

APPROVED

[2026] IEHC 659



**THE HIGH COURT
JUDICIAL REVIEW**

2026 1001 JR

BETWEEN

A.G.

APPLICANT

AND

**DIRECTOR OF PUBLIC PROSECUTIONS
AN GARDA SÍOCHÁNA
COURTS SERVICE**

RESPONDENTS

JUDGMENT of Mr. Justice Garrett Simons delivered on 5 October 2026

INTRODUCTION

1. These judicial review proceedings concern a criminal prosecution which is currently pending before the District Court. The Applicant has been charged with public order offences. The charges are to be tried summarily before the District Court. The Applicant contends that he is entitled to a separate preliminary hearing, in advance of the criminal trial, to address his request for further disclosure by the prosecuting authorities.

2. For introductory purposes, the principal grounds of challenge can be described as follows. First, it is said that the District Court had previously directed that a separate preliminary hearing should be held, in advance of the Applicant's criminal trial, to address disclosure, but that the direction has not been complied with. Second, it is said that, as a matter of principle, an accused person is entitled to a separate preliminary hearing. The Applicant relies in particular on Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings.
3. This judgment is structured as follows: Part I summarises the procedural history; Part II summarises the legal principles governing the disclosure of material in the context of summary criminal proceedings before the District Court; and Part III then addresses the Applicant's claims in detail.
4. The term "*separate preliminary hearing*" is used in this judgment to describe the concept of a hearing, held in advance of a criminal trial in the District Court, to address a request for disclosure by the prosecuting authorities. This term is distinct from the statutory concept of a "*preliminary trial hearing*" under Part 2 of the Criminal Procedure Act 2021.

PART I

PROCEDURAL HISTORY: OVERVIEW

5. The Applicant has been charged with public order offences which are alleged to have been committed in August 2019. It is sufficient for the purpose of this judgment to summarise the events leading up to the alleged offences as follows. It seems that the Applicant had left one of his minor sons, who was asleep at the time, unattended in a parked car for a brief period while he (the Applicant) made

a purchase at a shopping centre. The Applicant says that, on returning to the car, he found his son to be well, content and fast asleep. The Applicant was then approached by two members of An Garda Síochána. The Applicant was arrested and has since been charged with the following alleged offences under the Criminal Justice (Public Order) Act 1994: (i) the failure to provide his name and address; (ii) the failure to comply with a direction given by a member of An Garda Síochána; and (iii) using or engaging in threatening, abusive or insulting words or behaviour with intent to provoke a breach of the peace, or being reckless as to whether a breach of the peace might have been occasioned. The Applicant denies these charges.

6. Thereafter, the Applicant himself made application for the issuance of summonses against certain members of An Garda Síochána, including the members who had arrested him. These applications were made pursuant to what is known as “*the common informer*” procedure. The District Court refused to issue the summonses. That refusal was the subject of an earlier set of judicial review proceedings. Those proceedings were successful before the High Court (Barr J.) but ultimately dismissed by the Court of Appeal on 6 June 2025: *AG v. A Judge of the District Court* [2025] IECA 129.
7. The Applicant had instituted a separate set of judicial review proceedings seeking a direction that the criminal proceedings be anonymised. Those proceedings were dismissed by the High Court (Barr J.) on 16 September 2024: *G v. Director of Public Prosecutions* [2024] IEHC 544. The Court of Appeal refused an application for an extension of time within which to file an appeal against that decision on 23 September 2025: *AG v. Director of Public*

Prosecutions [2025] IECA 190. An application to revisit that order was refused on 21 January 2026: *A.G. v. Director of Public Prosecutions* [2026] IECA 4.

8. The present judicial review proceedings were instituted on 7 July 2026. Leave to apply was granted *ex parte* on 13 July 2026 and the substantive application for judicial review was heard by me on 19 August 2026. The Director of Public Prosecutions and the Courts Service had each prepared written submissions which were elaborated upon by counsel in oral argument. Having regard to the fact that the Applicant appears as a litigant in person, I allowed him an opportunity to file, post-hearing, written submissions in response to those of the Director and the Courts Service.
9. The Applicant delivered written submissions dated 31 August 2026 in reply to the submissions made on behalf of the Courts Service. In the course of his submissions, the Applicant placed emphasis on what he sought to characterise as some sort of concession on the part of the Courts Service. The Courts Service delivered supplemental submissions, filed on 4 September 2026, addressing that point.
10. The Applicant subsequently delivered written submissions dated 16 September 2026 in reply to the Director of Public Prosecutions. An amended version of these submissions was forwarded on 18 September 2026.

TITLE OF THE HIGH COURT PROCEEDINGS

11. As originally constituted, the proceedings had named the Attorney General, Blanchardstown District Court Office, and the District Court judge as respondents, in addition to the Director of Public Prosecutions and An Garda Síochána. The Attorney General has since been released from the proceedings

by consent. The Applicant has agreed that the Courts Service can be substituted as a respondent in lieu of Blanchardstown District Court Office. The Office does not have separate legal personality. The prosecuting Garda has been joined to the proceedings as a notice party. He will be released from the proceedings in circumstances where his interests are adequately protected by the joinder of the Director of Public Prosecutions and An Garda Síochána as respondents.

