JUSTICIA
EUROPEAN RIGHTS NETWORK

KNOW YOUR RIGHTS ON ACCESS TO A LAWYER

GRACE MULVEY

THE **JUSTICIA** EUROPEAN RIGHTS NETWORK IS COORDINATED
BY THE IRISH COUNCIL FOR CIVIL LIBERTIES **WWW.ICCL.IE**

Irish Council for
Civil Liberties

9 – 13 BLACKHALL PLACE
DUBLIN 7
D07 P2NX
IRELAND

T +353 1 799 4504
F +353 1 799 4512
E INFO@EUJUSTICIA.NET

WWW.EUJUSTICIA.NET

ABOUT THE AUTHOR

Grace Mulvey joined the ICCL's Legal Research & Policy team in April 2012. As ***JUSTICIA*** Programme Manager, Grace is responsible for the management and delivery of the trans-European Network's extensive programmatic areas of work. In her capacity as Research and Policy Officer (Justice) Grace works on justice matters domestically. Grace holds a degree in Law and German, and an LLM (Criminal Justice Clinical Programme) from University College Cork, Ireland. She was admitted to the New York Bar in 2011 and is a qualified attorney in the USA. She is currently undertaking the Barrister-at-Law degree at the Honorable Society of King's Inns in Dublin and expects to qualify in June 2016. Before joining the ICCL, Grace worked for Nasc, the Irish Immigrant Support Centre, Cork in its Legal Clinic, where she also established a racism reporting mechanism within the Cork region. In addition, Grace has previously served as an intern in the Criminal Justice and Human Rights Section of the Department of the Attorney General in Ireland, and in the Juvenile Dependency Court in Los Angeles, USA.

This publication has been produced with the financial support of the Criminal Justice Programme of the European Union. The content of this publication is the sole responsibility of the ***JUSTICIA*** European Rights Network, the implementing beneficiary, and can in no way be taken to reflect the views of the European Commission.

CONTENTS

1 KEYWORDS

ACCUSED PERSON
A person who has been formally charged by the prosecutor with a crime, but on whom a court has not yet passed a judgment or decision.

ADOPTION
When a Directive comes into law.

APPEAL
A challenge in a higher court against a decision of a lower court.

CASE
A legal dispute between two parties (individuals or organisations) that is resolved by a court or by some other legal process.

COMMON POSITION
Outline of the EU's approach to specific subjects, or certain issues of geographical character. Member States must amend their national policies to reflect the common positions. Please see also "Member State".

COMPETENT AUTHORITIES
Any person or organisation that has the legal authority to perform a certain function.

CONCILIATION
A final decision-making procedure which begins when the Council of the European Union fails to approve all the amendments adopted by the European Parliament. Its purpose is to reach a joint text or compromise on amendments which can then be approved by the Council and the Parliament. Please see also "Council of the European Union" and "European Parliament".

CONSULAR AUTHORITIES
The officials appointed by a Government to live and work in a foreign country representing their own country and assisting their fellow citizens in that foreign country.

COUNCIL OF THE EUROPEAN UNION

The EU institution where the Member States' government representatives sit, i.e. the Ministers of each Member State with responsibility for a given area. It is a key decision-maker in the legislative process along with the European Parliament. Please see also "Member State" and "European Parliament".

COURT OF JUSTICE OF THE EUROPEAN UNION

The Court of Justice hears cases between European Union Member States and European Union institutions. Individuals, companies or organisations can also bring a case to the court if they feel that their rights have been violated by an EU institution. The Court ensures that EU law is being applied in the same way in all European Union Member States. Please see also "Member State".

CRIMINAL OFFENCE

An act or omission provided for by the criminal laws of a country, breach of which can result in a conviction.

CRIMINAL PROCEDURAL LAW

The law governing a criminal case from the moment of investigation until the completion of court proceedings.

CRIMINAL PROCEEDINGS

Legal action occurring following the commission of a criminal offence. Please see also "Criminal Offence".

CROSS BORDER CRIMINALITY

Where crime occurs in more than one country; or where the criminal offence is committed in one country, but the accused person or suspected person is no longer in that country; or where the effects of the criminal offence were felt beyond the country where the criminal offence was committed. Please see also "Criminal Offence".

DEPRIVED OF LIBERTY/DETAINED

To be obliged to remain with law enforcement officials, for example if you are held by the police, or held in prison.

DIRECTIVE

A European Union law that binds Member States. A Directive may grant rights to EU citizens that can be enforced by the courts in EU Member States. The European Commission can also take infringement proceedings against an EU Member State for failure to implement a Directive. Please see also "infringement proceedings", "Member State" and "European Commission".

DOMESTIC LAW

The national law of a country.

EUROPEAN ARREST WARRANT

An arrest warrant which is valid in all European Union Member States. It is used when one Member State seeks the return of a suspected or convicted person from another Member State. Please see also "Member State".

EUROPEAN COURT OF HUMAN RIGHTS (ECTHR)

The court that hears cases from people whose rights under the European Convention on Human Rights have been affected. Please see "European Convention on Human Rights".

EUROPEAN CONVENTION ON HUMAN RIGHTS (ECHR)

The international agreement establishing the European Court of Human Rights and setting out the rights and freedoms that are to be enjoyed by everyone living on the territory of States that have agreed to be bound by it. Countries that have signed up to it promise to protect the human rights and fundamental freedoms of every person.

EUROPEAN COMMISSION

The body of the European Union that represents the interests of the European Union. It puts forward new legislation to the European Parliament and to the European Council, and it ensures that Member States are correctly applying EU law. Please see also "European Parliament", "Council of the European Union" and "Member State".

EUROPEAN PARLIAMENT

The Parliament of the European Union. It works with the Council of the European Union and the European Commission to exercise its legislative function. Please see also "Council of the European Union" and "European Commission".

