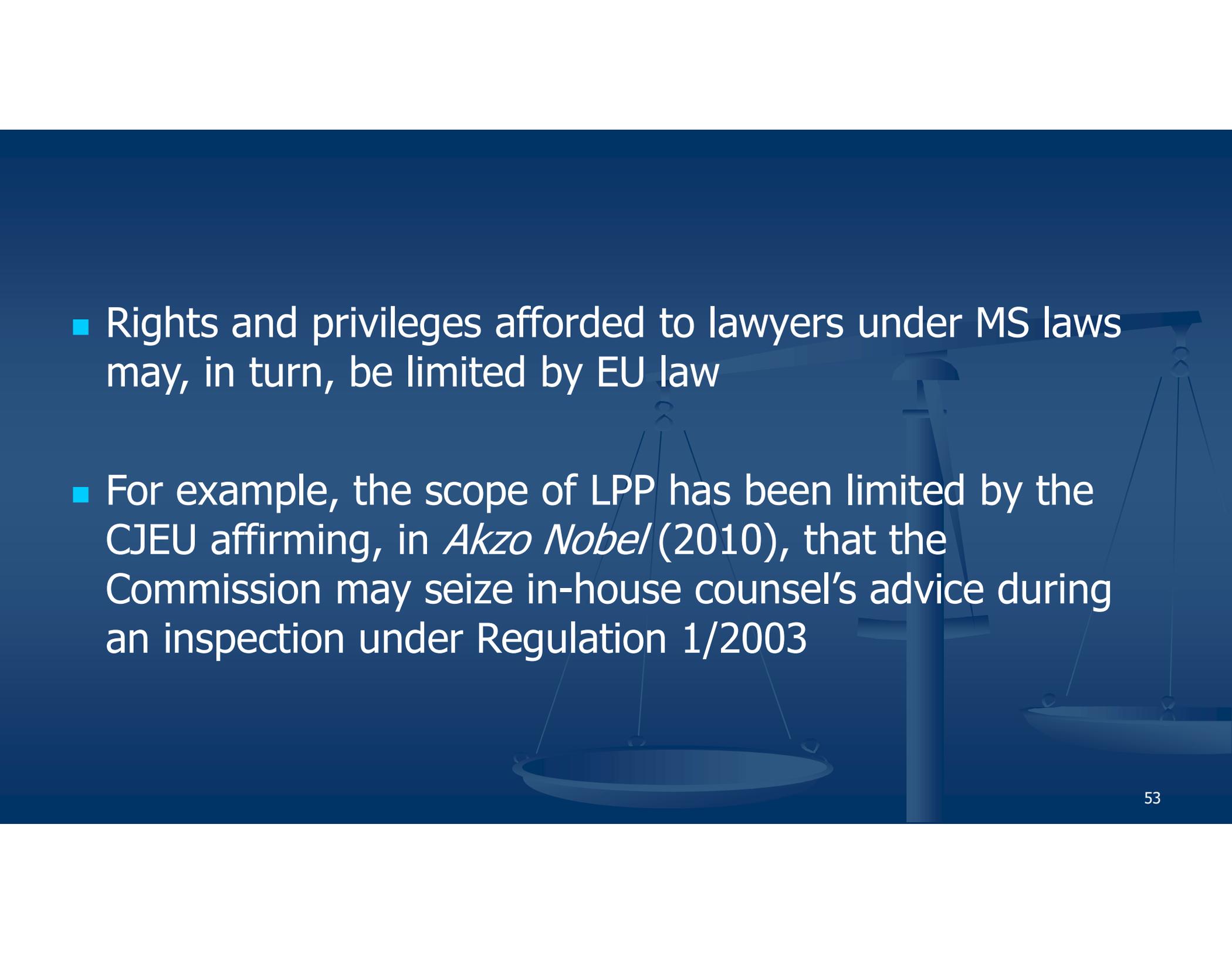
The States, other than the Member States, which are parties to the Agreement on the European Economic Area and also the EFTA Surveillance Authority referred to in that Agreement shall be represented in same manner.

Other parties must be represented by a lawyer.

Only a lawyer authorised to practise before a court of a Member State or of another State which is a party to the Agreement on the European Economic Area may represent or assist a party before the Court.

Such agents, advisers and lawyers shall, when they appear before the Court, enjoy the rights and immunities necessary to the independent exercise of their duties, under conditions laid down in the Rules of Procedure.

