



Reports of Cases

JUDGMENT OF THE COURT (First Chamber)

15 October 2015*

(Reference for a preliminary ruling — Judicial cooperation in criminal matters — Directive 2010/64/EU — Right to interpretation and translation in criminal proceedings — Language of the proceedings — Penalty order imposing a fine — Possibility of lodging an objection in a language other than the language of the proceedings — Directive 2012/13/EU — Right to information in criminal proceedings — Right to be informed of the charge — Service of a penalty order — Procedures — Mandatory appointment by the accused person of person authorised to accept service — Period for lodging an objection running from service on the person authorised to accept service)

In Case C-216/14,

REQUEST for a preliminary ruling under Article 267 TFEU from the Amtsgericht Laufen (Local Court, Laufen, Germany), made by decision of 22 April 2014, received at the Court on 30 April 2014, in the criminal proceedings against

Gavril Covaci,

THE COURT (First Chamber),

composed of A. Tizzano (Rapporteur), Vice-President, acting President of the First Chamber, F. Biltgen, A. Borg Barthet, M. Berger and S. Rodin, Judges,

Advocate General: Y. Bot,

Registrar: K. Malacek, Administrator,

having regard to the written procedure and further to the hearing on 19 March 2015,

after considering the observations submitted on behalf of:

- Mr Covaci, by U. Krause and S. Ryfisch, Rechtsanwälte,
- the German Government, by T. Henze and J. Kemper, acting as Agents,
- the Greek Government, by K. Georgiadis and S. Lekkou, acting as Agents,
- the French Government, by D. Colas and F.-X. Bréchet, acting as Agents,
- the Italian Government, by G. Palmieri, acting as Agent, and by M. Salvatorelli, avvocato dello Stato,
- the Austrian Government, by G. Eberhard, acting as Agent,

* Language of the case: German.

— the European Commission, by W. Bogensberger and R. Troosters, acting as Agents,
after hearing the Opinion of the Advocate General at the sitting on 7 May 2015,
gives the following

Judgment

- 1 This request for a preliminary ruling concerns the interpretation of Articles 1(2) and 2(1) and (8) of Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings (OJ 2010 L 280, p. 1), and of Articles 2, 3(1)(c) and 6(1) and (3) of Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings (OJ 2012 L 142, p. 1).
- 2 The request has been made in criminal proceedings brought against Mr Covaci for road traffic offences committed by the person concerned.

Legal context

EU law

Directive 2010/64

- 3 Recitals 12, 17 and 27 in the preamble to Directive 2010/64 state:
'(12) This Directive ... lays down common minimum rules to be applied in the fields of interpretation and translation in criminal proceedings with a view to enhancing mutual trust among Member States.
...
(17) This Directive should ensure that there is free and adequate linguistic assistance, allowing suspected or accused persons who do not speak or understand the language of the criminal proceedings fully to exercise their right of defence and safeguarding the fairness of the proceedings.
...
(27) The duty of care towards suspected or accused persons who are in a potentially weak position, in particular because of any physical impairments which affect their ability to communicate effectively, underpins a fair administration of justice. The prosecution, law enforcement and judicial authorities should therefore ensure that such persons are able to exercise effectively the rights provided for in this Directive, for example by taking into account any potential vulnerability that affects their ability to follow the proceedings and to make themselves understood, and by taking appropriate steps to ensure those rights are guaranteed.'
- 4 Article 1(1) and (2) of that directive, under the heading 'Subject matter and scope', provides:
'1. This Directive lays down rules concerning the right to interpretation and translation in criminal proceedings ...

2. The right referred to in paragraph 1 shall apply to persons from the time that they are made aware by the competent authorities of a Member State, by official notification or otherwise, that they are suspected or accused of having committed a criminal offence until the conclusion of the proceedings, which is understood to mean the final determination of the question whether they have committed the offence, including, where applicable, sentencing and the resolution of any appeal.'