EXECUTING MEMBER STATE

The country that is implementing the European Arrest Warrant because it is the country in which the suspected or convicted person currently is present. Please see also "European Arrest Warrant".

IMPLEMENTATION

To make law effective.

INFRINGEMENT PROCEEDINGS

The legal proceedings that the European Commission can start against a Member State if the Commission considers that the Member State has not fulfilled its obligations under European Union Law. Please see also "Member State" and "European Commission".

ISSUING MEMBER STATE

The country that has issued a European Arrest Warrant to the Executing Member State for the return of a suspected or accused person. The person's requested return is for the purpose of prosecution or punishment for a criminal offence they have been convicted of. Please see also "European Arrest Warrant", "Executing Member State", "Accused Person", "Suspected Person" and "Criminal Offence".

JUDICIAL AUTHORITY

An authority which interprets and applies the law.

LEGAL AID

The provision of a State funded lawyer to an accused or suspected person who is unable to pay for their own lawyer. Please see also "Accused Person" and "Suspected Person".

LEGISLATION

Law passed by a national parliament.

LEGISLATIVE PROPOSAL

The early draft of a piece of legislation that is voted upon and amended by the institutions of the European Union. After passing through the decision-making process of ordinary legislative procedure and being adopted, the legislative proposal becomes a Directive. Please see also "Ordinary Legislative Procedure" and "Directive".

MEPS

MEPs or Members of European Parliament are the directly-elected representatives of EU Member States. Please see also "Member State" and "European Parliament".

MEMBER STATE

A country that is a member of the European Union.

OFFICIAL JOURNAL OF THE EUROPEAN UNION

Published every working day in all of the official languages of the European Union. It notifies Member States of newly published legislative proposals. A Directive is not binding until it is published in the Official Journal of the European Union. Please see also "Directive", "Member State" and "Legislative Proposal".

ORDINARY LEGISLATIVE PROCEDURE

The main legislative procedure of the EU's decision-making process. It refers to the process by which a Directive moves through the EU institutions, is voted upon, amended and is eventually signed into law. Please see also "Directive".

PLENARY SESSION

Large monthly meetings of the European Parliament which bring together all the MEPs, Committees and political groups of the Parliament to present the results of their work on a legislative proposal. MEPs debate the legislative proposal and vote on amendments. Please see also "MEPs" and "Legislative Proposal".

PROCEDURAL RIGHTS

The rights an accused or suspected person has within the criminal justice system, from the moment of investigation until the completion of the court proceedings. Please see also "Accused Person" and "Suspected Person".

RAPPORTEUR

The Member of European Parliament (MEP) who is responsible for preparing a report on a legislative proposal. Please see also "MEP" and "Legislative Proposal".

RECITALS

Opening statements introducing a Directive. Please see also "Directive".

REQUESTED PERSON

The person the Executing Member State wants to return to the Issuing Member State. Please see also "Executing Member State" and "Issuing Member State".

SUSPECTED PERSON

A person whom a prosecutor believes may have committed a crime, but has not yet been formally charged.

SWEDISH ROADMAP ON PROCEDURAL RIGHTS

A plan of action outlining measures to promote the protection of the rights of suspected and accused persons in criminal proceedings, on an equal basis, across all Member States of the European Union. Please see also "Accused Person", "Suspected Person" and "Member State" and "Domestic Law".

TRANSPOSITION

When Member States modify their domestic law to give effect to a European legislative Act in their country. Please see also "Member State" and "Domestic Law".

TREATY

An international legal agreement between countries.

TRILOGUES

Informal meetings attended by representatives of the European Parliament, the Council and the Commission during which they try to reach agreement on a package of amendments to a legislative proposal. Please see also “European Parliament”, “Council of the European Union” and “Legislative Proposal”.

2 GENERAL INFORMATION

Currently Criminal Law and Procedure differs greatly from one Member State to the next. This effectively means that the rights of accused and suspected persons in criminal proceedings also differ greatly from one Member State to the next. It is important that these rights are the same across the European Union not only because of the movement of European citizens within the EU to live, work, study or holiday, but also due to the increase in cross border criminality between Member States. It was decided that the best way to lay down minimum standards for the protection of such rights, was in a series of steps through the implementation of the "Swedish Roadmap", which aims to make the rights of accused and suspected persons in criminal proceedings similar across the European Union. Please see "Background to the Directive on the Right to Access a Lawyer" for further information.

This pack outlines the rights set out in the third measure of the "Swedish Roadmap", i.e. *the Directive 2013/48/EU on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty,* [hereinafter the "Directive on the Right to Access a Lawyer"].

This booklet is the third of the ***JUSTICIA*** Know Your Rights Guide series on EU criminal justice area. The ***JUSTICIA*** European Rights Network is a pan European Network consisting of 19 Network Member organisations at present: Associazione Antigone Onlus (Italy), Association for the Defence of Human Rights in Romania – the Helsinki Committee, Bulgarian Helsinki Committee, Civil Rights Defenders (Sweden), Croatian Law Centre, Estonian Human Rights Centre, Greek Helsinki Monitor, Helsinki Foundation for Human Rights (Poland), Human Rights Monitoring Institute (Lithuania), Hungarian Helsinki Committee, Irish Council for Civil Liberties, KISA - Action for Equality, Support, Antiracism (Cyprus), Latvian Centre for Human Rights, League of Human Rights (Czech Republic), Ludwig Boltzmann Institute of Human Rights (Austria), Open Society Institute Budapest Foundation (trans-national), Rights International Spain, Statewatch (trans-national) and The Peace Institute (Slovenia). The Network works to improve the rights of all European citizens involved in the criminal justice process across the Member States. For more information please see our website www.eujusticia.net . Please also see the "Useful Contacts" page in this booklet for the contact details of the individual ***JUSTICIA*** European Rights Network partner organisations.