As regards such advisers and lawyers who appear before it, the Court shall have the powers normally accorded to courts of law, under conditions laid down in the Rules of Procedure. University teachers being nationals of a Member State whose law accords them a right of audience shall have the same rights before the Court as are accorded by this Article to lawyers.

- 
- The background of the slide features a faint, stylized image of a scale of justice, symbolizing law and equity. The scale is positioned on the right side of the slide, with its central pillar and two pans hanging from a horizontal beam. The pans are slightly tilted, and the overall image is rendered in a dark blue, semi-transparent style that blends with the slide's background.
- Rights and privileges afforded to lawyers under MS laws may, in turn, be limited by EU law
 - For example, the scope of LPP has been limited by the CJEU affirming, in *Akzo Nobel* (2010), that the Commission may seize in-house counsel's advice during an inspection under Regulation 1/2003

- 
- In Ireland, Irish-qualified solicitors have rights of audience under s.17 of the Courts Act 1971
 - EU Member State qualified solicitors have rights in Irish law under
 - Lawyers' Establishment Directive (98/5/EC)
 - Lawyers' Services Directive (77/249/EEC)
 - Mutual Recog. of Quals. Dir. (2005/36/EC)

Klohn v An Bord Pleanála

- Question of interpretation of the scope of the right to practise “in conjunction with” a local lawyer in Article 5 of the Lawyers’ Services Directive to represent clients in Irish courts (here, the Supreme Court)
- Directive implemented by European Communities (Freedom to Provide Services) (Lawyers) Regulations 1979

Klohn v An Bord Pleanála

- Irish Supreme Court (Judgment 31 July 2019) asks two questions:
- Question 1: if any “in conjunction with” requirement on a visiting lawyer is compatible with Article 5 of the Lawyers’ Services Directive in circumstances where an individual can represent himself
 - Consider scope of principle in:
 - Case 427/85 *Commission v Germany*
 - Case C-249/89 *Commission v France*

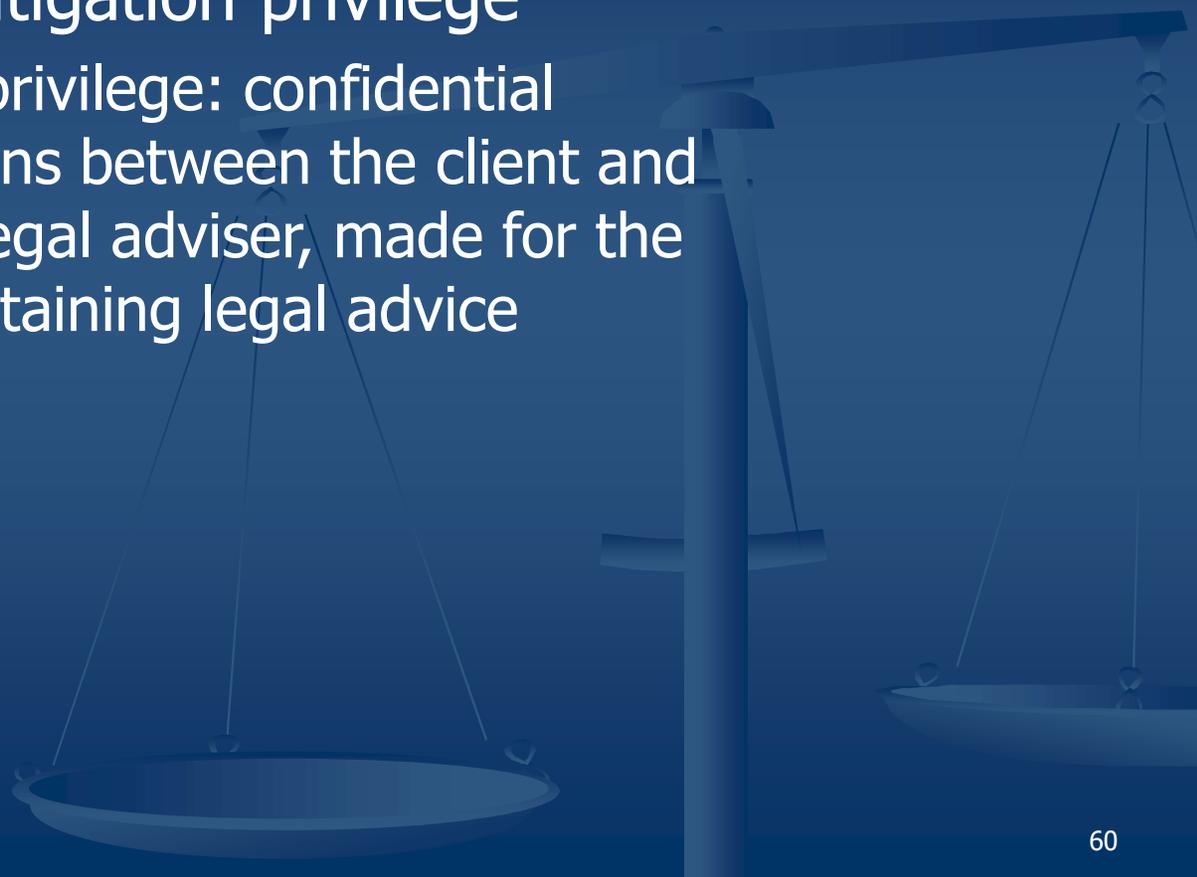
- Question 2: If permitted in principle, whether it is proportionate to impose a requirement to work “in conjunction with” by requiring a visiting lawyer to depose, on affidavit, to the name and address of a local lawyer who will supervise