12. The question whether the District Court judge was properly joined as a respondent requires separate consideration. Order 84, rule 22(2A) of the Rules of the Superior Courts provides as follows:

“Where the application for judicial review relates to any proceedings in or before a court and the object of the application is either to compel that court or an officer of that court to do any act in relation to the proceedings or to quash them or any order made therein—

- (a) the judge of the court concerned shall not be named in the title of the proceedings by way of judicial review, either as a respondent or as a notice party, or served, unless the relief sought in those proceedings is grounded on an allegation of mala fides or other form of personal misconduct by that judge in the conduct of the proceedings the subject of the application for judicial review such as would deprive that judge of immunity from suit,
 - (b) the other party or parties to the proceedings in the court concerned shall be named as the respondent or respondents, and
 - (c) a copy of the notice of motion or summons must also be sent to the Clerk or Registrar of the court concerned.”
13. There has been some debate in the case law as to whether the imperative that the judge of the court concerned not be “*named*” in the title of the proceedings is to be interpreted as meaning that the judge should not be joined to the proceedings as a respondent, or, alternatively, that the judge should be joined but on an

anonymised basis only, for example, “*A Judge of the Circuit Court*”. The preponderance of the case law supports the first proposition. See, in particular, *M. v. M.* [2019] IECA 124, [2019] 2 I.R. 402 (at paragraph 21):

“Therefore, it is clear that in circumstances where a determination of the Circuit or District Court is to be judicially reviewed, the judge must not be named, neither by name nor anonymised, as respondent and that in its place, as substitute for the judge, the other party or parties in the Circuit or District Court should be joined as respondents — unless allegations of mala fides or other misconduct against the presiding judge form part of the grounds of review.”

14. The object of Order 84, rule 22(2A) is not to afford judges anonymity in cases to which they are properly joined as respondents, but rather to ensure that a judge is not joined to proceedings to which the judge is not the *legitimus contradictor*. This respects the principles of judicial independence and judicial immunity.
15. This interpretation is consistent with the constitutional imperative that justice be administered in public, save in such special and limited cases as may be prescribed by law. The identification of the judge forms part of the common law principle of open justice: as explained in *Tickle v. Surrey County Council* [2025] EWCA Civ 42, [2025] 2 WLR 714 (at paragraphs 65 and 66), it is the role of a judge to sit in public and, even when sitting in private, to be identified so that the administration of justice remains transparent and open to appropriate scrutiny.
16. There is no allegation of mala fides or any other form of personal misconduct pleaded against the District Court judge such as would deprive that judge of immunity from suit. The judge is not, therefore, a proper respondent. The proceedings should instead have been constituted with the Director of Public Prosecutions named as respondent and *legitimus contradictor* in respect of the challenge to the District Court proceedings, together with the Courts Service

insofar as the Applicant maintains a distinct challenge to any administrative act or omission of the District Court Office.

PROCEDURAL HISTORY: DISTRICT COURT

17. Given their vintage, it is unsurprising that the criminal proceedings have been listed on numerous occasions before the District Court. For the purpose of these judicial review proceedings, however, it is sufficient to take up the District Court chronology on 23 April 2026. On that date, the criminal proceedings were listed before Judge Ramsey. A transcript of the hearing has been exhibited.
18. The initial application on behalf of the Director of Public Prosecutions had been that the matter be adjourned and relisted before Judge Hayden. It was suggested that the latter judge had retained seisin of the criminal proceedings and that any disclosure matters could be dealt with by her on the adjourned date. The Applicant disagreed with this characterisation, saying that the parties had only been before Judge Hayden once or twice and that the judge was not “*more attached*” to the case than anybody else.
19. A number of dates in June were discussed. The registrar initially suggested 18 June 2026, but that date did not suit the solicitor for the prosecution. Judge Ramsey then suggested 11 June or 4 June 2026. The Applicant indicated that 11 June 2026 would suit him better.
20. The transcript then continues as follows:

“JUDGE: Okay. And can I just check; on the 11th, what are we doing then on the next day, is this for hearing or?”

MR MANGAN: I would like a full hearing, yes, Judge, on that date.

JUDGE: Okay.

MR MANGAN: We can deal with any preliminary matters.

[THE APPLICANT]: That's impossible. It's outrageous; are you trained?

JUDGE: Sorry, [Mr G], don't talk to Mr Mangan like that.

[THE APPLICANT]: It's ridiculous, Judge.

JUDGE: Sorry, don't talk to this--

[THE APPLICANT]: There is a requirement for me to have time to prepare my defence.

JUDGE: [Mr G.] [Mr G.], I'll make it very simple; you don't talk to Mr Mangan like that and you don't talk to me like that okay, do you understand that? So this matter is going to be put into the 11th of June. Do you want it for hearing or not?

[THE APPLICANT]: I don't want it for hearing, I need time to prepare my defence and I need the conclusion of this matter.

JUDGE: Okay, well then do you want a much later date then, Mr Mangan then, is it going to go for hearing or?

MR MANGAN: I'm seeking a hearing date on the 11th of June, Judge yes.

JUDGE: Okay, well I think [Mr G.] is indicating he won't be ready, so [Mr G.], do you want a date in July or September then, for hearing?

[THE APPLICANT]: In September.

JUDGE: For hearing? Okay.

[THE APPLICANT]: For hearing.

[...]

JUDGE: 3rd of September, okay. Well then [Mr G.], you can obviously – you can write to the State indicating exactly what you're looking for, and obviously the State can respond if necessary, so I'll say the 3rd of September.

MR MANGAN: Thank you, Judge.

JUDGE: For hearing.”

21. Insofar as relevant to the judicial review proceedings, three points emerge from the transcript. The first point is that the criminal proceedings were adjourned to 3 September 2026. There was no separate listing fixed for 11 June 2026. Whereas that day had been flagged as a possible date, Judge Ramsey ultimately adjourned the proceedings to 3 September 2026. As appears, the judge stated that the Applicant was indicating that he would not be “*ready*” for a date in June. There is nothing in the transcript which supports the argument that Judge Ramsey fixed two listings, one in June and the other in September.
22. The second point which emerges from the transcript is that there had been some initial confusion on the part of the parties as to the precise purpose of the adjournment. The initial application made on behalf of the Director of Public Prosecutions had been that any disclosure matters could be fully dealt with by Judge Hayden. This position evolved over the course of the exchanges. The Applicant agreed that the matter was to be adjourned “*for hearing*” on 3 September 2026. The Applicant contends that he did so on the understanding that disclosure matters would be addressed at a separate listing on 11 June 2026.
23. Judge Ramsey was not prescriptive as to the nature of the hearing to be held on 3 September 2026. The judge stated that the Applicant could write to the State indicating exactly what he was looking for, and that the State could respond if necessary. The judge thus recognised that the Applicant could pursue his outstanding requests for disclosure by correspondence with the prosecuting authorities in the first instance. If the Applicant was dissatisfied with the response received from the Director of Public Prosecutions, then he would have been entitled to raise that on the adjourned date.