3 HOW ARE EU DIRECTIVES MADE?

A Directive is a piece of European law that sets out legal obligations for EU Member States. A Directive begins as a legislative proposal or a proposal for a Directive which is voted upon and amended in a European Union decision-making procedure called "Ordinary Legislative Procedure". In this procedure, the directly elected European Parliament together with the Council of the European Union (the representing governments of the "28 EU Member States") is asked to approve a draft law. Ordinary legislative procedure refers to the process by which a Directive moves through the EU institutions, is voted upon or amended and is eventually signed into law. The steps of this process are set out below:

1. PROPOSAL

Usually, it is the European Commission which puts forward a legislative proposal. This often takes place after a consultation process with experts in the area. However, the European Parliament may also propose legislation and, in the case of the Area of Freedom, Security and Justice, the proposal may come from either the Commission or from a quarter of the Member States. The proposal is published in the Official Journal of the European Union and is sent to the European Parliament, the Council of the European Union and to national Parliaments.

2. FIRST READING IN EUROPEAN PARLIAMENT

When the legislative proposal is sent to the European Parliament the Parliament adopts an initial position. The proposal is then assigned to a Committee of the Parliament in the relevant area (e.g., in the case of the Directive on the Right to Access a Lawyer, the file was assigned to the Committee on Civil Liberties, Justice and Home Affairs). A Rapporteur is assigned to prepare a draft report for discussion within the political groups of Parliament. The Directive is then discussed at a plenary session of the European Parliament. Plenary sessions bring together all the MEPs, Committees and political groups to present the results of their work on the legislative proposal. MEPs debate the piece of legislation and vote on amendments. At the plenary session, the Parliament adopts its position on the legislative proposal by a simple majority. This may contain amendments to the original legislative proposal.

If the Parliament's position does not contain any amendments, and if the Council has also accepted the original proposal, the legislative proposal can be adopted at this stage.

3. AMENDED PROPOSAL BY THE EUROPEAN COMMISSION

At this stage the Commission can alter its legislative proposal to incorporate amendments of the European Parliament which they believe would improve the proposal and allow it to reach an agreement as swiftly as possible.

4. COUNCIL FIRST READING

The Council reading and its preparatory work runs at the same time as the discussions in the Parliament. The Council may only adopt a position after the European Parliament has acted. When they have considered the European Parliament's proposal (amended or unamended) the Council may either choose to adopt the legislative proposal or to adopt a common position. This happens when the Council does not share the views expressed by Parliament. This "common position" is forwarded to the European Parliament together with a statement of reasons. At this stage, the Commission also informs Parliament of its opinion on the Council's common position.

Wherever possible, informal meetings of representatives from all the three institutions called "trilogues" are held before the Council gives the final notification of its common position. These are held in order to try speed up the process and to reach an agreement on a package of amendments. Any agreement must then be approved through the formal procedures.

5. EUROPEAN PARLIAMENT SECOND READING

At the second reading, the Parliament examines the Council's common position. It can approve or reject the Council's common position, in which case the proposal is either adopted or closed definitively. It can also propose amendments to the Council's common position. This position then goes back to the Council and the

Commission. If the Council approves all of Parliament's amendments, the legislative proposal can be adopted.

If the Council does not accept all of Parliament's amendments, Parliament is informed and a procedure called "conciliation" is launched.

6. CONCILIATION AND THIRD READING

If the legislative proposal could not be adopted in the first two readings, "conciliation" begins. A committee of representatives of the 28 Member States and an equal number of Members of the European Parliament (MEPs) come together to consider the Council position and Parliament's amendments from the second reading. Negotiations are conducted during informal trilogues involving small teams of negotiators from each institution, with the Commission playing a mediating role. It then has six weeks to find a compromise and to draw up a joint text. If it does not agree on a joint text then the act is deemed not to have been adopted. If the Conciliation Committee does approve a joint text, it is given to the Council and the Parliament for their approval. After both institutions have approved the text, the legislative proposal is signed, published and becomes a Directive.

4 BACKGROUND TO THE DIRECTIVE ON THE RIGHT TO ACCESS A LAWYER

Where did the Directive on the Right to Access a Lawyer come from?

In the European Union, the protection of the rights of suspected and accused persons in criminal proceedings is based on the European Convention on Human Rights. The Directive on the Right to Access a Lawyer is the third measure of the "Swedish Roadmap". The Swedish Roadmap builds on the European Convention on Human Rights. The content of the right to access a lawyer and communicate upon arrest is inferred from the case law of the European Court of Human Rights.

The Swedish Roadmap is a resolution that calls for the adoption of a series of measures to safeguard the right to a fair trial in all Member States, by laying down minimum standards for the protection of the rights of suspected and accused persons in criminal proceedings. It takes a step-by-step approach and outlines solutions in the form of measures, the implementation of which will align the procedural rights of suspected and accused persons in criminal proceedings in all Member States, and will deal with the issue of cross border criminality.

After a Member State has signed up to a Directive, what are its obligations?

After the adoption of the Directive, a Member State is obliged to transpose the Directive into its domestic law within a deadline (usually two or three years from the date of the Directive's publication in the Official Journal of the European Union). For example, a Member State must have implemented at least the minimum standards as laid down by the Directive.

How should a Member State implement and interpret a Directive?

Member States are afforded some discretion on how to interpret and implement certain provisions of a Directive beyond the minimum standards which must apply. Member States are free to extend the rights beyond the minimum standards provided for in the Directive.

How does the European Union ensure a Member State's compliance with the provisions of a Directive?

Once the transposition date has passed, the European Commission assesses the extent to which each Member State has put in place measures or, if necessary, legislative proposals in order to comply with the Directive. Each Member State sends its officially adopted texts which implement the Directive in its country to the European Commission. The European Commission examines these texts to ensure that the Member State is in fact complying with the Directive.

