

Constitutional Law
Tutorial #3

Review the following material:

Doyle & Hickey, chapters 8 and 10;
Goodman International v Hamilton (No 1) [1992] 2 IR 592;
TD v Minister for Education [2001] 4 IR 259;
Sinnott v Minister for Education [2001] IESC 63; and,
PC v Minister for Social Protection [2017] IESC 63.

QUESTIONS

In early 2020, Mr Daniel Wolf (“Daniel”), 60, lost all employment due to coronavirus restrictions. Since then, he has claimed income supports from the Department of Employment Affairs and Social Protection, as well as the COVID-19 Pandemic Unemployment Payment, a new social welfare payment of €350 a week for employees and self-employed people who have lost all their employment due to the COVID-19 pandemic.

Daniel, who ran a Michelin two-star restaurant that brought in large revenues before the pandemic, thinks that this limited government support cannot sustain his family of eight. He is the only person in his immediate who can regularly earn an income, and the only one who can seek these government supports.

In addition, on April 6, 2020; Mrs Wilhelmina Wolf, Daniel’s mother, tried to consult their family practitioner with the complaint of fever, cough, and shortness of breath. However, she was turned back due to the then-ongoing public health crisis.

Daniel is furious with both the insufficient income support he is receiving and his 87 year-old mother not receiving effective treatment. Daniel considers that filing a lawsuit against the State for his loss of income is likely to be unsuccessful. Instead, he decides to sue for the provision of healthcare facilities for the treatment of citizens and senior citizens (including him and his mother), to which they have a right under Irish law, and also sues for the provision of tools to support remote teaching and learning for his school-age children, who can no longer go to school due to the coronavirus restrictions—as he has no longer has the means to buy computers for his five children.

The Minister of Employment Affairs and Social Protection, Mr Brian O’Connor, TD, is unable to provide the sufficient healthcare facilities for citizens and senior citizens. Likewise, he is unable to provide technical equipment needed for the continuous education of children from lower income families right away, but he proposes a detailed plan to have those facilities and equipment available within in three weeks. On that basis, the court, with the consent of the parties, agree to a three-week adjournment.

After two weeks pass, O’Connor resigns from his cabinet post, and at the hearing which followed the three week adjournment period, it is revealed that the Minister, Mr Brian

O'Connor, had no intention of meeting the commitments he had made in court. He was simply trying to push the issue out of the media's attention until after the peak of the coronavirus pandemic.

The new minister, Mrs Bridget Flaherty, promises to provide the facilities in another three months, but Mr Daniel Wolf, along with five hundred other citizens in a similar situation as Daniel and his children, decide to seek judicial remedies against the new minister and the State that would require the new minister to provide the healthcare facilities and the education-related facilities and equipment within a shorter period of time. Plaintiffs suggest 3 weeks.

Explain in detail why the High Court should or should not grant a declaratory order and/or a mandatory order? Come to the tutorial with written answers (supported by legal authority, precedent, and policy arguments) for the question posed. Be prepared to discuss the questions and to speak about your answers.