24. The third point which emerges from the transcript is that the Applicant himself disputed the necessity for the matter to be returned to Judge Hayden. There is no evidence before the High Court that Judge Hayden had retained seisin of the proceedings or had made an earlier order which was intended to be binding on any subsequent judge assigned to the proceedings. The onus is on the Applicant, as the moving party in the judicial review proceedings, to adduce evidence in support of his pleaded case. In the absence of any evidence of Judge Hayden having made binding directions, Judge Ramsey was at large as to what directions he gave in relation to the matter. The judge adjourned the matter to 3 September 2026 *simpliciter*, leaving open the question of disclosure to be dealt with on that date, together with the criminal trial if appropriate.

NATURE OF THE DISCLOSURE DISPUTE

25. The correspondence exhibited in these proceedings identifies the nature of the disclosure dispute. It appears from a disclosure receipt dated 14 February 2022 that the Applicant's then solicitor was served with a disc containing CCTV footage, a précis, statements and custody records. The Applicant contends that further recordings exist, or may exist, which have not been disclosed. The prosecution disputes that any further disclosure is required.
26. By correspondence dated 18 December 2025, the Applicant sought video and audio recordings from the shopping centre and Garda Station, together with any recording from a Garda recording device. The request thus extended beyond footage of the alleged incident at the shopping centre and included recordings which might have been made subsequently at the Garda station.

27. In an email of 5 March 2026, the Director of Public Prosecutions expressed the view that the disclosure obligations had been complied with. The email stated that the evidence relating to the offences before the District Court had been disclosed and that CCTV within the Garda station did not capture the incident at Liffey Valley Shopping Centre, which the Director characterised as the matter before the court. The Director's position was that the evidence which the Gardaí intended to give at the hearing represented "*the relevant material which would assist [the Applicant] to establish a defence or damage the prosecution case*".
28. On 28 March 2026, the Applicant expanded and particularised his request. He sought a list of documents and recordings held by the prosecution or An Garda Síochána, including CCTV from Tesco, Liffey Valley Shopping Centre and Ronanstown Garda Station, together with body-camera footage and other recordings. He also sought a list of the witnesses whom the prosecution intended to call. In an email of 17 April 2026, the Director identified the proposed prosecution witnesses and stated that the Applicant had received the footage from Liffey Valley Shopping Centre.
29. As part of these judicial review proceedings, the Applicant seeks an order of mandamus directing the disclosure of all video and audio recordings obtained or held by An Garda Síochána following the alleged incident, including any body-camera recordings and any video or audio recordings made within Ronanstown Garda Station up to the Applicant's release on bail. He seeks, in particular, any recording of his being charged with the alleged offences.

PART II

DISCLOSURE IN SUMMARY CRIMINAL PROCEEDINGS

30. The starting point for an analysis of the principles governing disclosure in the context of a summary criminal trial is the Supreme Court judgment in *Director of Public Prosecutions v. Doyle* [1994] 2 I.R. 286. Denham J. (as she then was) described the obligations of the District Court as follows:

“The District Court Judge has the duty of ensuring that justice, incorporating fundamental constitutional concepts of fair procedures, is delivered in court. In the absence of legislation the test for the District Court Judge to apply in each case is whether in the interests of justice on the facts of the particular case the accused should be furnished pre-trial with the statements on which the prosecution case will proceed.

The procedures necessary to obtain justice will vary as the cases vary. Many very minor cases may not require that statements be furnished. As O’Higgins C.J. stated in *The State (Healy) v. Donoghue* [1976] I.R. 325, at p. 350:—

‘There are thousands of trivial charges prosecuted in the District Courts throughout the State every day. In respect of all these there must be fairness and fair procedures, but there may be other cases in which more is required and where justice may be a more exacting task-master. The requirements of fairness and of justice must be considered in relation to the seriousness of the charge brought against the person and the consequences involved for him.’

The more serious cases, and the more complex cases, may require that copies of statements and other relevant documents be furnished in advance of the trial, to inform the accused of the accusation so that he may prepare his defence.

Amongst the matters which a District Court Judge may find relevant when deciding whether or not constitutional justice requires statements or documents to be furnished include:—

- (a) the seriousness of the charge;
- (b) the importance of the statements or documents;

- (c) the fact that the accused has already been adequately informed of the nature and substance of the accusation;
- (d) the likelihood that there is no risk of injustice in failing to furnish the statements or documents in issue to the accused.”

31. There is nothing in the judgment in *Doyle* to support the proposition that an accused person has an invariable entitlement, in every summary prosecution, to a separate preliminary hearing concerning disclosure.
32. Denham J. expressly contemplated that a summary trial might need to be adjourned where the defence required time to consider material of which it had no prior notice:

“The very nature of a summary trial enables a court to adjourn more easily than a trial on indictment before a jury. The inherent problems of adjourning a trial where a jury has been put in charge of an accused do not apply. A trial which is being heard by a District Court Judge solely is more easily adjourned without detriment. Thus, should it become apparent at any stage of the trial that the accused, his solicitor or counsel, needs time, in the interests of justice, to consider a statement or document of which they had no prior notice, and which is material to the prosecution, then it is for the District Court Judge to determine if an adjournment is reasonable.”