What happens if a Member State has not fulfilled its obligations once the transposition date has passed?

The European Commission decides, after the evaluation, whether or not to begin infringement proceedings against a Member State. This could lead to proceedings in the Court of Justice of the European Union. Individuals can also take action.

What action can I take?

You can lodge a complaint with the European Commission against your Member State or the Member State where you are being detained or have been arrested, requesting that the European Commission begin infringement proceedings against it. Your own rights do not need to be violated for this action to be taken.

Please see the website links to direct you to the necessary webpage:
http://ec.europa.eu/atwork/applying-eu-law/complaint_form_en.htm
http://ec.europa.eu/eu_law/your_rights/your_rights_en.htm

5 YOUR GUIDE TO THE DIRECTIVE ON THE RIGHT TO ACCESS A LAWYER

What is the Directive on the right to access a lawyer?

The Directive was adopted in October 2013. It is European Union law that is binding in 25 out of 28 European Union Member States. Denmark, Ireland and the United Kingdom have not signed up to this Directive. Member States are obliged to implement this Directive in their country before a fixed deadline.

You can find a copy of the Directive on the website www.eujusticia.net.

When does the Directive apply?

The Directive will only apply to cases held in front of a criminal court.

The Directive applies from the moment you are made aware that you are suspected or accused of having committed a criminal offence in any Member State (except Denmark, Ireland and the United Kingdom) until the final determination of whether or not you have actually committed the criminal offence. This includes sentencing and the decision of any appeal. The Directive applies regardless of whether you are deprived of your liberty or not. This is also regardless of your legal status, citizenship or nationality.

The Directive also applies to you if you become a suspect or accused person during questioning by police or other law enforcement authorities. In this situation your questioning must stop immediately and can only be continued when you are made aware that you are now a suspect or accused person and are entitled to the rights under this Directive.

Lastly, the Directive applies to you if you are arrested under a European Arrest Warrant in the executing Member State.

When does the Directive not apply?

The Directive does not apply if you are suspected or accused of the following:

- A minor offence in a prison;
- A criminal offence in a military context dealt with by a commanding officer;
- A minor offence and if, in your Member State, an authority other than a court can impose a sanction in these cases, for example minor traffic offence.

If you are suspected or accused of committing a minor offence, then this Directive does not apply. However, if there is an appeal to, or if the case is referred to a court that has the power to try criminal matters, then the Directive does apply but only in relation to proceedings before the criminal court.

Nevertheless, the Directive applies in all cases where you can be deprived of liberty as a sanction.

Are there any special protections for vulnerable suspected or accused persons in the Directive?

Member States must ensure that the particular needs of vulnerable suspects and vulnerable accused persons are taken into account when applying this Directive.

What types of rights does the Directive protect?

The Directive lays down minimum rights for suspected or accused persons across the European Union in criminal proceedings relating to the following rights:

- the right of access to a lawyer in criminal proceedings;
- the right of access to a lawyer in European Arrest Warrant proceedings;
- the right to have a third party (e.g. a relative or employer) informed upon deprivation of liberty;
- the right to communicate with third persons while deprived of liberty;
- the right to communicate with consular authorities while deprived of liberty.

Does the Directive create new rights in my Member State?

It depends on your Member State. The Directive makes sure that the criminal procedural law standards are the same for suspected and accused persons across European Union Member States. It lays down minimum rights for an accused or suspected person in criminal proceedings to access a lawyer; have a third party informed of their deprivation of liberty; and communicate with third persons, and consular authorities when detained.

Certain rights contained in the Directive may already be part of your Member State's domestic law. In this case, this Directive will strengthen these rights by obliging Member States to keep these rights in place. Please see the back of the booklet for the contact details of an organisation in your Member State that will be able to advise you on how this Directive will affect the domestic law in your own country.

What is the final date for Member State transposition?

Member States have until 27 November 2016 to modify their domestic law to give effect to the Directive in their country. For further information on what happens if a Member State has not fulfilled its obligations once the transposition date has passed, please see Section 4 of this booklet.

In which Member States does the Directive currently apply?

Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden.

Note: Denmark, Ireland and the United Kingdom did not sign up to this Directive. Therefore Denmark, Ireland and the United Kingdom are not obliged to participate in the adoption and application of the Directive on the Right to Access a Lawyer.

6 RIGHTS CONTAINED IN THE DIRECTIVE ON THE RIGHT TO ACCESS A LAWYER

A. RIGHT TO ACCESS A LAWYER

When do I have a right to access my lawyer?

As a suspected or accused person you have the right to access your lawyer without undue delay. This means you have the right to access your lawyer from whichever point of time is the earliest:

(a) Before you are questioned by the police, other law enforcement or judicial authority;

(b) When the authorities are carrying out investigative or evidence gathering acts;

(c) When you have been deprived of your liberty;

(d) When you have been ordered by summons to appear before a criminal court, you have a right to access your lawyer in due time before you appear before that court.

What if I am being questioned but I am not yet an official suspect or accused person?

The right to access a lawyer also applies to you if you become a suspect or accused person during questioning by police or other law enforcement authorities. In this situation your questioning must stop immediately and can only be continued when you are made aware that you are now a suspect or accused person and are entitled to the rights under this Directive.

Who is regarded as a "lawyer"?

A "lawyer" is anyone who is qualified and entitled in accordance with national law to give legal advice and assistance to suspects or accused persons.

What if I do not know which lawyer to contact?

If you do not know who to contact, your Member State must give you general information to help you to find a lawyer, for example on a website or on a leaflet which is available at the police station. This could include arranging a lawyer on the basis of a list of available lawyers from which you can choose.

How must this right be given to me?