2. Irish law and LPP

- Distinction between the law on LPP and a solicitor's duty to keep his client's affairs confidential
 - LPP is a right conferred by law to protect communications containing legal advice between a solicitor and their client from being disclosed to any other parties.
 - The obligation of solicitor/client confidentiality is not a legal right. It is grounded in the relationship between solicitor and client, giving rise to a professional duty for the solicitor.

- Special status of LPP as a legal norm in Irish law
 - Akin to constitutional status: *Smurfit Paribas Bank Ltd v AIB Export Finance Ltd* (1990), Finlay CJ emphasising the role of privilege in the administration of justice
 - Premise of parties' cases that privilege was protected under Article 34 of the Constitution: *Martin and Doorley v LAB* (2007)
 - Express protection in certain legislation: eg s.33 of the Competition and Consumer Protection Act 2014 (see explanation of the scheme in *ICL v CCPC* (HC 2016 and SC 2017))
 - As a fundamental human right of defence (Article 6 ECHR) and to privacy (Article 8 ECHR) and via the European Convention on Human Rights Act 2005
 - Under Article 7 EU Charter (right to private and family home life) and Articles 47 and 48 EU Charter (rights to fair trial)

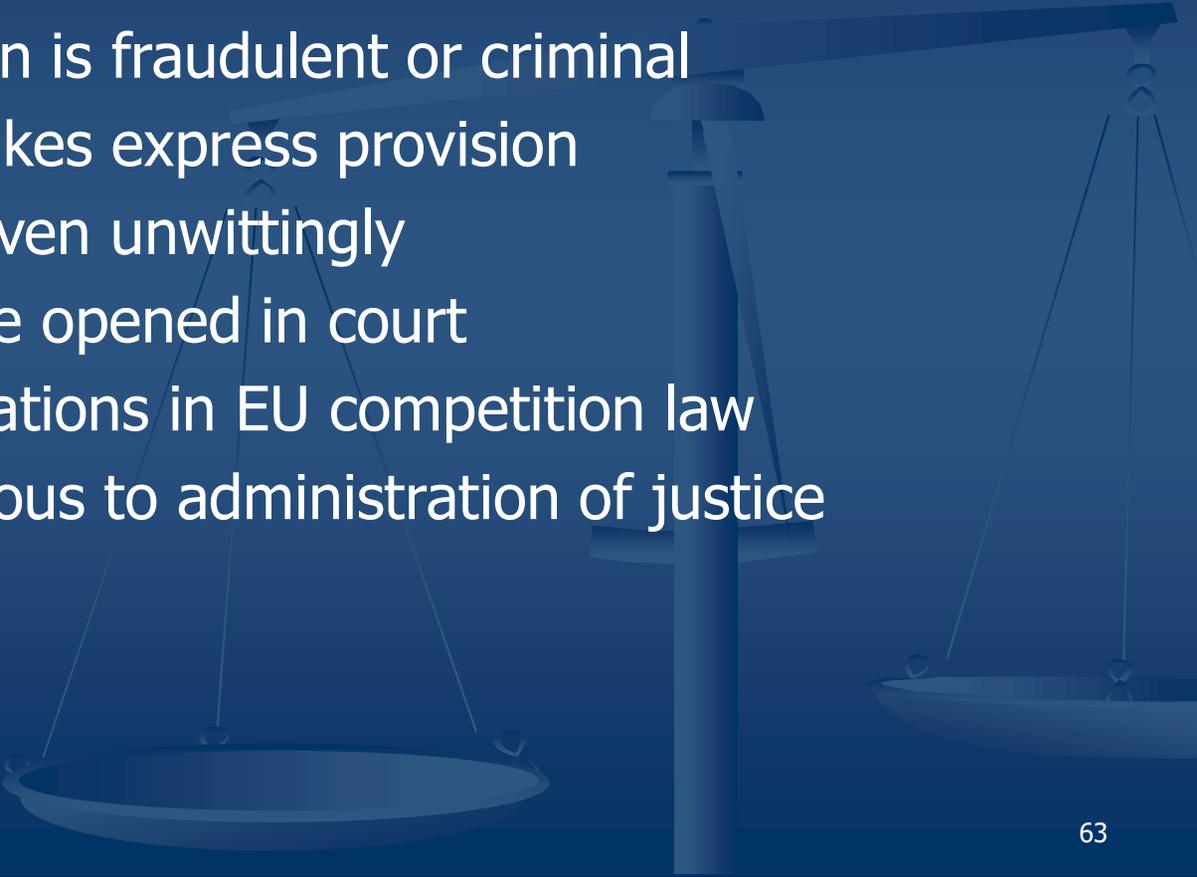
- LPP in broad terms covers legal advice privilege and litigation privilege
 - Legal advice privilege: confidential communications between the client and professional legal adviser, made for the purpose of obtaining legal advice



- Litigation privilege: privilege attaches to certain communications between the solicitor or client and third party made in contemplation of litigation or to documents generated by the client in contemplation of litigation

Litigation Privilege

- *UCC v ESB* (2014) Finlay Geoghegan J's 'zone of privacy'