33. The decision whether to direct disclosure is fact-specific and requires consideration of the particular circumstances of the alleged offence and of the material in respect of which disclosure is sought. The decision is entrusted, in the first instance, to the District Court. The District Court has the duty of ensuring that justice, incorporating fundamental constitutional concepts of fair procedures, is delivered. It is not open to the High Court, in the exercise of its supervisory jurisdiction, to pre-empt the District Court’s decision. There is a presumption that a judge of the District Court will ensure the lawful and fair conduct of proceedings and will discharge the judicial function in accordance

with the judge's declaration of office, within jurisdiction, and with justice and fairness.

34. The domestic law governing disclosure must now be understood and applied in conjunction with Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings ("*the Criminal Proceedings Directive*" or simply "*the Directive*").
35. The Criminal Proceedings Directive lays down minimum standards concerning the provision of information to suspects and accused persons in criminal proceedings. Article 2(1) provides that it applies from the time a person is made aware by the competent authorities that he or she is suspected or accused of having committed a criminal offence until the final determination of the proceedings, including, where applicable, sentence and appeal. Its field of application is not confined to prosecutions on indictment and extends to a person facing a summary prosecution.
36. Article 7 of the Directive provides as follows:
 - "1. Where a person is arrested and detained at any stage of the criminal proceedings, Member States shall ensure that documents related to the specific case in the possession of the competent authorities which are essential to challenging effectively, in accordance with national law, the lawfulness of the arrest or detention, are made available to arrested persons or to their lawyers.
 2. Member States shall ensure that access is granted at least to all material evidence in the possession of the competent authorities, whether for or against suspects or accused persons, to those persons or their lawyers in order to safeguard the fairness of the proceedings and to prepare the defence.
 3. Without prejudice to paragraph 1, access to the materials referred to in paragraph 2 shall be granted in due time to allow the effective exercise of the rights of the defence and at the latest upon submission of the merits of the accusation to the judgment of a court. Where further material evidence

comes into the possession of the competent authorities, access shall be granted to it in due time to allow for it to be considered.

4. By way of derogation from paragraphs 2 and 3, provided that this does not prejudice the right to a fair trial, access to certain materials may be refused if such access may lead to a serious threat to the life or the fundamental rights of another person or if such refusal is strictly necessary to safeguard an important public interest, such as in cases where access could prejudice an ongoing investigation or seriously harm the national security of the Member State in which the criminal proceedings are instituted. Member States shall ensure that, in accordance with procedures in national law, a decision to refuse access to certain materials in accordance with this paragraph is taken by a judicial authority or is at least subject to judicial review.
5. Access, as referred to in this Article, shall be provided free of charge.”

37. Recital 31 of the Directive assists in identifying the potential breadth of the material to which Article 7 refers. It explains that such material should include “*materials such as documents, and where appropriate photographs and audio and video recordings*”. Recital 27 states the fundamental proposition that a person accused of an offence should receive the information necessary to prepare the defence and safeguard the fairness of the proceedings.
38. Article 8(2) requires that an accused person be afforded an opportunity, *in accordance with national procedures*, to challenge a possible failure or refusal to provide information under the Directive. Recital 36 expressly says that this does not oblige Member States to provide a specific appeal procedure, separate mechanism or complaint procedure.
39. No domestic legislation, whether primary or secondary, has been promulgated for the precise purpose of implementing Article 7 and Article 8(2) of the Criminal Proceedings Directive in the context of summary trials before the District Court. The transposition into domestic law does not necessarily require

that the provisions of an EU directive be enacted in a specific, express provision of national law. It is, in principle, open to a Member State to rely upon the existing general legal context as giving effect to an EU directive. The general legal context must, however, ensure the full application of the directive in a sufficiently clear and precise manner: Case C-427/07, *Commission v. Ireland*, EU:C:2009:457 (paragraph 54). Where an EU directive is intended to confer rights on individuals, its provisions must be implemented with unquestionable binding force, and with the specificity, precision and clarity required to satisfy the needs for legal certainty, so that persons concerned can ascertain the full extent of their rights (paragraph 55). A merely discretionary practice of the courts, which cannot by definition be certain, did not suffice to implement the obligation concerning costs at issue in that case (paragraphs 93 and 94).

40. A national court is obliged to interpret and apply domestic law, so far as possible, in the light of the wording and purpose of any relevant EU directive. In doing so, the national court must have regard to the whole body of domestic law and employ the interpretative methods recognised by that law: Joined Cases C-397/01 to C-403/01, *Pfeiffer*, EU:C:2004:584 (paragraphs 113 to 119); Case C-573/17, *Popławski*, EU:C:2019:530 (paragraphs 75 to 77).
41. The Court of Justice has also held that the requirement to interpret domestic law in conformity with EU law entails, in particular, the obligation for national courts to change established case-law, where necessary, if it is based on an interpretation of domestic law that is incompatible with the objectives of a directive. Consequently, a national court cannot validly claim that it is impossible for it to interpret a provision of domestic law in a manner that is consistent with EU law merely because that provision has consistently been

interpreted in a manner that is incompatible with EU law: Case C-767/24, *mBank S.A.*, EU:C:2025:962 (paragraph 57).