If you are suspected or accused or a crime, your Member State must allow you to access a lawyer so you can exercise your defence rights in a practical and effective way. Member States have to make the necessary arrangements to ensure that suspects or accused persons deprived of their liberty are in a position to exercise their right effectively.

Is my communication with my lawyer confidential?

Yes. All communications between you and your lawyer are confidential. This includes meetings, correspondence, telephone conversations and other forms of communication allowed under national law. You have the right to meet your lawyer in private.

However your communications with your lawyer will not be confidential:

- If there are objective and factual circumstances that create a suspicion that your lawyer is involved with you in a criminal offence; or
- If there is lawful surveillance.

This does not apply to any procedures in detention centres that monitor unlawful communications, as long as this does not allow the authorities to read any communication between yourself and your lawyer.

How long and how often can I meet and communicate with my lawyer?

Your Member State may make practical arrangements about the length and number of these meetings, as well as the means of communication including the use of video-conferencing and other communication technology. The Member State may also make arrangements to ensure the safety and security of you and your lawyer in the location of your meeting. However any such arrangements should not prejudice your right to communicate with your lawyer.

Can I meet my lawyer before I am questioned by the police, other law enforcement or judicial authority?

Yes. You have the right to meet in private and communicate with your lawyer prior to any questioning.

Can my lawyer sit with me while I am being questioned and can my lawyer speak during the questioning?

Your lawyer must be allowed to remain with you when you are being questioned. Your lawyer must also be allowed to participate effectively during questioning. Such participation is in accordance with national law, and may include asking questions, requesting clarifications, and making statements.

However, this right does not extend to preliminary questioning if the purpose of this questioning is to:

- Identify you;
- Verify the possession of weapons or other safety issues;
- Determine whether an investigation should be started, for example during a road-side check.

What happens if I must attend an investigative or evidence-gathering act, for example an identity parade?

If, in accordance with your national law, a suspect or accused person must attend the following investigative or evidence-gathering acts, then your lawyer must also be present at:

- Identity parades;
- Confrontations;
- Reconstructions of the crime scene.

Can I choose not to have a lawyer?

Unless your national law requires you to have the assistance of a lawyer or your lawyer to be present, you can choose not to exercise your right to a lawyer. Your Member State must firstly give you clear and sufficient information explaining your right to access a lawyer and the consequences if you decide not to have a lawyer. This information can be given verbally or in writing and must be in a simple and understandable language. You must also be told that you can change your mind at any time during the criminal proceedings.

You are then free to choose not to have a lawyer. If you are under 18 years of age you are also allowed to make this decision. This decision can be made verbally or in writing and must only be accepted if it is voluntary and clear. Your decision and its circumstances such as your age, mental and physical condition must be recorded in accordance with national law.

If I previously decided not to have a lawyer, can I change my mind?

Yes. You can change your mind at any time during the criminal proceedings and this will have effect from the moment you indicate you have changed your mind. However, your Member State will not have to repeat any questioning or other procedural actions that took place during the time when you decided not to have a lawyer.

What if I cannot pay for a lawyer?

The right to free legal assistance will only arise in certain circumstances, however this Directive does not cover rules on legal aid. The European Commission is currently progressing a legislative proposal on legal aid, which is expected to be adopted soon. Until this EU law has been adopted, your national law will apply, which should be in line with European standards.

The ECHR states, in Article 6 (3) (c) that if you do not have sufficient means to pay for legal assistance then you should be given it free when the interests of justice require it.

Can my right to access a lawyer ever be delayed or limited?

Yes. Your right to access a lawyer can be temporarily delayed or limited in the following circumstances:

(i) If you are in a geographically remote area:

If you are in a geographically remote area your Member State can temporarily delay your right to access a lawyer.

This is exceptional and is only permitted at pre-trial stage. In such circumstances any questioning and investigative or evidence-gathering acts should be postponed until access to a lawyer can be arranged.

(ii) There are compelling reasons:

Your Member State can temporarily delay or limit your right to access a lawyer in exceptional cases justified by the circumstances of the case. This may occur only at the pre-trial stage and only for the following compelling reasons:

- There is an urgent need to prevent serious adverse consequences for the life, liberty or physical integrity of a person;
- Immediate action by the investigating authorities is vital to preven substantial jeopardy to criminal proceedings, in particular to prevent destruction or alteration of essential evidence or interference with witnesses.

If the above compelling reasons exist then you can be questioned without your lawyer. However the authorities must still inform you of your right to remain silent and allow you to exercise this right, and this questioning must not prejudice your defence rights. In addition, the authorities are not allowed to question you about all aspects of the offence. The authorities are only allowed to question you for the sole purpose of getting information required to:

- Prevent serious adverse consequences for the life, liberty or physical integrity of a person; or,

- Prevent substantial jeopardy to criminal proceedings, in particular to prevent destruction or alteration of essential evidence or interference with witnesses.

Who decides if your right to access a lawyer should be delayed or limited temporarily?

A reasoned decision must be made by a judicial authority or another competent authority (as long as this can be judicially reviewed) on a case-by-case basis, and must be recorded in accordance with national law.

Any temporary delay or limitation must

- Be proportionate and not go beyond what is necessary;
- Be strictly limited in time;
- Not be based exclusively on the type or the seriousness of the alleged offence; and
- Not prejudice the overall fairness of the proceedings.

B. RIGHT TO HAVE A THIRD PARTY INFORMED OF THE DEPRIVATION OF LIBERTY

Apart from my lawyer, who else must be informed of my deprivation of liberty?

You have the right to choose to have at least one other person informed that you are deprived of your liberty, for example, a relative or an employer. This should be done without delay.

Who must be informed of my deprivation of liberty if I am under 18 years of age?