5 Article 2 of that directive, headed 'Right to interpretation', provides:

'1. Member States shall ensure that suspected or accused persons who do not speak or understand the language of the criminal proceedings concerned are provided, without delay, with interpretation during criminal proceedings before investigative and judicial authorities, including during police questioning, all court hearings and any necessary interim hearings.

2. Member States shall ensure that, where necessary for the purpose of safeguarding the fairness of the proceedings, interpretation is available for communication between suspected or accused persons and their legal counsel in direct connection with any questioning or hearing during the proceedings or with the lodging of an appeal or other procedural applications.

3. The right to interpretation under paragraphs 1 and 2 includes appropriate assistance for persons with hearing or speech impediments.

...

8. Interpretation provided under this Article shall be of a quality sufficient to safeguard the fairness of the proceedings, in particular by ensuring that suspected or accused persons have knowledge of the case against them and are able to exercise their right of defence.'

6 Article 3 of the same directive, headed 'Right to translation of essential documents', is worded as follows:

'1. Member States shall ensure that suspected or accused persons who do not understand the language of the criminal proceedings concerned are, within a reasonable period of time, provided with a written translation of all documents which are essential to ensure that they are able to exercise their right of defence and to safeguard the fairness of the proceedings.

2. Essential documents shall include any decision depriving a person of his liberty, any charge or indictment, and any judgment.

3. The competent authorities shall, in any given case, decide whether any other document is essential ...

...'

Directive 2012/13

7 Recital 27 in the preamble to Directive 2012/13 states:

'Persons 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.'

8 Article 1 of that directive, which is headed ‘Subject matter’, provides:

‘This Directive lays down rules concerning the right to information of suspects or accused persons, relating to their rights in criminal proceedings and to the accusation against them ...’

9 Article 2(1) of that directive defines the scope of the directive as follows:

‘This Directive applies from the time persons are made aware by the competent authorities of a Member State that they are suspected or accused of having committed a criminal offence until the conclusion of the proceedings, which is understood to mean the final determination of the question whether the suspect or accused person has committed the criminal offence, including, where applicable, sentencing and the resolution of any appeal.’

10 Article 3 of the same directive, headed ‘Right to information about rights’, provides in paragraph 1:

‘Member States shall ensure that suspects or accused persons are provided promptly with information concerning at least the following procedural rights, as they apply under national law, in order to allow for those rights to be exercised effectively:

...

(c) the right to be informed of the accusation, in accordance with Article 6;

...’

11 Article 6 of Directive 2012/13, headed ‘Right to information about the accusation’, provides:

‘1. Member States shall ensure that suspects or accused persons are provided with information about the criminal act they are suspected or accused of having committed. That information shall be provided promptly and in such detail as is necessary to safeguard the fairness of the proceedings and the effective exercise of the rights of the defence.

2. Member States shall ensure that suspects or accused persons who are arrested or detained are informed of the reasons for their arrest or detention, including the criminal act they are suspected or accused of having committed.

3. Member States shall ensure that, at the latest on submission of the merits of the accusation to a court, detailed information is provided on the accusation, including the nature and legal classification of the criminal offence, as well as the nature of participation by the accused person.

4. Member States shall ensure that suspects or accused persons are informed promptly of any changes in the information given in accordance with this Article where this is necessary to safeguard the fairness of the proceedings.’

German law

12 Paragraph 184 of the Law on the judicial system (Gerichtsverfassungsgesetz; ‘the Law on the judicial system’) states:

‘The language of the courts is German ...’

13 Paragraph 187 of the Law on the judicial system, as amended as a result of the transposition of Directives 2010/64 and 2012/13, states:

‘1. The court shall provide an accused or convicted person who does not have a command of German or who is hearing impaired or speech impaired with an interpreter or a translator in so far as that is necessary for the exercise of his rights in criminal proceedings. The court shall inform the accused person in a language which he understands that he may, to that end, request the free assistance of an interpreter or a translator for the entire duration of the criminal proceedings.

