

SUPPLEMENTARY COMMENTARY BY THE PTI

The Solicitors, Barristers & Judges Franchise

“Judges must have at least 10 years’ experience as a barrister or solicitor before being appointed to the District Court and at least 12 years’ experience before being appointed to the High Court, the Court of Appeal or the Supreme Court.”

Citizen’s Information.ie, July 2020

By law, and according to the judge’s constitutional oath, judges must be independent and impartial. But the reality on the ground is that control of the Irish Courts has been consigned to a collection of lawyers and judges who effectively operate as a national *franchise*, i.e. *“An authorization granted by a government (or company) to an individual or group enabling them to carry out specified commercial activities.”*

Franchises operate under business rules for commercial gain. Courts are supposed to be in the business of justice. Yet the Courts Service, a commercial operation listed on the Companies Register states that it is, *“funded by the Irish State”* yet holds Court Funds of 2 Billion which are managed by an Investment Committee that is chaired by the President of the High Court. The Courts Service Board likewise, carries a majority of judges who are responsible for the overall management of the Courts despite their purported ‘statutory independence’. These are the people who make up the Court Rules that will apply when they switch from their franchise-related duties to the business of delivering justice. And make no mistake, a business—and a very profitable one at that—it most certainly is; at least, for those inside the franchise.

This Benchers / Bar Association / Law Society / Courts

Service & Department of Justice franchise thus controls all aspects of the delivery of justice in Ireland – and all of the members of the franchise know their place and role.

Solicitors and Barristers who come before the Court are obliged to defer to judges – and judges expect the same. The question arises however, is this a business franchise, or, are we genuinely in the business of delivering justice?

Most litigants, completely unaware of this unacknowledged franchise, come before the Courts with naive notions of justice, not realising that they are greatly disadvantaged from the start and, despite their lawful entitlement to, *“an effective remedy before a fair and impartial tribunal”* that their chances of this rely almost entirely upon the proper application of EU Law, which frankly, is rarely in the interests of the Irish franchisees.

Unfortunately for the franchisees; Irish citizens voted in the Lisbon Treaty to make the Irish Courts and the Bar Association subject to and dependent upon European Law. But certain parts of EU Law that apply to human rights in particular are inconvenient to the Irish franchise, which is why we see Irish judges so often subverting or ignoring EU Law. This of course, is technically ‘unlawful’.

Somewhat ironically, the combination of the supremacy of EU Law and the unlawful resistance of the Irish Courts franchise to defer to the same, provides not only the opportunity, but the necessity for the establishment of a national Court which acknowledges and applies EU Law.

Furthermore, and in light of the open defiance of the State to matters and policies that have been deemed ‘unlawful’ by the EU including; VRT (excise duty); the (no jury) Special Criminal Courts; the protection of tax loopholes for multinational corporations; Ireland’s carbon emissions failures; and the political appointment

of judges for example; there is also the deliberate misinterpretation of important EU Directives so as to *protect* corporate operations and vested interests including the misuse of GDPR to *enforce* secrecy; the contrived application of anti-discrimination laws; and the neutralisation of anti-corruption legislation that might otherwise see Irish office holders being held to account.

Article 6.1 of the Constitution is unambiguous. “*All powers of government, legislative, executive and judicial, derive, under God, from the people, whose right it is ..to decide all questions of national policy..*” The Irish People voted for membership of the European Union and for the fundamental rights expressed in the *European Convention of Human Rights Act 2003*. The PTI will provide the Irish public with ‘legal certainty’ according to EU and ECHR Law, whilst simultaneously highlighting the demise of an outdated franchise, political in essence, which urgently needs to align itself with the democratic wishes of the people, and update its operations and mechanisms to properly reflect the progress being made in the global quest for genuine, collective, social justice.

The PTI will be a direct asset to the Irish State in specific context of EU Law inasmuch as it will comprise qualified professionals in various fields, each experts in their own right. The PTI will produce short, succinct and clear Rulings in accordance with EU Law under the guidance of these experts, including internationally-trained lawyers.

The invitation remains open to any professionals in any field – or indeed to any persons with knowledge or experience that will help the Tribunal in its work, to contact the PTI to see where they might help to ensure that Ireland maintains its place as a modern democratic republic with a properly-functioning justice system that genuinely respects the human rights of its own people.