If you are under 18 years of age your parent or guardian must be informed about your deprivation of liberty. This must be done as soon as possible. If it is considered against your best interests to inform your parent or guardian another suitable adult, for example a relative, must be informed. Your parent or guardian must be informed of the reasons behind your detention.

Can my right to have a third party informed ever be delayed or limited?

Yes. Your Member State can temporarily delay or limit your right to have a third party informed about your deprivation of liberty where justified by the circumstances of the case and only for the following compelling reasons:

- There is an urgent need to prevent serious adverse consequences for the life, liberty or physical integrity of a person;
- Urgent action by the investigating authorities is vital to prevent substantial jeopardy to criminal proceedings.

If you are under 18 years and one of the above compelling reasons exist, then the authority responsible for the protection or welfare of children must be informed without undue delay of your deprivation of liberty.

Who decides if my rights to have a third party informed should be temporarily delayed or limited?

A decision must be made by a judicial authority or another competent authority (as long as this can be judicially reviewed) on a case-by-case basis.

Any temporary delay or limitation must:

- Be proportionate and not go beyond what is necessary;
- Be strictly limited in time;
- Not be based exclusively on the type or the seriousness of the alleged offence; and
- Not prejudice the overall fairness of the proceedings.

C. RIGHT TO COMMUNICATE WITH THIRD PERSONS WHILE DEPRIVED OF LIBERTY

Apart from my lawyer, who else can I contact when I am deprived of my liberty?

You have the right to contact at least one other person, for example a relative. You must be allowed choose who you wish to contact and must be allowed make this contact without delay.

Your Member State can make arrangements regarding the timing, means, duration and frequency of your communication with your chosen person.

Can my right to contact a third party ever be delayed or limited?

Yes. Your right to communicate with a person can be delayed or limited if this is required to:

- Prevent serious adverse consequences for the life, liberty or physical integrity of a person;
- Prevent prejudice to criminal proceedings;
- Prevent a criminal offence;
- Await a court hearing; and,
- Protect victims of crime.

When the authorities are deciding whether to limit or delay this right they should first consider if you could choose another person to communicate with.

D. RIGHT TO COMMUNICATE WITH CONSULAR AUTHORITIES

Do I have the right to communicate with my consular authorities of the State of my nationality?

Yes. If you are a non-national of the country where you are detained then the Member State must inform your consular authorities of your detention. This must be done without delay. You also have the right to communicate with these consular authorities. If you have two or more nationalities then you can choose which consular authorities you want to be informed and communicate with.

Do I have the right to receive visits from my consular authorities?

Yes. You have the right to be visited by your consular authorities. You also have the right to speak and write to them, as well as the right to have legal assistance arranged by them, subject to the agreement of the authorities.

What if I do not want to inform, communicate with or receive visits or assistance from my consular authorities?

You can decide not to have any consular authorities informed. You can also decide not to communicate with or receive visits or assistance from your consular authorities.

E. EUROPEAN ARREST WARRANT

What rights do I have as a requested person in the Executing Member State?

(i) The right to access a lawyer:

You have the right to access a lawyer upon arrest in the Executing Member State. This must occur without delay from the moment you are deprived of your liberty. This must occur in a manner that allows you to exercise your rights effectively.

All of your communications with your lawyer must be confidential. Please see Section 6.A for further information on confidentiality of your communications.

You can choose not to have a lawyer. Please see Section 6.A for further information on how to make this decision.

(ii) The right to communicate with my lawyer:

You have the right to meet and communicate with your lawyer in the Executing Member State.

(iii) The right to have my lawyer present during any hearing:

You have the right to have your lawyer present and to participate at your hearings in accordance with national law. Any participation may be recorded in accordance with national law. If your lawyer participates in your hearing before a judicial authority, your lawyer can ask questions, request clarifications and make statements, in accordance with national law.

(iv) The right to have a third party informed of your deprivation of liberty:

You have the right to have a third party iinformed of your deprivation of liberty. Please see Section 6.B for further information on this right.

(v) The right to communicate with third persons when deprived of liberty:

You have the right to communicate with third persons when deprived of liberty. Please see Section 6.C for further information on this right.

(vi) The right to communicate with consular authorities:

You have the right to communicate with consular authorities. Please see Section 6.D for further information on this right.

How long and how often can I meet with my lawyer?

Please see Section 6.A for further information.

Who informs me of my right to access a lawyer in the Issuing Member State?

The competent authority in the Executing Member State must inform you of your right to appoint a lawyer in the Issuing Member State. You must be informed without delay after your deprivation of liberty.

What if I do not know a lawyer in the Issuing Member State?

A competent authority in the Executing Member State must promptly inform the competent authority in the Issuing Member State of your request for a lawyer in the Issuing Member State. The Issuing Member State must then provide you with information to help you appoint a lawyer in the Issuing Member State. This must be done without delay. This information could be a current list of lawyers or the name of a lawyer on duty in the Issuing Member State who can give information and advice in European Arrest Warrant cases.

What is the role of my lawyer in the Issuing Member State?

The role of your lawyer in the Issuing Member State is to assist your lawyer in the Executing Member State, for example providing information and advice.

F. REMEDIES

What can I do if a Member State breaches my right under the Directive?

The Member State must ensure that you have an effective remedy under national law. This also applies if you are subject to a European Arrest Warrant.

If a right under this Directive is breached, can the information obtained during that breach be admitted during my trial?

The Member State must ensure that your rights of defence and the fairness of the criminal proceedings are respected when considering statements made by you or evidence obtained in breach of your right to a lawyer. They must also consider this in cases where your right to a lawyer has been delayed or limited.

This will not affect the use of statements allowed for other purposes under national law, such as:

- The need to carry out urgent investigative acts to avoid other offences happening;
- To prevent serious adverse consequences for any person;
- To prevent substantial threat to criminal proceedings where allowing access to a lawyer or delaying the investigation would permanently prejudice the ongoing investigations of a serious crime.