2. For the exercise of the procedural rights of an accused person who does not have a command of German, as a general rule, a written translation of orders depriving a person of his liberty, charges and indictments, penalty orders and judgments which are not final shall be required ...’

14 Paragraph 132 of the Code of Criminal Procedure (Strafprozessordnung), which concerns the provision of security and the appointment of persons authorised to accept service, provides in subparagraph 1:

‘If an accused person who is strongly suspected of having committed a criminal offence has no fixed domicile or residence within the territorial jurisdiction of this law but the requirements for issuing an arrest warrant are not satisfied, it may be ordered, in order to ensure that the course of justice is not impeded, that the accused person

1. provides appropriate security for the anticipated fine and the costs of the proceedings, and
2. authorises a person residing within the jurisdiction of the competent court to accept service.’

15 Paragraph 410 of the Code of Criminal Procedure, which concerns objections to a penalty order and the force of *res judicata*, provides:

‘1. The accused person may lodge an objection to a penalty order at the court which made the penalty order within two weeks of service, in writing or by making a statement recorded by the registry ...

2. The objection may be limited to certain points of complaint.

3. Where no objection has been lodged against a penalty order in due time, that order shall be equivalent to a judgment having the force of *res judicata*.’

The dispute in the main proceedings and the questions referred for a preliminary ruling

16 At a police check conducted on 25 January 2014, it was determined, first, that Mr Covaci, a Romanian citizen, was driving, in Germany, a vehicle for which no valid mandatory motor vehicle civil liability insurance had been taken out and, secondly, that the proof of insurance, the so-called green card, submitted to the German authorities by the person concerned, was a forgery.

17 Mr Covaci, who was questioned on those matters by the police, received the assistance of an interpreter.

18 In addition, Mr Covaci, who had no fixed domicile or residence within the jurisdiction of German law, issued an irrevocable written authorisation for three officials of the Amtsgericht Laufen to accept service of court documents addressed to him. According to the actual wording of that authorisation, the periods for bringing appeals against any judicial decision begin to run from service on the authorised persons appointed.

- 19 On 18 March 2014, at the end of the investigation, the Traunstein Public Prosecutor's Office (Staatsanwaltschaft Traunstein) made an application to the Amtsgericht Laufen for it to issue a penalty order imposing a fine on Mr Covaci.
- 20 The procedure laid down in respect of the issuing of such a penalty order is simplified and does not require a hearing or a trial *inter partes*. Issued by the court upon application by the Public Prosecutor's Office in the case of minor offences, that order is a provisional decision. In accordance with Paragraph 410 of the Code of Criminal Procedure, a penalty order acquires the force of *res judicata* upon expiry of a period of two weeks from its service, where appropriate, on the persons authorised to accept service for the person being sentenced. The latter may secure a trial *inter partes* only by lodging an objection against that order, before the expiry of that period. The objection, which may be lodged in writing or by making a statement recorded by the registry, results in a court hearing being held.
- 21 In the present case, the Traunstein Public Prosecutor's Office requested that the penalty order be served on Mr Covaci through the persons authorised to accept service and, moreover, that any written observations of the person concerned, including an objection lodged against that order, should be in German.
- 22 First, the Amtsgericht Laufen (Local Court, Laufen), before which the application for the penalty order concerned in the main proceedings was made, is uncertain whether the obligation, arising from Paragraph 184 of the Law on the judicial system, to use German for the drafting of an objection lodged against such an order is consistent with the provisions of Directive 2010/64, under which free linguistic assistance is to be provided to accused persons in criminal proceedings.
- 23 Secondly, the referring court has doubts as to the compatibility of the procedures for service of that penalty order with Directive 2012/13, and in particular with Article 6 thereof, which requires each Member State to ensure that, at the latest on submission of the merits of the accusation to a court, detailed information is provided on the accusation.
- 24 In those circumstances the Amtsgericht Laufen decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:
- '(1) Are Articles 1(2) and 2(1) and (8) of Directive 2010/64 to be interpreted as precluding a court order that requires, under Paragraph 184 of the Law on the judicial system, accused persons to bring an appeal only in the language of the court, here in German, in order for it to be effective?
- (2) Are Articles 2, 3(1)(c) and 6(1) and (3) of Directive 2012/13 to be interpreted as precluding the accused from being required to appoint a person authorised to accept service, where the period for bringing an appeal begins to run upon service on the person authorised and ultimately it is irrelevant whether the accused is at all aware of the offence of which he is accused?'

