



**THE SUPREME COURT**

**[Appeal No: 076/2020]**

**Clarke C.J.**

**BETWEEN/**

**PROTÉGÉ INTERNATIONAL GROUP (CYPRUS) LIMITED AND AVALON INTERNATIONAL  
MANAGEMENT INC**

**PLAINTIFFS**

**AND**

**IRISH DISTILLERS LIMITED**

**DEFENDANT**

**Ruling of Mr. Justice Frank Clarke, Chief Justice, delivered on the 1st October, 2020.**

1. These proceedings were in for a remote first case management meeting today. Prior to the case management, the parties had sent to the Court a joint document prepared in accordance with Statutory Practice Direction SC21. A copy of that joint document is annexed to this ruling.
2. While it is very unusual to publish a written ruling in respect of routine case management matters, I do so in this case for the purpose of commending the parties for their joint statement and for the purposes of drawing attention to what I consider to be an excellent example of such statements.
3. As can be seen from the joint statement, both parties have been able to robustly maintain their respective positions in relation to the substantive issues which will need to be determined on this appeal but have also engaged constructively so as to agree appropriate steps to enable the appeal to come on for hearing at a time which will most likely be less than three months after leave to appeal was given.
4. Accordingly, I make directions in accordance with the terms agreed by the parties so that legal submissions are to be filed by the dates specified in para. 9 and a full day hearing will be allocated with time divided in the manner set out at para. 12.
5. I also agreed with the parties' view that it would not be an appropriate use of the time and resources of either the parties or the Court to have a preliminary hearing on the scope of appeal which is to be permitted with all such issues to be considered at the main hearing.
6. The only additional direction which I give concerns the filing of the necessary documentation for the appeal. In that regard two copies of proposed materials are to be filed for review not later than Wednesday 11th November, 2020. Should those materials be considered sufficient for the hearing I will direct that further filing take place to enable a hearing to go ahead on a date to be fixed which is most likely to be in early December.

**ANNEX  
THE SUPREME COURT**

**Supreme Court Record No: A:AP:IE:2020:000076**

**Court of Appeal Record No: A:AP:IE:2019:000323**

**High Court Record No: 2018 No 6087 P**

**BETWEEN:**

**PROTÉGÉ INTERNATIONAL GROUP (CYPRUS) LIMITED AND  
AVALON INTERNATIONAL MANAGEMENT INC**

**PLAINTIFFS**

**-AND-**

**IRISH DISTILLERS LIMITED**

**DEFENDANT**

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**JOINT DOCUMENT PURSUANT TO PRACTICE DIRECTION SC21, §3  
CASE MANAGEMENT CONFERENCE  
1 OCTOBER 2020**

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1. This document has been prepared by the Appellant and the Respondent in compliance with Practice Direction SC21, §3 in advance of the Case Management Conference, scheduled for 1 October 2020.
2. Subject to the Court, the Appellant and the Respondents have identified their positions on the issues arising below:
  1. **Preliminary Issue**
3. It is noted that, in its Determination granting leave to appeal ([2020] IESCDT 106) ("**the Determination**"), the Supreme Court acknowledged the Respondent's contention that the Appellant had not advanced certain issues in the courts below and particular grounds of appeal should thus not be considered by the Court. The Court further noted that it "*will be for the case management judge, having heard the parties, to determine whether this issue should be heard as a preliminary matter or as part of a single hearing dealing with all issues arising on this appeal*" (Determination, §10).
4. It is noted that the Respondent's position is that Grounds 3 and 6 in the Notice of Appeal are not admissible and accordingly that these Grounds should not be considered by the Court.
5. The Appellant vigorously disputes the Respondent's position on the admissibility of Grounds 3 and 6 for a number of reasons, both relating to the submissions that were made before the High Court and the Court of Appeal, the Grounds of Appeal raised before the Court of Appeal, and given the effect of the applicable principles of EU law. The Appellant does not set out its position in this regard herein, but will respond fully to the Respondent's contention as to the admissibility of Grounds 3 and 6 at the appropriate juncture.
6. However, the parties are agreed that it would not be the best use of either the parties' resources and/or the Court's resources to have a preliminary hearing on this point.

7. The parties are therefore also agreed that this dispute may be determined in a unified manner with the other issues in the appeal.

**2. Legal Submissions**

8. The parties have agreed, subject to the Court, a timetable for the exchange of Legal Submissions which affords both parties slightly longer time than that afforded by Practice Direction SC16, §19(a), namely, three weeks and three weeks, rather than two weeks and two weeks.

9. Accordingly, the parties respectfully ask the Court to fix the following directions:

- (1) 16 October 2020–Appellant’s Outline Legal Submissions;
- (2) 6 November 2020–Respondent’s Outline Legal Submissions.

**3. Length of hearing and allocation of time**

10. The parties are agreed that that it would be preferable for the Appeal to be listed for one day, even though the hearing in the Court of Appeal took a half day.

11. The parties respectfully submit that one day would be preferable given that some time will be required to be allocated to the Respondent’s objection to the admissibility of Grounds 3 and 6 and, if the Court determines that those Grounds are admissible, sufficient time will be required for submissions specifically on those points in circumstances where it is the Respondent’s position (opposed by the Appellant) that they comprise new grounds and entail new arguments not made before the Court of Appeal and thus the Court will not have the benefit of the Court of Appeal’s analysis. For the avoidance of doubt, it is not anticipated that the Court would rule on the admissibility of Grounds 3 and 6 during the course of the hearing.

12. On the basis of a full day hearing, the parties are agreeable to the following division of time:

- (1) Appellant’s Submissions–2 hours;
- (2) Respondent’s Submissions–1 hour and 45 minutes; and
- (3) Appellant’s Replying Submissions–15 minutes.

**4. Hearing of Appeal in *Quinn Insurance Limited (Under Administration) v PwC* on 19 November 2020**

13. The Court has indicated in its Determination that it wishes, at the Case Management Conference, to “ascertain whether it will be possible to arrange for this appeal to be heard at or around the same time as the appeal in *Quinn Insurance*.” The Court observed that “there may [ ] be merit ... that both appeals be heard by the same panel and at least at not too great a remove in time from one another.” (Determination, §11).

14. The parties do not understand the Determination to suggest that the two appeals would be heard as part of a single consolidated hearing—but rather, that they would possibly be heard consecutively or close thereto.

15. The parties do not take a position on the question of whether there is merit in having this appeal and the *Quinn Insurance* appeal heard by the same panel and around the same time.
16. However, the parties have no objection to the Court fixing a time and panel for the hearing of the appeal in order to take account of the *Quinn Insurance* appeal, provided that any arrangements made by the Court in this regard do not affect the allocation of a full day to the hearing of this appeal.
17. It is also noted that the timetable for exchange of submissions above should enable the Appeal to proceed around the same time as and/or shortly after the *Quinn Insurance* appeal, as the Court may direct.

**5. Article 267 Reference**

18. For the avoidance of doubt, the Appellant does not propose to raise its request for a reference pursuant to Article 267 TFEU at the Case Management Conference.
19. However, the Appellant maintains its position in this regard, and will pursue this matter to the extent necessary at the hearing.
20. It is noted that the Respondent takes the position that no Article 267 TFEU reference is necessary.

**29 September 2020**