- *Aer Lingus v Minister for Finance and others* [2018] IECA 222 (Hogan J) §§9-23 (Documents in Commission State Aid investigation)
- *Colston v Dunnes Stores* [2019] IECA 59 (Irvine J) §§24-34

- 
- Privilege can be lost or subject to an exception where:
 - Communication is fraudulent or criminal
 - Legislation makes express provision
 - It is waived, even unwittingly
 - Documents are opened in court
 - In-house limitations in EU competition law
 - Conduct injurious to administration of justice

3. The EU right to LPP: *AM & S* and *Akzo Nobel*

AM & S Europe v Commission [1982] ECJ

- Protection of confidentiality of written communications between client and lawyer
 - made for purposes of client's rights of defence (23)
 - by an independent lawyer i.e. not bound to client by employment relationship (24)
 - entitled to practise his profession in a MS, regardless of where the client is based (25)

Scope: type of document

- In competition proceedings, privilege covers
 - documents created after opening of administrative procedure by Commission (similar to litigation privilege)
 - documents drafted earlier having relationship with subject-matter of that procedure (legal advice privilege)

Scope: lawyer's relations with the client

- In competition proceedings, there is no privilege for communications with in-house counsel
- Contrast with Irish law and UK where in-house counsel's advice is privileged

Scope: lawyer's qualification to practise

- ECJ's reasoned basis is at §§25-26
 - Entitled to practise his profession in one of the MS, regardless of the MS in which the client lives (25), in light of Treaty freedoms of establishment and services, and Regulation 17
 - Cannot be extended beyond that, given Directive 77/249 and principle of MS mutual recognition of rules on this subject (26)