Consideration of the questions referred

The first question

- 25 By its first question, the referring court asks, in essence, whether Articles 1 to 3 of Directive 2010/64 must be interpreted as precluding national legislation such as that at issue in the main proceedings which, in criminal proceedings, does not permit the individual against whom a penalty order has been made to lodge an objection in writing against that order in a language other than that of the proceedings, even though that individual does not have a command of the language of the proceedings.

- 26 In order to reply to that question, it is necessary to observe that Article 1(1) of Directive 2010/64 provides for the right to interpretation and translation in, inter alia, criminal proceedings. Furthermore, Article 1(2) of that directive states that that right is to apply to persons from the time that they are made aware by the competent authorities of a Member State that they are suspected or accused of having committed a criminal offence until the conclusion of the proceedings, which is understood to mean the final determination of the question whether they have committed the offence, including, where applicable, sentencing and the resolution of any appeal.
- 27 Consequently, the situation of a person such as Mr Covaci, who wishes to lodge an objection against a penalty order which has not yet acquired the force of *res judicata* and of which he is the addressee, clearly falls within the scope of that directive, with the result that that person must be able to exercise the right to interpretation and translation guaranteed by that directive.
- 28 As regards the question whether a person in a situation such as that of Mr Covaci may rely on that right in order to lodge an objection against such an order in a language other than that of the procedure applicable before the competent national court, it is necessary to refer to the content of Articles 2 and 3 of Directive 2010/64. Those two articles respectively govern the right to interpretation and the right to translation of certain essential documents, that is to say the two aspects of the right provided for in Article 1 of that directive and referred to in the actual title of the directive.
- 29 For those purposes, it should be noted that the Court has consistently held that, in interpreting a provision of EU law, it is necessary to consider not only its wording but also the context in which it occurs and the objectives pursued by the rules of which it is part (judgment in *Rosselle*, C-65/14, EU:C:2015:339, paragraph 43 and the case-law cited).
- 30 As regards Article 2 of Directive 2010/64, which governs the right to interpretation, it follows from the actual wording of that article that, unlike Article 3 of that directive, which concerns the written translation of certain essential documents, Article 2 of the directive refers to the oral interpretation of oral statements.
- 31 Thus, in accordance with Article 2(1) and (3) of that directive, only suspected or accused persons who are unable to express themselves in the language of the proceedings, whether that be due to the fact that they do not speak or understand that language or the fact that they have hearing or speech impediments, are able to exercise the right to interpretation.
- 32 Indeed, that is why, by listing the circumstances in which interpretation must be provided to suspected or accused persons, Article 2(1) and (2) of Directive 2010/64 refer — albeit in a non-exhaustive way — only to situations giving rise to oral communications, such as police questioning, all court hearings and any necessary interim hearings, and communication with legal counsel in direct connection with any questioning or hearing during the proceedings or with the lodging of an appeal or other procedural applications.
- 33 In other words, in order to safeguard the fairness of the proceedings and ensure that the person concerned is able to exercise his right of defence, that provision ensures that, when he is called upon to make oral statements himself within the context, inter alia, of criminal proceedings, either directly before the competent judicial authorities or to his legal counsel, that person is entitled to do so in his own language.
- 34 Such an interpretation is borne out by the objectives pursued by Directive 2010/64.