42. It follows from these general principles of interpretation that the District Court must, so far as possible, exercise its jurisdiction in relation to disclosure consistently with Articles 7 and 8(2). The obligation to afford access is not confined to the statements or documents on which the prosecution proposes to rely. It extends to all material evidence in the possession of the competent authorities, whether for or against the accused person. The seriousness of the charge and the fact that the accused person has already been adequately informed of the nature and substance of the accusation remain matters to be considered under *Doyle*. They cannot, however, without more, be treated as determinative of a request for access to material evidence falling within Article 7(2).
43. A distinction must also be maintained between the determination of whether material falls within the duty of disclosure in principle as “*material evidence*”, and the refusal of access to material, which would otherwise be subject to disclosure, by reference to the grounds under Article 7(4).
44. The Court of Appeal has described the relationship between the Criminal Proceedings Directive and domestic law as follows in *Fitzgerald v. Director of Public Prosecutions* [2022] IECA 271 (at paragraphs 96 to 99):

“By way of commentary it may be observed that this important legislative provision reinforces and, in many respects, largely mirrors existing Irish domestic law with respect to disclosure. Recital 27 of the preamble to the Directive makes clear that one of its objectives is to ensure that ‘[p]ersons accused of having committed a criminal offence should be given all the information on the accusation necessary to enable them to prepare their defence and to safeguard the fairness of the proceedings.’

Importantly, while Article 7 creates clear obligations in pursuit of that objective these are anchored to the familiar notions of materiality and relevance.

Thus, while there is an obligation in sub article 7(1) to provide arrested and detained persons with documents related to their case, the obligation is limited to ‘documents which are essential to challenging effectively, in accordance with national law, the lawfulness of the arrest or detention’.

Similarly, the obligation to provide timely access to evidence in the possession of prosecuting authorities, which we find in sub articles 7(2) and 7(3), is confined to ‘all material evidence.’ Recital 31 of the preamble to the Directive makes clear that access to the material evidence as defined by national law should include access to materials such as documents and where appropriate photographs and audio and video recordings.”

45. The question as to the *point in time* at which an accused person must be granted access to material evidence has been considered by the Grand Chamber of the Court of Justice in Case C-612/15, *Kolev*, EU:C:2018:392.
46. The Court of Justice commenced its analysis by observing that the wording of the relevant provisions of the Criminal Proceedings Directive, in their various language versions, does not make it possible to determine unequivocally the final point in time at which the disclosure of detailed information on the charges and access to the case materials must be ensured. Accordingly, the provisions should be interpreted in the light of their context and their objective. The Court of Justice held that the objective of those provisions is to allow for an effective exercise of the rights of the defence and to ensure the fairness of the proceedings. It explained that the proper conduct of proceedings presupposes, as a general rule, that disclosure should take place, and that the opportunity to have access to the case materials should be afforded, no later than the point in time when the hearing of argument on the merits of the charges commences before the court that has jurisdiction to give a ruling on the merits.

47. The Court of Justice emphasised the need for sufficient time to be afforded to the accused person to become acquainted with the case materials (at paragraph 96):

“[...] whenever the point in time when detailed information of the charges is provided and access to the case materials is granted, the person and his lawyer must have, inter alia, with due regard for the adversarial principle and the principle of equality of arms, sufficient time to become acquainted with that information and those case materials, and must be placed in a position to prepare the defence effectively, submit any observations and, when necessary, to make any application, such as an application for further investigation, that they are entitled to make under national law. As the Advocate General stated in point 101 of his Opinion, that requirement dictates that the case should, where necessary, be stayed and the case postponed to a subsequent date.”

48. As appears from *Kolev*, the Court of Justice contemplates that access to certain case material may be afforded as late as the commencement of argument on the merits. The determination of whether particular material must be disclosed is logically anterior to its disclosure. It follows that, where such a determination is required, it too may be made at that stage: there is no invariable requirement that the disclosure question be determined at a separate hearing in advance. The defence must, however, be afforded sufficient time to consider any material then disclosed and to prepare the defence effectively. An adjournment of the criminal trial may be necessary for that purpose.
49. The adequacy of the time afforded cannot be determined in the abstract. It depends upon the character and volume of the material, its significance to the charges or to a proposed defence, the stage at which access is afforded and the further steps which consideration of the material may reasonably require. A discrete and readily comprehensible item may be capable of adequate consideration within a short period. A substantial body of video or audio

recordings, technical material, or material which requires further investigation, the preparation of cross-examination, the attendance of witnesses or the obtaining of expert assistance may require a longer period. The governing question is whether the time afforded permits the rights of the defence to be exercised effectively in the circumstances of the particular case. If the immediate continuation of the trial would not afford that opportunity, an adjournment or another appropriate measure may be necessary. The Directive does not prescribe a universal or invariable timeframe.

ARTICLE 6 OF THE EUROPEAN CONVENTION ON HUMAN RIGHTS

50. The Applicant seeks to rely on Article 6 of the European Convention on Human Rights (“*ECHR*”). It should be explained that the ECHR is not directly applicable in the domestic legal order. It only takes effect indirectly to the extent provided for by the European Convention on Human Rights Act 2003 (“*ECHR Act 2003*”).
51. In circumstances where the Applicant has not sought a declaration of incompatibility in respect of any domestic legislative provision, the principal relevance of the ECHR Act 2003 arises in the context of the interpretative obligation under section 2. This section provides that in interpreting and applying any statutory provision or rule of law, a court shall, in so far as is possible, subject to the rules of law relating to such interpretation and application, do so in a manner compatible with the State’s obligations under the European Convention provisions. In identifying the relevant principles, the court must, pursuant to section 4 of the ECHR Act 2003, take judicial notice of the relevant ECtHR judgments and take due account of the principles laid down in them.

52. Article 6(3)(b) of the ECHR provides that everyone charged with a criminal offence is entitled to “*adequate time and facilities for the preparation of his defence*”. This is a particular aspect of the broader right to a fair hearing protected by Article 6(1).
53. Article 6(3)(b) does not prescribe a single domestic model for affording adequate time and facilities to prepare the defence. It does not establish that every disclosure dispute must be determined at a separate preliminary hearing. Whether the determination of a disclosure dispute on or close to the trial date affords the accused an adequate opportunity to prepare the defence depends upon the circumstances, including the time required to consider any material to which access is then afforded. The relevant considerations are those discussed above in relation to *Kolev*.

