



# INFORMATION TECHNOLOGY LAW Definition

Definition

Keenan – Irish Business Law

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• "The law is a body of rules imposed by a state upon its members which is designed to regulate human conduct within that state. The courts interpret these rules of conduct, decide whether they have been broken and pass sentence or make an award of compensation. A certain standard of behaviour is thereby maintained amongst the members of the State in the interest of the common good"

- A system of principles, rules and procedures which aim to regulate the behaviour of individuals in society
- Legal principle the idea behind the law
- Legal rule the law which puts the principle into practice
- Legal procedure the rules relating to court procedure and evidence
- Jurisdiction the geographical area where a law applies
- Jurisdiction poses particular challenges for IT Law



Definition of Law – Key Points

Set of Rules

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- IT Law is constantly evolving although the pace of change is arguably too slow



# INFORMATION TECHNOLOGY LAW Function of the Law

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- What is the basis of this proposal? Did it become law in the UK? Would you support the introduction of such a law in Ireland?



Primary Legislation – Law made by the Oireachtas
• The Oireachtas

- The Oireachtas
- The legislative process detailed notes on Blackboard

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- Exhibit A

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- Exhibit C

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#### **UK** Approach

- Science and Technology Committee <u>here</u>
- House of Lords Digital Skills here
- Research and Briefing Papers <u>here</u>
- Oireachtas Committees here



Secondary Legislation

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- European Communities (Copyright and Related Rights) Regulations 2004 (SI 2004/16)
- European Union (Copyright and Related Rights) Regulations 2012 (SI 59/2012)

- Reasons for delegated legislation
- Volume of statutory instruments
- Statutory Instruments made in 2014
- A statutory instrument which was the subject of some media coverage/public debate – here
- The Statutory Instrument in <u>full</u>
- Discussion of the use of statutory instruments <a href="here">here</a>
- A lot of change in the area of IT Law involves the use of Statutory Instruments – why?



# INFORMATION TECHNOLOGY LAW The European Union

The European Union
• Background

# The European Union • Background • History – outline

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   History outline

   Primary Law the Treaties

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- The **European Council**
- The Court of Justice

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- The Council of Ministers
- The **European Council**
- The Court of Justice
- The Digital Agenda

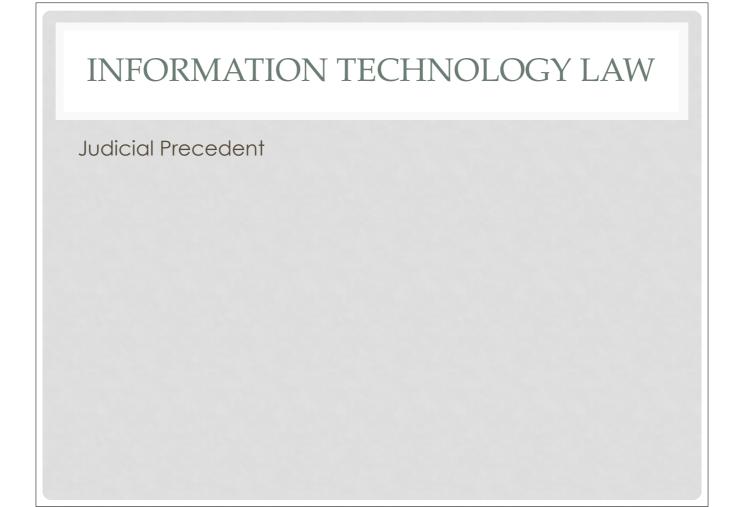
#### Secondary Law of the EU

- The law making process
- Regulations and Directives
- Data Protection Directive 1995/46
- Database Directive 1996/9
- E-Commerce Directive 2000/31
- Electronic Signatures Directive 1999/93
- EU Domain Regulation 874/2004

#### Decisions of the Court of Justice

- Sabam v Scarlet <u>summary</u>
- Bestwater case <u>summary</u>
- Gonzalez right to be forgotten case <u>summary</u>
- Relationship between EU law and Irish law
- Impact of EU on IT Law in Ireland





#### Judicial Precedent

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# INFORMATION TECHNOLOGY LAW Other Sources of Law

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• The Constitution

- <u>The Constitution</u>
- Convention on Cybercrime (Budapest 2001)- <u>Article</u>