- 35 In that regard, it should be observed that that directive was adopted on the basis of point (b) of the second subparagraph of Article 82(2) TFEU, pursuant to which, to the extent necessary to facilitate mutual recognition of judgments and judicial decisions and police and judicial cooperation in criminal matters having a cross-border dimension, the European Parliament and the Council of the European Union may establish minimum rules concerning the rights of individuals in criminal procedure.
- 36 Thus, in accordance with recital 12 in the preamble to Directive 2010/64, it is with a view to enhancing mutual trust among Member States that that directive lays down common minimum rules to be applied in the fields of interpretation and translation in criminal proceedings.
- 37 In accordance with recital 17 in the preamble to that directive, such rules should ensure that there is free and adequate linguistic assistance, allowing suspected or accused persons who do not speak or understand the language of the criminal proceedings fully to exercise their rights of defence and safeguarding the fairness of the proceedings.
- 38 However, to require Member States, as suggested *inter alia* by Mr Covaci and the German Government, not only to enable the persons concerned to be informed, fully and in their language, of the facts alleged against them and to provide their own version of those facts, but also to take responsibility, as a matter of course, for the translation of every appeal brought by the persons concerned against a judicial decision which is addressed to them would go beyond the objectives pursued by Directive 2010/64 itself.
- 39 As is also apparent from the case-law of the European Court of Human Rights, compliance with the requirements relating to a fair trial merely ensures that the accused person knows what is being alleged against him and can defend himself, and does not necessitate a written translation of all items of written evidence or official documents in the procedure (European Court of Human Rights, *Kamasinski v. Austria*, 19 December 1989, § 74, Series A no. 168).
- 40 Consequently, the right to interpretation provided for in Article 2 of Directive 2010/64 concerns the translation by an interpreter of the oral communications between suspected or accused persons and the investigative and judicial authorities or, where relevant, legal counsel, to the exclusion of the written translation of any written document produced by those suspected or accused persons.
- 41 With respect to the situation at issue in the main proceedings, it is apparent from the documents before the Court that the penalty order provided for under German law is adopted on the basis of a *sui generis* procedure. That procedure provides that the only possibility the accused person has of obtaining a trial *inter partes*, in which he can fully exercise his right to be heard, is to lodge an objection against that order. That objection, which can be submitted in writing or, where it is lodged orally, directly at the registry of the competent court, is not subject to the obligation to state reasons, must be lodged within a particularly short period of two weeks from service of that order and does not require the mandatory involvement of a lawyer, since the accused person can submit it himself.
- 42 Accordingly, Article 2 of Directive 2010/64 ensures that a person in a situation such as that of Mr Covaci can obtain the free assistance of an interpreter, if that person himself orally lodges an objection against the penalty order of which he is the subject at the registry of the competent national court, so that that registry records that objection, or, if that person lodges an objection in writing, can obtain the assistance of legal counsel, who will take responsibility for the drafting of the appropriate document, in the language of the proceedings.
- 43 As regards the question whether Article 3 of Directive 2010/64, which governs the right to translation of certain essential documents, confers the benefit of assistance with regard to translation on a person in a situation such as that of Mr Covaci, who wishes to lodge an objection in writing against a penalty

order without the assistance of legal counsel, it should be observed that it follows from the very wording of that provision that that right is designed to ensure that the persons concerned are able to exercise their right of defence and to safeguard the fairness of the proceedings.