PART III

THE APPLICANT’S CLAIMS

CLAIM FOR RELIEF AGAINST THE COURTS SERVICE

54. The essence of the claim against the Courts Service is that officials at the Blanchardstown District Court Office supposedly “*cancelled*” a listing which the Applicant asserts had been fixed by Judge Ramsey for 11 June 2026.
55. The Applicant’s position is that the listing before Judge Ramsey on 23 April 2026 was a “*relevance hearing*” convened pursuant to an earlier direction of Judge Hayden. He says that 11 June 2026 was proposed as the adjourned date for that hearing, whereas 3 September 2026 was fixed for the final hearing of the charges. In his words, the “*time to prepare his defence*” which he sought was “*the time between the said relevance hearing and the final hearing*”.

56. The Applicant had contacted the Office by email on 10 June 2026 to inquire about the listing. The Office Manager replied by email as follows: “*Please note this matter is not listed here in Blanchardstown tomorrow, the next date is 3 September 2026 at 12.30 in Blanchardstown Court 2*”. The Applicant responded that he was “*very surprised by this change of date*”, stating that, at the last mention, “*the relevance hearing was listed for tomorrow, with the final hearing listed for the 3rd September*”. He says that, when he telephoned the following morning, the Office Manager maintained that Judge Ramsey’s order did not provide for a listing that day.
57. The Applicant explained at the hearing before me that, when he commenced these proceedings, he did not have the transcript of 23 April 2026 and considered that any error must have been made by either the District Court judge or the Courts Service. Having obtained the transcript, he maintained that “*the Judge was correct and the perfected order was incorrect*”. The Applicant alleged that the Office Manager had listened to the digital audio recording “*out of context*” and had cancelled the “*relevance hearing*”.
58. The Applicant acknowledged at the hearing before me on 19 August 2026 that the transcript of the District Court hearing was confusing, that his interpretation was open to debate, and that, upon receiving the transcript, he had doubted whether his original understanding was correct. Indeed, the Applicant had written to the Director on 23 July 2026 offering to withdraw these proceedings if it were confirmed that the hearing on 3 September 2026 would be confined to preliminary matters. The Director declined that proposal and stated that the case would proceed to hearing on 3 September 2026, referring to the significant delay which had already attended the prosecution.

59. I have carefully considered the transcript of the District Court hearing on 23 April 2026. For the reasons explained at paragraphs 17 to 24 above, I have concluded that the criminal proceedings had been adjourned to 3 September 2026. There was no separate listing fixed for 11 June 2026. It follows that the factual premise underlying the claim against the Courts Service has not been established. The Courts Service could not have improperly vacated a listing which did not exist.
60. This finding of fact is sufficient to dispose of the claim for relief against the Courts Service. It has not been necessary, therefore, for me to address the question of whether a claim for relief by way of judicial review could ever properly lie against the Courts Service in circumstances where it is alleged that officials failed to comply with or countermanded a direction given by a District Court judge. In particular, it is not necessary to decide whether an aggrieved person would first be required to attend before the District Court and to apply to have the direction reinstated, prior to having recourse to the High Court. It might be observed, however, that such an approach would offer a more expeditious and less costly route to resolution than judicial review proceedings would. It would also be consistent with the modern case law on the requirement to exhaust remedies: *Amariei v. Chief Appeals Officer* [2026] IESC 22, [2025] 2 I.L.R.M. 335.
61. It is also not necessary for me to address the Courts Service's detailed submission that an administrative act of the type alleged by the Applicant is not amenable to judicial review.
62. Finally, for completeness, I do not accept the Applicant's argument that counsel for the Courts Service made some sort of "*concession*" in observing—at the

hearing before me on 19 August 2026—that Judge Ramsey did not expressly vacate a hearing date for 11 June 2026. Counsel was merely stating the obvious: there could be no necessity to vacate a hearing date which was never fixed.

CLAIM FOR MANDATORY ORDER

63. The Applicant seeks an order of mandamus directing the District Court to hold a separate preliminary hearing in relation to the alleged offences at least four weeks prior to the date fixed for the criminal trial to allow the Applicant time to prepare his defence. See §5(ii) of the amended statement of grounds.
64. The difficulty with this claim is that it invites the High Court to prescribe, in advance, the procedures to be followed by the District Court notwithstanding that the identification of the appropriate procedures is a matter which has been entrusted, in the first instance, to the District Court. As appears from the case law discussed at paragraphs 30 to 49 above, there is no fixed rule which dictates that there must always be a separate preliminary hearing in relation to disclosure in advance of a criminal trial in the District Court, still less that the hearing must take place at a particular remove from the trial date. The Court of Justice’s decision in *Kolev* expressly contemplates that certain material might legitimately be disclosed, for the first time, at the commencement of the criminal trial itself. The determination of whether particular material must be disclosed is logically anterior to its disclosure. It follows that an application seeking access to such material may also be determined at that stage: the Criminal Proceedings Directive cannot sensibly be interpreted as mandating that a dispute in relation to access be resolved at a separate hearing before trial when it permits access itself to be afforded as late as the commencement of the trial.

65. This is subject always to the requirement that the accused person be afforded sufficient time to consider any material then made available and to prepare the defence effectively. The Court of Justice recognised that in some instances this may necessitate an adjournment of the criminal trial. This approach resonates with the passage from *Doyle* cited at paragraph 32 above. There, Denham J. expressly acknowledged that should it become apparent at any stage of the summary trial that the accused person, his solicitor or counsel, needs time, in the interests of justice, to consider a statement or document of which they had no prior notice, and which is material to the prosecution, then an adjournment may be required.
66. The High Court is entitled to assume that the District Court will apply fair procedures. As discussed at paragraphs 17 to 24 above, Judge Ramsey was not prescriptive as to the nature of the hearing to be held on the adjourned date. It remained open to the Applicant to apply for further disclosure at that hearing. If the District Court were to decide that further disclosure was necessary in the interests of justice, and that the nature of the disclosure was such that the Applicant would require time to consider same, then it is to be assumed that an adjournment would be granted. If, conversely, the District Court were to decide that no further disclosure was required, then there is no reason that the criminal trial could not proceed without the need for a further adjournment. There would be no additional material disclosed which the Applicant would require time to assimilate.
67. In all the circumstances, the Applicant has not established an invariable entitlement to have the question of disclosure addressed at a separate preliminary hearing, in advance of the criminal trial. The rights of the defence are, instead,

safeguarded by the trial court’s power to grant an adjournment in an appropriate case where the nature of the material disclosed is such that the accused person and his legal representatives require time to consider it.