This also does not affect national law regarding admissibility of evidence. This should not prevent Member States from having a system where all existing evidence can be presented before a court or a judge, without there being any separate or prior evaluation about the admissibility of this evidence.

ANNEX 1 : TEXT OF THE DIRECTIVE

DIRECTIVE 2013/48/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 22 October 2013
on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular point (b) of Article 82(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee [(1)],

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure [(2)],

Whereas:

1. Article 47 of the Charter of Fundamental Rights of the European Union (the Charter), Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (the ECHR) and Article 14 of the International Covenant on Civil and Political Rights (the ICCPR) enshrine the right to a fair trial. Article 48(2) of the Charter guarantees respect for the rights of the defence.

2. The Union has set itself the objective of maintaining and developing an area of freedom, security and justice. According to the Presidency conclusions of the European Council in Tampere of 15 and 16 October 1999, and in particular point (33) thereof, the principle of mutual

(1) OJ C 43, 15.2.2012, p. 51.
(2) Position of the European Parliament of 10 September 2013 (not yet published in the Official Journal) and decision of the Council of 7 October 2013.

recognition of judgments and other decisions of judicial authorities should become the cornerstone of judicial cooperation in civil and criminal matters within the Union because enhanced mutual recognition and necessary approximation of legislation would facilitate cooperation between competent authorities the judicial protection of individual rights.

3. Pursuant to Article 82(1) of the Treaty on the Functioning of the European Union (TFEU), 'judicial cooperation in criminal matters in the Union shall be based on the principle of mutual recognition of judgments and judicial decisions…'.

4. The implementation of the principle of mutual recognition of decisions in criminal matters presupposes that Member States trust in each other's criminal justice systems. The extent of the mutual recognition is very much dependent on a number of parameters, which include mechanisms for safeguarding the rights of suspects or accused persons and common minimum standards necessary to facilitate the application of the principle of mutual recognition.

5. Although the Member States are party to the ECHR and to the ICCPR, experience has shown that that alone does not always provide a sufficient degree of trust in the criminal justice systems of other Member States.

6. Mutual recognition of decisions in criminal matters can operate effectively only in a spirit of trust in which not only judicial authorities, but all actors in the criminal process consider decisions of the judicial authorities of other Member States as equivalent to their own, implying not only trust in the adequacy of other Member States' rules, but also trust that those rules are correctly applied. Strengthening mutual trust requires detailed rules on the protection of the procedural rights and guarantees arising from the Charter, the ECHR and the ICCPR. It also requires, by means of this Directive and by means of other measures, further development within the Union of the minimum standards set out in the Charter and in the ECHR.

7. Article 82(2) TFEU provides for the establishment of minimum rules applicable in the Member States so as to facilitate mutual recognition of judgments and judicial decisions and police and judicial cooperation in criminal matters having a cross-border dimension. That Article refers to 'the rights of individuals in criminal procedure' as one of the areas in which minimum rules may be established.

8. Common minimum rules should lead to increased confidence in the criminal justice systems of all Member States, which, in turn, should lead to more efficient judicial cooperation in a climate of mutual trust and to the promotion of a fundamental rights culture in the Union. Such common minimum rules should also remove obstacles to the free movement of citizens throughout the territory of the Member States. Such common minimum rules should be established in relation to the right of access to a lawyer in criminal proceedings, the right to have a third party informed upon deprivation of liberty and the right to communicate with third persons and with consular authorities while deprived of liberty.

9. On 30 November 2009, the Council adopted a Resolution on a Roadmap for strengthening the procedural rights of suspected or accused persons in criminal proceedings ('the Roadmap') [(1)]. Taking a step-by-step approach, the Roadmap calls for the adoption of measures regarding the right to translation and interpretation (measure A), the right to information on rights and information about the charges (measure B), the right to legal advice and legal aid (measure C), the right to communicate with relatives, employers and consular authorities (measure D), and special safeguards for suspects or accused persons who are vulnerable (measure E). The Roadmap emphasises that the order of the rights is only indicative and thus implies that it may be changed in accordance with priorities. The Roadmap is designed to operate as a whole; only when all its components are implemented will its benefits be felt in full.

(1) OJ C 295, 4.12.2009, p. 1.

10. On 11 December 2009, the European Council welcomed the Roadmap and made it part of the Stockholm programme — An open and secure Europe serving and protecting citizens [(2)] (point 2.4). The European Council underlined the non-exhaustive character of the Roadmap, by inviting the Commission to examine further elements of minimum procedural rights for suspects and accused persons, and to assess whether other issues, for instance the presumption of innocence, need to be addressed, in order to promote better cooperation in that area.

11. Two measures have been adopted pursuant to the Roadmap to date, namely 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 [(3)] and Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings [(4)].

12. This Directive lays down minimum rules concerning the right of access to a lawyer in criminal proceedings and in proceedings for the execution of a European arrest warrant pursuant to Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States [(5)] (European arrest warrant proceedings) and the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty. In doing so, it promotes the application of the Charter, in particular Articles 4, 6, 7, 47 and 48 thereof, by building upon Articles 3, 5, 6 and 8 ECHR, as interpreted by the European Court of Human Rights, which, in its case-law, on an on-going basis, sets standards on the right of access to a lawyer. That case law provides, inter alia, that the fairness of proceedings requires that a suspect or accused person be able to obtain the whole range of services specifically associated with legal assistance. In that regard, the lawyers of

(2) OJ C 115, 4.5.2010, p. 1.
(3) OJ L 280, 26.10.2010, p. 1.
(4) OJ L 142, 1.6.2012, p. 1.
(5) OJ L 190, 18.7.2002, p. 1.

suspects or accused persons should be able to secure without restriction, the fundamental aspects of the defence.

