

Session 3

PIF

Mr. Justice ~~Paul Carney~~
Judge of the High Court
~~Ireland~~

I am here as President of the Irish Association for the protection of the financial interests of the European Communities. My day job, however, is that I am a Judge of the High Court in Ireland.

As the meeting will be already aware the Irish government has a strong position in relation to what is proposed. It has already been said from the Chair that the Irish position is very strong and very clear. Under our constitutional scheme I am precluded as a member of the judicial branch of government from entering into public discussion of matters of policy or controversy.

I am accordingly precluded from contributing to the substantive debate. My recollection of reading the Green paper is that there was no specific reference to the Irish legal system. I seem to recall that we were lumped with something called the "Anglo-Saxon system." My recollection is also to the effect that the approach of the Corpus Juris was similar. In relation to neither the Green Paper nor the Corpus Juris was there any input of Irish legal or constitutional expertise.

The Irish legal system and Irish criminal law can no longer be considered as being identical to that of the United Kingdom. By reason of the development of our law under our written constitution our law and in particular our criminal law is quite unique to ourselves. This should be appreciated when matters such as the Corpus Juris or a European Public Prosecutor are being contemplated.

As you have already heard from the Irish government representatives the establishment of a European public prosecutor in the form envisaged would necessitate amendments to the Constitution of Ireland. This has not been taken in to account in the Green Paper. The Constitutional rights enjoyed in a jury trial are very precious to the Irish people and there may be many aspects of the Green Paper as stands at present which may have difficulty finding favour with the Irish people in a referendum.

It would seem to me to be futile to propose such a radical external change to Irish Criminal Law and Procedure without an input of Irish legal and constitutional expertise.