- 44 It follows that, as the Advocate General observed at point 57 of his Opinion, Article 3 of Directive 2010/64 concerns, in principle, only the written translation into the language understood by the person concerned of certain documents drawn up in the language of the proceedings by the competent authorities.
- 45 Moreover, that interpretation is confirmed, first, by the list of documents which Article 3(2) of Directive 2010/64 considers to be essential and for which a translation is therefore necessary. That list, though not exhaustive, includes any decision depriving a person of his liberty, any charge or indictment, and any judgment.
- 46 Secondly, that interpretation is also justified by the fact that the purpose of the right to translation provided for in Article 3 of that directive, as is apparent from paragraph 4 of that article, is to '[enable] suspected or accused persons to have knowledge of the case against them'.
- 47 It follows that the right to translation provided for in Article 3(1) and (2) of Directive 2010/64 does not include, in principle, the written translation into the language of the proceedings of a document such as an objection lodged against a penalty order, drawn up by the person concerned in a language of which he has a command, but which is not the language of the proceedings.
- 48 However, Directive 2010/64 lays down only minimum rules, leaving the Member States free, as recital 32 in the preamble to that directive states, to extend the rights set out in that directive in order to provide a higher level of protection also in situations not explicitly dealt with in that directive.
- 49 In addition, it is important to note that Article 3(3) of Directive 2010/64 expressly allows the competent authorities to decide, in any given case, whether any document other than those provided for in Article 3(1) and (2) of that directive is essential within the meaning of that provision.
- 50 It is therefore for the referring court, taking into account in particular the characteristics of the procedure applicable to the penalty order concerned in the main proceedings, which were noted in paragraph 41 of this judgment, and of the case brought before it, to establish whether the objection lodged in writing against a penalty order should be considered to be an essential document, the translation of which is necessary.
- 51 It follows from all the foregoing that the answer to the first question is that Articles 1 to 3 of Directive 2010/64 must be interpreted as not precluding national legislation, such as that at issue in the main proceedings, which, in criminal proceedings, does not permit the individual against whom a penalty order has been made to lodge an objection in writing against that order in a language other than that of the proceedings, even though that individual does not have a command of the language of the proceedings, provided that the competent authorities do not consider, in accordance with Article 3(3) of that directive, that, in the light of the proceedings concerned and the circumstances of the case, such an objection constitutes an essential document.

The second question

- 52 By its second question the referring court asks, in essence, whether Articles 2, 3(1)(c) and 6(1) and (3) of Directive 2012/13 must be interpreted as precluding legislation of a Member State, such as that at issue in the main proceedings, which, in criminal proceedings, makes it mandatory for an accused

person not residing in that Member State to appoint a person authorised to accept service of a penalty order concerning him, with the period for lodging an objection against that order running from the service of that order on that authorised person.

- 53 In order to answer that question, it is necessary to observe that Article 1 of Directive 2012/13 provides for the right to information of suspects or accused persons, relating to their rights in criminal proceedings and to the accusation against them.
- 54 As is apparent from a reading of Article 3 in conjunction with Article 6 of that directive, the right mentioned in Article 1 of the directive concerns at least two separate rights.
- 55 First, in accordance with Article 3 of Directive 2012/13, suspects or accused persons must be informed, at least, of certain procedural rights, which are listed in that provision, including the right of access to a lawyer, any entitlement to free legal advice and the conditions for obtaining such advice, the right to be informed of the accusation, the right to interpretation and translation and the right to remain silent.
- 56 Secondly, that directive establishes, in Article 6 thereof, rules concerning the right to information about the accusation.
- 57 Since the question asked by the referring court concerns in particular the scope of the latter right, it is necessary to determine whether Article 6 of Directive 2012/13, which establishes that right, is applicable in the context of a particular procedure, such as that at issue in the main proceedings, resulting in the adoption of a penalty order.
- 58 In that regard, it should be noted that, according to the actual wording of Article 2 of Directive 2012/13, that directive applies from the time persons are made aware by the competent authorities of a Member State that they are suspected or accused of having committed a criminal offence until the conclusion of the proceedings, which is understood to mean the final determination of the question whether the suspect or accused person has committed the criminal offence, including, where applicable, sentencing and the resolution of any appeal.
- 59 Given that, as was found in paragraph 27 of this judgment, the penalty order which the referring court was asked to make against Mr Covaci will not acquire the force of *res judicata* before the expiry of the prescribed period for lodging an objection against it, the situation of a person such as Mr Covaci clearly falls within the scope of Directive 2012/13, with the result that the person concerned must be able to exercise the right, throughout the proceedings, to be informed of the accusation.
- 60 While it is true that, because of the summary and simplified nature of the proceedings at issue, the service of a penalty order such as that at issue in the main proceedings is effected only after the court has ruled on the merits of the accusation, the fact remains that, in that order, the court rules only provisionally and that the service of that order represents the first opportunity for the accused person to be informed of the accusation against him. That is confirmed, moreover, by the fact that that person is entitled to bring not an appeal against that order before another court, but an objection making him eligible, before the same court, for the ordinary *inter partes* procedure, in which he can fully exercise his rights of defence, before that court rules again on the merits of the accusation against him.
- 61 Consequently, in accordance with Article 6 of Directive 2012/13, the service of a penalty order must be considered to be a form of communication of the accusation against the person concerned, with the result that it must comply with the requirements set out in that article.
- 62 It is true that, as the Advocate General observed at point 105 of his Opinion, Directive 2012/13 does not regulate the procedures whereby information about the accusation, provided for in Article 6 of that directive, must be provided to that person.

