

Legal Division

Overview

1. The Legal Division of the Department is a small, specialised team. Its functions are to:
 - provide legal advice and information on matters of public international law, human rights law and European Union law and other legal issues particular to the Department;
 - develop and implement international legal policy in areas such as international humanitarian law, international criminal justice and the law of the sea;
 - represent Ireland in international legal proceedings before the International Court of Justice and human rights bodies;
 - represent Ireland in legal committees in the UN, Council of Europe, EU and other international organisations;
 - carry out functions with respect to extradition and mutual legal assistance;
 - administer the Department's Treaty Office.
2. In cooperation with policy Divisions, it contributes to each of the Department's High Level Goals as set out in the Statement of Strategy and maintains a close relationship with the Office of the Attorney General and other State legal services. A description of its main tasks and current priorities is set out below.

Tasks and priorities

United Nations

3. Legal Division provides advice on legal questions arising in the context of UN membership and represents Ireland at meetings of the General Assembly's 6th (Legal) Committee. Key issues include:
 - Negotiations on a comprehensive convention on international terrorism and criminal accountability of UN officials and experts on mission;
 - Consideration of the issue of the exercise of Universal Jurisdiction over crimes such as genocide, crimes against humanity and war crimes;
 - Ongoing work of the International Law Commission on a range of topics including the Protection of Persons in the Event of Disasters and the Immunity of State Officials from Foreign Criminal Jurisdiction;
 - Implementation of UN Security Council terrorist sanctions.

International privileges and immunities

4. The Division advises on matters of diplomatic and state immunity and prepares Government Orders to provide in Irish law immunities for international organisations. Key issues include:

- Examination of the steps, including legislation, necessary to enable Ireland to become a party to the UN Convention on Jurisdictional Immunities of States and their Property 2004 and to codify the law on state immunity for the purposes of Irish domestic law.

European Union

5. Legal Division advises on a range of EU law matters and services EU working groups dealing with international law issues. Key issues include:
 - Advising on external relations of the EU, including international agreements with third states and related EU competence issues (in particular the position of Ireland under Protocol No.21 to the Treaties concerning the area of Freedom, Security and Justice);
 - Coordinating the Department's response to cases before the Court of Justice of the European Union of relevance to the Department and in relation to which Ireland may wish to intervene;
 - Accession of the EU to the European Convention on Human Rights.

Human Rights/Council of Europe

6. The Division advises on Ireland's international human rights obligations, represents Ireland at meetings of Council of Europe committees on public international law and human rights and acts as the Government's agent in relation to legal proceedings brought against Ireland before the European Court of Human Rights, the European Committee of Social Rights and the UN treaty monitoring bodies. Key issues include:
 - Working with the Department of Justice and Equality and the Office of the Attorney General on implementation of a September 2010 judgment of the European Court of Human Rights on the right to an effective remedy where legal proceedings are delayed;
 - Working with the Department of Health and Children and the Office of the Attorney General on implementation of a December 2010 judgment of the Court in relation to the State's law on abortion;
 - Working with the Department of Education and Skills and the Office of the Attorney General on implementation of a January 2014 judgment of the Court regarding the liability of the State for sexual abuse perpetrated by a teacher occurring in schools.

Advisory work on other legal issues

7. Legal Division provides advice and assistance on legal issues particular to the Department. Key issues include:
 - Working with the Passport Service, other Business Units, other Departments and the Office of the Attorney General in relation to legal issues, including legislative proposals, with an international dimension affecting the citizen, such as surrogacy, adoption and the rights of transgender persons;
 - Working with Anglo Irish Division on legal issues arising out of the implementation of the Good Friday and related Agreements and ongoing issues relating to the past;

- Assisting Development Co-operation Division on formulating legally appropriate mechanisms for the disbursement and management of Irish Aid funding;
- Advising on the conclusion of bilateral double taxation agreements.

International Humanitarian Law (IHL)

8. The Division implements and develops policy on IHL and chairs the interdepartmental National Committee on international humanitarian law. It advises on matters of international humanitarian law, such as inhumane weapons and IHL issues arising in international conflict zones (e.g. the Palestinian territories). Key issues include:
 - Preparation of a Scheme of a Bill to implement the Hague Convention on the Protection of Cultural Property in time of Armed Conflict and its two additional Protocols;
 - Active participation in the initiative of Switzerland and the ICRC to consider practical ways of improving compliance with international humanitarian law.

International Criminal Justice

9. The Division deals with international criminal tribunals, most notably the International Criminal Court (ICC), including by servicing meetings of its Assembly of States Parties (ASP). Key issues include:
 - Taking domestic measures necessary to enable ratification of amendments to the Rome Statute of the ICC on the crime of aggression and on war crimes, in conjunction with the Department of Justice and Equality and the Office of the Attorney General;

Law of the Sea

- Legal Division has the lead role in establishing the State's maritime boundaries with its neighbours and advises and represents Ireland on a range of international law of the sea matters. Key issues include:
 - Leading the interdepartmental process to review the State's straight baselines from which the breadth of its maritime zones (the territorial sea, the exclusive economic zone and the continental shelf) in order to revise the 1959 Maritime Jurisdiction (Straight Baselines) Order;
- Establishing Ireland's entitlement to areas of the continental shelf beyond 200 nautical miles from shore, negotiation with neighbouring states boundaries on the continental shelf in the Hatton Rockall Area of the north-east Atlantic and in the Celtic Sea and Bay of Biscay.

Extradition and mutual legal assistance

10. Working with the Department of Justice and Equality and the legal offices of the State, the Division is responsible for processing incoming and outgoing requests for extradition and mutual legal assistance, facilitating and assisting with the negotiation of international agreements in these areas and for making statutory instruments to give effect in Irish law to extradition agreements.

Treaty Office

11. The Division runs the Department's Treaty Office, the responsibilities of which include laying international agreements to which the State is a party before the Dáil, publishing these agreements in the electronic Irish Treaty Series and registering them with the UN.

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