CRIMINAL PROCEDURE ACT 2021

68. The Applicant seeks a declaration that the provision made for a “*preliminary trial hearing*” in relation to indictable offences shall apply to non-indictable offences. See §5(vii) of the amended statement of grounds.

69. Section 6(1) of the Criminal Procedure Act 2021 provides as follows:

“Where an accused has been sent forward for trial in respect of an indictable offence, the court before which the accused is to stand trial (in this Part referred to as the “trial court”) may, of its own motion or upon the application of the prosecution or the accused, hold one, or more than one, hearing pursuant to this section (in this Part referred to as a “preliminary trial hearing”) where the court is satisfied that—

(a) it would be conducive to the expeditious and efficient conduct of the proceedings, and

(b) it is not contrary to the interests of justice,

for the hearing to be held.”

70. Section 4 of the Criminal Procedure Act 2021 confines the application of Part 2 of the Act to proceedings in which an accused has been, or is, sent forward for trial in respect of an offence and the trial has not commenced. The statutory architecture framing section 6(1) is directed toward those sent forward for trial on indictment, not to an individual facing summary prosecution in the District Court.

71. The courts before which a preliminary trial hearing is contemplated are, moreover, expressly identified in section 6(3). A preliminary trial hearing may

be held at any time before the jury is sworn in the Circuit Court or Central Criminal Court or, in the case of the Special Criminal Court, before the trial commences. That conclusion is reinforced by section 3(2)(a), which expressly extends references to a person being sent forward for trial to certain proceedings before the Special Criminal Court. The Act makes no equivalent provision for an accused person whose prosecution remains before the District Court for summary disposal.

72. Even within its proper field of application, the statutory scheme does not support the rigidity of the Applicant's argument. The Act prescribes no minimum interval between a preliminary trial hearing and the criminal trial. Section 6(3) permits such a hearing to occur at any time before the jury is sworn or, in the Special Criminal Court, before the trial commences. Section 6(4) requires the trial court to adopt a flexible, holistic approach, by determining the timing of a preliminary trial hearing by reference to the efficient conduct of the proceedings, the avoidance of disruption to jurors and witnesses, the interests of any victim and the interests of justice. Section 6(5) goes further, by permitting the trial court, where appropriate having regard to the orders sought, to direct that the hearing take place as close to the trial date as the court considers appropriate and just. It would be anomalous to derive from a statutory scheme, which does not apply to a summary prosecution, a stricter temporal entitlement than the statute confers in cases which do fall within it.
73. The High Court cannot extend Part 2 of the Act to proceedings which the Oireachtas did not bring within its express field of application. A summary trial does not acquire the incidents of trial on indictment merely because an accused person would prefer it to do so. Part 2 neither applies to this summary

prosecution nor supports the proposition that a disclosure issue must invariably be determined at least four weeks before trial.

74. The distinction drawn by the Oireachtas is consistent with the different procedural demands of trial on indictment and summary trial, respectively. Trials on indictment, particularly where a relevant offence within section 5 is charged, may be lengthy and complex and may involve questions which, if left unresolved until trial, could interrupt the proceedings, inconvenience jurors and witnesses, or require the discharge of a jury. Part 2 accordingly provides a structured mechanism by which such questions may be determined before the jury is sworn. Summary proceedings in the District Court are designed, by contrast, to provide a comparatively expeditious mode of trial. Their efficient conduct would not necessarily be advanced by superimposing upon every such prosecution a separate statutory preliminary hearing stage. As already discussed at paragraph 32 above, the judgment in *Doyle* acknowledges that the inherent problems of adjourning a trial where a jury has been put in charge of an accused do not apply to a summary trial.
75. The inapplicability of Part 2 of the Act to a summary prosecution does not equate to an exclusion of the District Court's ability to list a summary prosecution before the trial date or to determine a disclosure application at a preliminary hearing where that course is appropriate. The District Court remains responsible for adopting such lawful procedural measures as fairness requires.

CONCLUSION AND PROPOSED FORM OF ORDER

76. The Applicant has not established the first proposition upon which these proceedings are founded. The transcript of 23 April 2026 does not support the

argument that Judge Ramsey fixed two listings, one in June and the other in September. Having discussed various dates with the parties, Judge Ramsey adjourned the criminal proceedings to 3 September 2026. There was no separate listing fixed for 11 June 2026. It follows that the factual premise underlying the claim for relief against the Courts Service has not been established. The District Court Office could not have improperly vacated a listing which did not exist. The relief sought at §5(iii) of the amended statement of grounds is refused, both insofar as it challenges what occurred before Judge Ramsey on 23 April 2026 and insofar as it challenges the subsequent communications from the District Court Office.