- 63 However, those procedures cannot undermine the objective referred to *inter alia* in Article 6 of Directive 2012/13, which, as is also apparent from recital 27 in the preamble to that directive, consists in enabling suspects or persons accused of having committed a criminal offence to prepare their defence and in safeguarding the fairness of the proceedings.
- 64 It is apparent from the order for reference that the national legislation at issue in the main proceedings provides that the penalty order is to be served on the person authorised by the accused person and that the latter has a period of two weeks to lodge an objection against that order, with that period running from the service of that order on that authorised person. Upon expiry of that period, the order is to acquire the force of *res judicata*.
- 65 Though it is not relevant, in order to answer the question asked by the referring court, to rule on the appropriateness of such a limitation period of two weeks, it is important to observe that both the objective of enabling the accused person to prepare his defence and the need to avoid any kind of discrimination between (i) accused persons with a residence within the jurisdiction of the national law concerned and (ii) accused persons whose residence does not fall within that jurisdiction, who alone are required to appoint a person authorised to accept service of judicial decisions, require the whole of that period to be available to the accused person.
- 66 If the period of two weeks at issue in the main proceedings began to run from the time when the accused person actually became aware of the penalty order, that order providing information on the accusation within the meaning of Article 6 of Directive 2012/13, it would be certain that the whole of that period is available to that person.
- 67 By contrast, if, as in the present case, that period begins to run from the service of the penalty order on the person authorised by the accused person, the latter can effectively exercise his right of defence and the trial is fair only if he has the benefit of that period in its entirety, that is to say without the duration of that period being reduced by the time needed by the authorised person to transmit the penalty order to its addressee.
- 68 In the light of the foregoing considerations, the answer to the second question is that Articles 2, 3(1)(c) and 6(1) and (3) of Directive 2012/13 must be interpreted as not precluding legislation of a Member State, such as that at issue in the main proceedings, which, in criminal proceedings, makes it mandatory for an accused person not residing in that Member State to appoint a person authorised to accept service of a penalty order concerning him, provided that that accused person does in fact have the benefit of the whole of the prescribed period for lodging an objection against that order.

Costs

- 69 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (First Chamber) hereby rules:

1. **Articles 1 to 3 of Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings must be interpreted as not precluding national legislation such as that at issue in the main proceedings which, in criminal proceedings, does not permit the individual against whom a penalty order has been made to lodge an objection in writing against that order in a language other than that of the proceedings, even though that individual does not have a command of the language of the proceedings, provided that the competent authorities do**

not consider, in accordance with Article 3(3) of that directive, that, in the light of the proceedings concerned and the circumstances of the case, such an objection constitutes an essential document.

- 2. Articles 2, 3(1)(c) and 6(1) and (3) of Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings must be interpreted as not precluding legislation of a Member State, such as that at issue in the main proceedings, which, in criminal proceedings, makes it mandatory for an accused person not residing in that Member State to appoint a person authorised to accept service of a penalty order concerning him, provided that that accused person does in fact have the benefit of the whole of the prescribed period for lodging an objection against that order.**

[Signatures]