

## Will the new EU directive make a difference?

Mary Phelan  
Paris, 21<sup>st</sup> May 2011

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## DCU What is an EU Directive?

- A directive shall be binding, as to the result to be achieved, upon each Member State to which it is addressed, but shall leave to the national authorities the choice of form and methods. (Article 288, Treaty on the Functioning of the EU).
- Directives must be implemented or transposed into national law.

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## DCU Key Dates

- Implementation/Transposition date is 27 October 2013.
- By 27 October 2014, Commission to submit a report to the European Parliament and to the Council.

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## Development

- Nancy Schweda-Nicholson (2009) - policy development
- Cras and De Matteis (2010) - Genesis and description
- EULITA website - LIT materials – Grotius, Agis, *Status Quaestionis*

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## What's new?

- Communication with **legal counsel**
- **Procedure** - if interpreter required
- Native language or any other language they speak or understand
- If quality insufficient, interpreter replaced
- Essential documents/ relevant passages translated. Oral summary.
- **Training** of judges, prosecutors and judicial staff

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## What's new?

- Right to challenge non-provision
- Right to complain re quality
- Records
- Confidentiality

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- (24) Member States should ensure that **control can be exercised over the adequacy** of the Interpretation and Translation provided when the competent authorities have been put on notice in a given case.

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DCU Article 2.8

- Interpretation [...] 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.

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DCU Article 5

- Member States **shall take concrete measures** to ensure that the interpretation and translation provided meets the quality required under Article 2(8) and Article 3(9)

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Concerns about the current arrangements include:

- they amount to a time-consuming and costly mechanism for booking interpreters;
- there is limited availability of registered interpreters in some languages and in some parts of the country;

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- We are more than happy to agree with the proposal because Irish standards in interpretation in court cases are above the minimum required under the directive.
- It is part of the tendering process that they [the interpreters] must be of a particularly high standard.
- Minister for Justice Dermot Ahern 31<sup>st</sup> March 2010  
<http://debates.oireachtas.ie/JUU/2010/03/31/p rintall.asp>

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- Level 1 The person can be shown to be competent in both English and the language concerned.
- Level 2 The person is a native speaker of the language concerned and can be shown to be competent in English or is a native speaker of English and can be shown to be competent in the language concerned.
- Level 3 The person is a native speaker of English with a third level qualification in the language concerned or a native speaker of the language concerned with a third level qualification in English.

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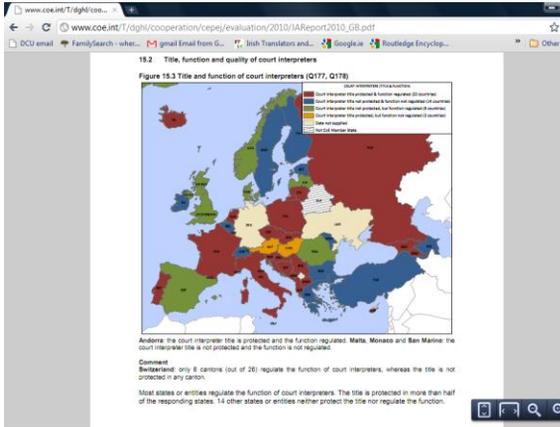
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**DCU** Directive 2005/36/EC

- Directive 2005/36/EC on the recognition of professional qualifications for professions of nurse responsible for general care, dental practitioner, veterinary surgeon, midwife, architect, pharmacist and doctor

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**DCU** Directive 2005/36/EC

- regulated profession
- professional qualifications
- evidence of formal qualifications
- competent authority (to issue diplomas)
- regulated education and training

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## Need for training

- The system must firstly acknowledge that highly competent court interpreters are crucial for the successful conduct of bilingual proceedings and secondly, the system must be prepared to pay for a quality service.
- Hale (2010: 453)



## Conclusion

### Positives

- Positive mentioned above (procedure, training for judges, interpreters for legal counsel)
- Increased Awareness
- Interpreters will start to be provided in countries where they are not currently provided

### Negatives

- No quality without training and testing
- But, training and testing are not mentioned
- Example of Ontario
- No access to case files



Thank you

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