Hilti [1990] CFI

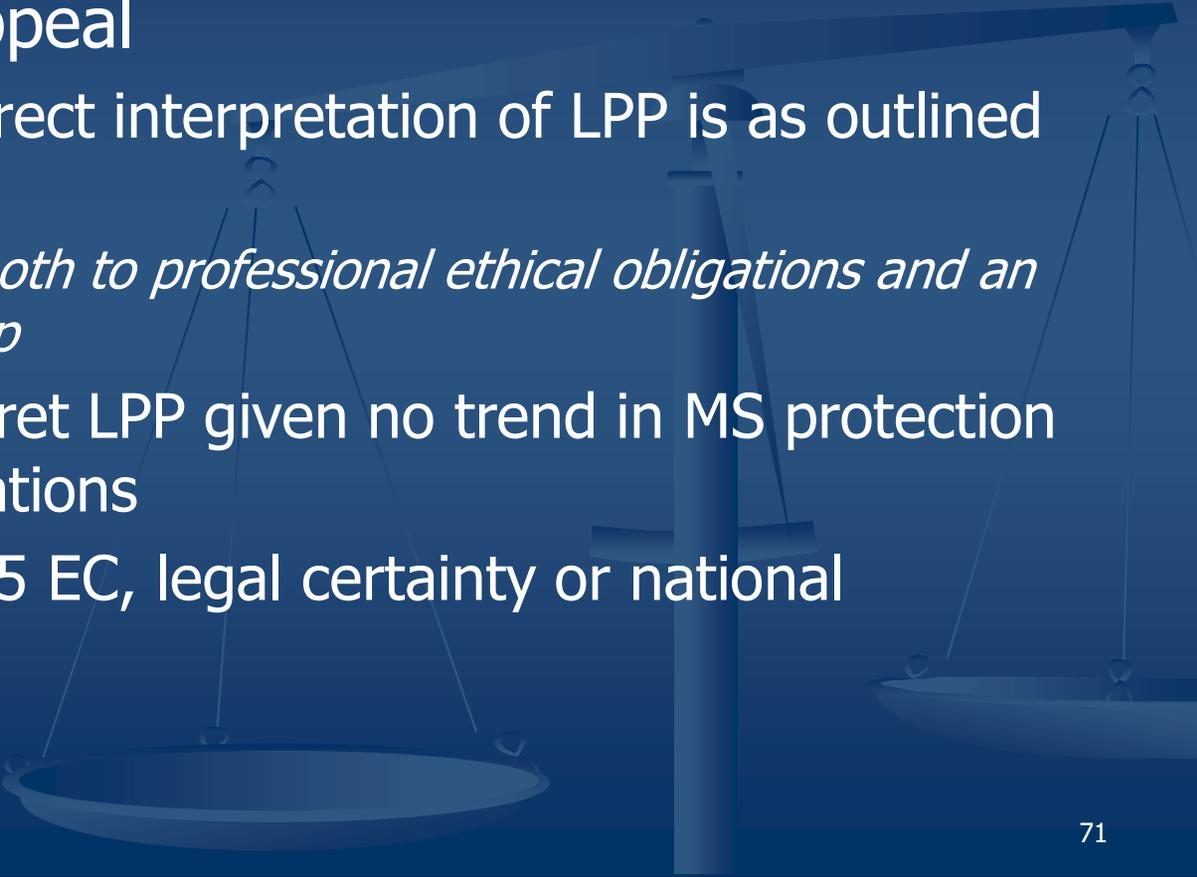
- Extended scope to include internal notes reporting content of written communications between (external) lawyer and client

Akzo Nobel v Commission [2010] CJEU

- Commission dawn raided premises, together with the Office of Fair Trading
- Dispute as to certain documents which Akzo claimed were privileged

Set B documents

- Manuscript notes for purpose of preparing Set A memo to seek external legal advice
- Email exchange between Akcros' general manager and Akzo's in-house counsel
 - Advocaat of NL Bar
 - Co-ordinator of competition compliance programme

- 
- CJEU dismissed the appeal
 - Confirmed that the correct interpretation of LPP is as outlined in *AM & S*
 - *Independence speaks both to professional ethical obligations and an employment relationship*
 - No grounds to reinterpret LPP given no trend in MS protection of in-house communications
 - No violation of Article 5 EC, legal certainty or national procedural autonomy

- EU Commission Working Paper (Nov 2018): Treatment of legally privileged information in competition proceedings
- [https://one.oecd.org/document/DAF/COMP/WP3/WD\(2018\)46/en/pdf](https://one.oecd.org/document/DAF/COMP/WP3/WD(2018)46/en/pdf)

4. ECHR and LPP

Broad scope of protection of the right ...