77. The Applicant has not established the second proposition either. There is no fixed rule which dictates that there must always be a separate preliminary hearing in advance of a criminal trial in the District Court, still less that such a hearing must take place at least four weeks before trial. The decision whether to direct disclosure, and the identification of any procedural measures necessary to secure a fair trial, are matters for the District Court in the first instance.
78. Accordingly, the mandatory relief sought at §5(ii) is refused. The related declaration sought at §5(v), to the effect that a preliminary hearing cannot take place on the same day as the hearing of the charges, is also refused. The question is whether the procedure adopted in the particular case affords the accused person a fair opportunity to prepare and present a defence, not whether the two matters are listed on different dates.
79. It is important to explain what this judgment does and does not decide. The judgment finds that there is no bright-line rule which *mandates* a separate preliminary hearing on disclosure in the context of a summary criminal

prosecution. It was necessary to make this finding in circumstances where the Applicant had pitched his case at the level of general principle. The Applicant, to ground a claim for judicial review, had to attempt to identify a jurisdictional error such as might allow the High Court to exercise its supervisory jurisdiction. The Applicant attempted to do so by asserting the existence of a mandatory requirement to convene a separate preliminary hearing.

80. This finding does not encompass a holding that the District Court is precluded from deciding to convene a separate preliminary hearing in advance of the criminal trial in an appropriate case. There may be circumstances in which it is more efficient and fairer to resolve a disclosure dispute in advance of the criminal trial rather than to risk an adjournment if disclosure is directed at the trial. Crucially, this is a decision for the District Court to make as the court with seisin of the criminal proceedings. It is not open to the High Court, in the exercise of its supervisory jurisdiction, to pre-empt the District Court's decision.
81. The Applicant remains at liberty to seek additional disclosure when the proceedings next come before the District Court. Whether the criminal trial can proceed on the same date will be dependent upon the outcome of any such application and the nature of the additional disclosure, if any, directed. What the Applicant cannot do is to sidestep the District Court and demand that the High Court direct a separate preliminary hearing, still less that the High Court determine his request for disclosure *ab initio*. The relief sought at §5(iv) is refused without determining its merits and without offering any view whatsoever on whether the prosecuting authorities have fully complied with their obligation to make disclosure. These are matters for the District Court.

82. It is likewise unnecessary, for the purpose of deciding the procedural entitlement claimed in these proceedings, to determine the Applicant's objection to the application of *Fitzgerald v. Director of Public Prosecutions* (cited at paragraph 44 above). My judgment makes no finding on whether the disclosure sought is relevant or not. Again, this is a matter for the District Court at first instance.
83. The Applicant seeks a declaration that so-called "*relevance hearings for disclosure*" are unconstitutional and contrary to Directive 2012/13/EU. Although he seeks a separate hearing to address his own disclosure request, this further claim appears to be directed at the basis on which disclosure is determined at such a hearing, rather than at the holding of a hearing before trial as such. For the reasons already explained, this is a matter for the District Court at first instance. The declaration sought at §5(viii) will not be made.
84. Part 2 of the Criminal Procedure Act 2021 does not apply to a prosecution which remains before the District Court for summary disposal. The declaration sought at §5(vii) is refused.
85. As to the declaration sought concerning the identification of solicitors for the purpose of a proposed complaint, no factual basis for this relief has been set out. The solicitor who appeared in the District Court is identified in the transcript. The declaration sought at §5(vi) is refused.
86. At the hearing before me on 19 August 2026, the Applicant explained that he did not complain of the delay which had already occurred in the criminal proceedings, the intervening periods having been associated with the various judicial review proceedings. His concern was to avoid further delay. When asked whether he wished the High Court to determine the claim for the relief

sought at §5(i) of the amended statement of grounds, the Applicant confirmed that he wished the preliminary hearing issue to be determined instead. It is not necessary, therefore, to make a determination on the relief sought at §5(i).

87. The underlying prosecution remains pending. It will be for the parties to take such steps as may be necessary to have it restored or relisted before the District Court. Nothing in this judgment determines any application concerning disclosure, adjournment or trial preparation which may properly arise when the prosecution next comes before that court. Those matters remain to be determined by the District Court, in accordance with law and by reference to the circumstances then obtaining.
88. On the *ex parte* leave application, an order was made pursuant to section 45 of the Courts (Supplemental Provisions) Act 1961 prohibiting the publication or broadcast of material identifying the Applicant. The underlying criminal proceedings arise from circumstances which, at least indirectly, involve the Applicant's minor children. Publication of the Applicant's identity, together with an account of those circumstances, could enable the children to be identified by association and expose aspects of their private lives to publicity. The restriction is directed to protecting the children from that consequence, not to shielding the Applicant from publicity arising from the prosecution.
89. The reporting restriction will remain in force unless and until varied by further order. A party to these proceedings or any *bona fide* member of the media may apply to vary the order on seven days' notice to the Applicant.
90. As to costs, my *provisional* view is that the Director of Public Prosecutions, An Garda Síochána and the Courts Service, having succeeded in resisting the application for judicial review, are entitled to recover their costs as against the

Applicant in accordance with the default position under section 169 of the Legal Services Regulation Act 2015. Subject to any submissions, I propose to limit recovery to costs incurred after the Applicant received the District Court transcript. As discussed earlier, there had been some initial confusion as to what had occurred before the District Court. This has since been clarified by the production of the transcript.

91. I will make an order amending the title of the proceedings for the reasons explained at paragraphs 11 to 16 above. The Applicant is to file in the Central Office of the High Court a (further) amended statement of grounds which reflects these changes. I dispense with any requirement to re-serve the proceedings in consequence of the amendments to the title. This judgment reflects the amended title.
92. I will also make an order pursuant to Order 123 allowing any party to take up a transcript of the hearing on 19 August 2026.
93. The proceedings will be listed before me on 27 October 2026 to hear any submissions in relation to the proposed form of order. The stay on the criminal proceedings is extended to that date. The parties have liberty to apply in the interim.

Appearances

The Applicant appeared as a litigant in person

Tom O'Malley SC and Lily Buckley for the Director of Public Prosecutions instructed by the Chief Prosecution Solicitor

Eamon Power for the Courts Service instructed by Mason Hayes & Curran LLP