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- Universal Copyright Convention 1952
- European Convention on Human Rights

## Categories of Law Criminal Law

- A public wrong
- Prosecution of offender by the State (DPP v Ryan)
- Standard of proof 'beyond all reasonable doubt'
- Finding Guilty/Not Guilty
- Commencement of Proceedings
- Criminal Courts
- Accused is innocent until proven guilty
- Objective is punishment (imprisonment, fines etc)

## Categories of Law Civil Law

- A private wrong
- One individual sues another (Plaintiff v Defendant)
- Objective is to provide a remedy
- Standard of proof is a 'balance of probabilities
- Finding Liable/Not Liable
- Remedies damages or court order e.g. injunction
- Civil Courts





## Civil Courts

• District Court – claims up to €15,000, licensing, family law, small claims

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- Circuit Court claims up to €75,000, landlord and tenant, family law

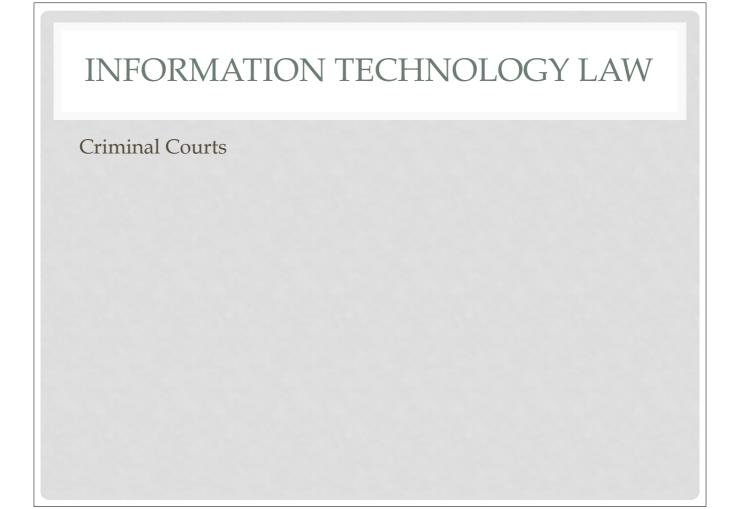
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- Court of Appeal hears appeals based on points of law and points of fact
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- The role of the Commercial Court





## **Criminal Courts**

 District Court – summary offences, some indictable offences, preliminary hearings

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- Supreme Court important points of Law only



# Alternative Dispute Resolution

• Quasi-Judicial Tribunals - examples

- Quasi-Judicial Tribunals examples
- Tribunals of Inquiry examples

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- Conciliation
- Mediation
- Why use ADR?
- Relevant example <u>WIPO</u>

## Professionalism and IT

- Characteristics of a profession
- 1. Substantial education and training in order to practice
- 2. Members control entry to profession
- 3. Existence of one or more professional bodies
- 4. Code of conduct set out and enforced by professional body
- 5. Monopoly in relation to title or tasks
- Is IT a profession?

#### Ethics and Professional Practice

- Meaning of Ethics
- Ethical Issues in IT
- Exhibit A
- Exhibit B
- Exhibit C
- Regulation through Professional Codes of Ethics
- Is Computing/IT a profession?
- Example of a **Code of Ethics**
- How does IT compare with other professions?
- Accounting, Law, Medicine

## Additional Reading

- Blackboard additional notes and articles
- <a href="http://www.thejournal.ie/ireland%E2%80%99s-%E2%80%98sopa%E2%80%99-legislation-the-bigarguments-for-and-against-336952-Jan2012/">http://www.thejournal.ie/ireland%E2%80%99s-%E2%80%99s-gislation-the-bigarguments-for-and-against-336952-Jan2012/</a>
- http://www.tjmcintyre.com/2012/01/irelands-sopafag.html
- <a href="http://www.siliconrepublic.com/comms/item/20561-irish-govt-pushing-through">http://www.siliconrepublic.com/comms/item/20561-irish-govt-pushing-through</a>
- <a href="http://www.williamfry.ie/publication-article/upc victorious in high court illegal downloading case">http://www.williamfry.ie/publication-article/upc victorious in high court illegal downloading case aspx?paid=0&keyword=&month=1&year=2011</a>