- “[W]hile Article 8 [of the European Convention on Human Rights] protects the confidentiality of all ‘correspondence’ between individuals, it affords strengthened protection to exchanges between lawyers and their clients. This is justified by the fact that lawyers are assigned a fundamental role in a democratic society, that of defending litigants. Yet lawyers cannot carry out this essential task if they are unable to guarantee to those they are defending that their exchanges will remain confidential. It is the relationship of trust between them, essential to the accomplishment of that mission, that is at stake. Indirectly but necessarily dependent thereupon is the right of everyone to a fair trial, including the right of accused persons not to incriminate themselves.”
- This additional protection conferred by Article 8 on the confidentiality of lawyer-client relations, and the grounds on which it is based, lead the [European] Court [of Human Rights] to find that, from this perspective, legal professional privilege, while primarily imposing certain obligations on lawyers, is specifically protected by that Article.” (Michaud v. France, judgment of 6 December 2012, §§ 118-119).

and in competition sphere ...

- *Vinci Construction France v France* (2015)
- Inspections and seizures carried out by investigators from the Department for Competition, Consumer Affairs and Fraud Prevention on the premises of two companies
- ECtHR upheld the applicant companies' complaints of *inter alia* disproportionate interference with their defence rights and with the right to respect for home, private life and correspondence, particularly with regard to the confidentiality attached to lawyer-client relations, taking into account the widespread and indiscriminate nature of the seizures carried out and the lack of a detailed inventory

But with limitations

- ***Versini-Campinchi and Crasnianski v France (2016)***
- ECtHR held that the interception, transcription, and use of recordings of conversations between a lawyer and her client were permissible in disciplinary proceedings involving a breach of professional confidentiality, where the lawyer was suspected of having committed an offence and where such interception had been ordered by the investigating judge

See *ECtHR Factsheet on LPP* (May 2018)

https://www.echr.coe.int/Documents/FS_Legal_professional_privilege_ENG.pdf



5. CCBE and LPP

- *CCBE Statement on Professional secrecy/legal professional privilege (LPP)*

15 September 2017

No informed advice or solid defence could possibly be provided based on partial, and thus insufficient, information. So essential is this relationship of confidentiality to the rule of law, that there cannot be a fair trial without it. This absolute guarantee of trust makes the confidentiality attaching to the relationship one of the cornerstones of individual freedom in a democratic society. It also contributes to the proper administration of justice, with the general interest of society on one hand, and the protection of individual freedoms, including freedom of defence, on the other.

CCBE Statement

The obligation to keep the client's information confidential applies also to lawyers, as the regulation of the profession subjects them to a strict code of conduct under which lawyers who advise their client against the law, and thus against society, not only jeopardise their own professional responsibility, but also run the risk of incurring disciplinary sanctions, the most serious of which is disbarment.

Furthermore, in some jurisdictions, lawyers could face criminal charges for betrayal of professional secrecy, aggravated by the fact that they are themselves legal professionals. It is the very nature of lawyers to be the recipient of their clients' confidential communications. Without the safeguard of confidentiality, there can be no trust. The keeping of these confidential communications are thus recognised as a fundamental and primary duty of lawyers.

"The lawyer's obligation of confidentiality serves the interest of the administration of justice as well as the interest of the client. It is therefore entitled to special protection by the State".

(article 2.3.1 of the Code of Conduct for European Lawyers)

6. Future developments

1. Inroads on LPP in Irish legislation
 1. s.19 Criminal Justice Act 2011: see Law Society of Ireland Practice Note (October 15)
 2. s.42(1) Criminal Justice (Anti-Money Laundering and Terrorist Financing) Acts 2010 and 2013
2. Strengthened under ECHR and Charter
3. Revisit post R. 1/2003, Damages Dir. and ECN+ Dir.?
4. EU regulation beyond comp: eg Financial Services and Data Protection investigations/fines?

Thank you!



Upcoming Competition Section seminars 2019 – Book

8 October 2019: A review of Competition Damages Litigation

- Speakers: Sarah Ford QC, Brick Court Chambers and Paul Harris QC, Monkton Chambers

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- Speaker: Christina Blacklaws

3 December 2019: Abuse of dominance – recent developments in the UK and Europe

- Speaker: Robert O'Donoghue QC, Brick Court Chambers

Thank you

**Please join us in the bar for a
networking drinks reception**

Irish Law Society & Brexit update and Q & A



Speaker: Alex Storer, International Policy Adviser
(Europe)

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