

INFONOTE

JUDGMENT IN C-64/20 AN TAIRE TALMHAÍOCHTA BIA AGUS MARA, ÉIRE AGUS AN TARD-AIGHNE

The following **non-binding** infonote contains supplementary information to the Press Release.

A LANDMARK FOR THE IRISH LANGUAGE

The judgment in Case C-64/20 is another milestone in the history of the Court of Justice. It is the first case whose language of proceedings is Irish. Although it has been possible to bring cases before the Court in Irish since 1973 there had been none until today. Irish becomes the 24th language to be used by the Court as language of proceedings.

A happy coincidence, the judgment in the Case will be delivered on St Patrick's Day, 17th March 2021.

THE CASE IN BRIEF

While the problem before the national court does involve the use of the Irish language one should note that the question sent to the Court of Justice does not itself concern language but rather the right to relief.

The national court had in fact already determined that Ireland had failed to transpose correctly the relevant Directive and that therefore in normal circumstances relief should be given to any person aggrieved by the failed transposition. The national court has doubts whether it can, in such a case, choose not to give relief due to specific circumstances.

FACTS OF THE CASE

UH, an Irish citizen and native Irish speaker, complained to the *Aire Talmhaíochta, Bia agus Mara, Éire* (the Minister for Agriculture, Food and the Marine, Ireland) that information attached to the veterinary products which he bought for his dog were solely in English and not in both official languages of the State, in this case Irish and English. He argued that his rights under an EU Directive were violated as the Irish state had failed to implement the directive correctly and with proper adherence to the language obligations contained in the Directive.

In the course of the judicial review in front of the Irish High Court, the court acknowledged that the Minister had in fact failed to transpose the Directive correctly into Irish law and therefore the applicant would usually be entitled to relief in this situation. However, the Irish court has reservations about granting relief in this specific setting.

Based on procedural rules in Irish law the court can refuse to provide relief in specific circumstances. In this case, the court argued that because of the imminent entry of a new EU Regulation, a remedy would be of limited value but also have a serious impact on producers and distributors of veterinary medicines. After the introduction of the new Regulation, the information on the packaging of veterinary medicines need only be printed in English.

The Irish High Court referred this case to the Court of the Justice in order to ascertain whether national procedural rules, which would allow the court to exercise their discretion to grant limited or no relief to the applicant, can be used when the state violated its obligations under EU law.

THE OPINION

In his opinion delivered on 14 January 2021, Advocate General Bobek found that it is within the judicial function of a national court to determine whether to grant relief in light of the facts and circumstances of the case. He also suggested that it should be up to the referring court to ensure there is a reasonable relationship between the harm suffered and the remedy sought.

This Opinion is not binding on the Court.

THE JUDGMENT

In today's judgment, the Court holds that EU Law does not allow a national court of a Member State to disregard the obligation imposed on that Member State to transpose a directive. This prohibition applies even if it feels that the transposition is purportedly disproportionate as it might prove costly or serve no purpose on account of the forthcoming application of a regulation intended to replace that directive.

This means that the High Court is required to take all the appropriate general and particular measures to ensure that the result prescribed by that directive is attained and, accordingly, to make the declaration requested. It is also required to take remedial steps in this regard.