13. Without prejudice to the obligations of Member States under the ECHR to ensure the right to a fair trial, proceedings in relation to minor offending which take place within a prison and proceedings in relation to offences committed in a military context which are dealt with by a commanding officer should not be considered to be criminal proceedings for the purposes of this Directive.

14. This Directive should be implemented taking into account the provisions of Directive 2012/13/EU, which provide that suspects or accused persons are provided promptly with information concerning the right of access to a lawyer, and that suspects or accused persons who are arrested or detained are provided promptly with a written Letter of Rights containing information about the right of access to a lawyer.

15. The term 'lawyer' in this Directive refers to any person who, in accordance with national law, is qualified and entitled, including by means of accreditation by an authorised body, to provide legal advice and assistance to suspects or accused persons.

16. In some Member States an authority other than a court having jurisdiction in criminal matters has competence for imposing sanctions other than deprivation of liberty in relation to relatively minor offences. That may be the case, for example, in relation to traffic offences which are committed on a large scale and which might be established following a traffic control. In such situations, it would be unreasonable to require that the competent authorities ensure all the rights under this Directive. Where the law of a Member State provides for the imposition of a sanction regarding minor offences by such an authority and there is either a right of appeal or the possibility for the case to be otherwise referred to a court having jurisdiction in criminal matters, this Directive should therefore apply only to the proceedings before that court following such an appeal or referral.

17. In some Member States certain minor offences, in particular minor traffic offences, minor offences in relation to general municipal regulations and minor public order offences, are considered to be criminal offences. In such situations, it would be unreasonable to require that the competent authorities ensure all the rights under this Directive. Where the law of a Member State provides in respect of minor offences that deprivation of liberty cannot be imposed as a sanction, this Directive should therefore apply only to the proceedings before a court having jurisdiction in criminal matters.

18. The scope of application of this Directive in respect of certain minor offences should not affect the obligations of Member States under the ECHR to ensure the right to a fair trial including obtaining legal assistance from a lawyer.

19. Member States should ensure that suspects or accused persons have the right of access to a lawyer without undue delay in accordance with this Directive. In any event, suspects or accused persons should be granted access to a lawyer during criminal proceedings before a court, if they have not waived that right.

20. For the purposes of this Directive, questioning does not include preliminary questioning by the police or by another law enforcement authority the purpose of which is to identify the person concerned, to verify the possession of weapons or other similar safety issues or to determine whether an investigation should be started, for example in the course of a road-side check, or during regular random checks when a suspect or accused person has not yet been identified.

21. Where a person other than a suspect or accused person, such as a witness, becomes a suspect or accused person, that person should be protected against self-incrimination and has the right to remain silent, as confirmed by the case-law of the European Court of Human Rights. This Directive therefore makes express reference to the practical situation where such

a person becomes a suspect or accused person during questioning by the police or by another law enforcement authority in the context of criminal proceedings. Where, in the course of such questioning, a person other than a suspect or accused person becomes a suspect or accused person, questioning should be suspended immediately. However, questioning may be continued if the person concerned has been made aware that he or she is a suspect or accused person and is able to fully exercise the rights provided for in this Directive.

22. Suspects or accused persons should have the right to meet in private with the lawyer representing them. Member States may make practical arrangements concerning the duration and frequency of such meetings, taking into account the circumstances of the proceedings, in particular the complexity of the case and the procedural steps applicable. Member States may also make practical arrangements to ensure safety and security, in particular of the lawyer and of the suspect or accused person, in the place where such a meeting is conducted. Such practical arrangements should not prejudice the effective exercise or essence of the right of suspects or accused persons to meet their lawyer.

23. Suspects or accused persons should have the right to communicate with the lawyer representing them. Such communication may take place at any stage, including before any exercise of the right to meet that lawyer. Member States may make practical arrangements concerning the duration, frequency and means of such communication, including concerning the use of video- conferencing and other communication technology in order to allow such communications to take place. Such practical arrangements should not prejudice the effective exercise or essence of the right of suspects or accused persons to communicate with their lawyer.

24. In respect of certain minor offences, this Directive should not prevent Member States from organising the right of suspects or accused persons to have access to a lawyer by telephone. However, limiting the right in this way should be restricted to cases where a suspect or accused person will not be questioned by the police or by another law enforcement authority.

25. Member States should ensure that suspects or accused persons have the right for their lawyer to be present and participate effectively when they are questioned by the police or by another law enforcement or judicial authority, including during court hearings. Such participation should be in accordance with any procedures under national law which may regulate the participation of a lawyer during questioning of the suspect or accused person by the police or by another law enforcement or judicial authority, including during court hearings, provided that such procedures do not prejudice the effective exercise and essence of the right concerned. During questioning by the police or by another law enforcement or judicial authority of the suspect or accused person or in a court hearing, the lawyer may, inter alia, in accordance with such procedures, ask questions, request clarification and make statements, which should be recorded in accordance with national law.

26. Suspects or accused persons have the right for their lawyer to attend investigative or evidence-gathering acts, insofar as they are provided for in the national law concerned and in so far as the suspects or accused persons are required or permitted to attend. Such acts should at least include identity parades, at which the suspect or accused person figures among other persons in order to be identified by a victim or witness; confrontations, where a suspect or accused person is brought together with one or more witnesses or victims where there is disagreement between them on important facts or issues; and reconstructions of the scene of a crime in the presence of the suspect or accused person, in order to better understand the manner and circumstances under which a crime was committed and to be able to ask specific questions to the suspect or accused person. Member States may make practical arrangements concerning the presence of a lawyer during investigative or evidence-gathering acts. Such practical arrangements should not prejudice the effective exercise and essence of the rights concerned. Where the lawyer is present during an investigative or evidence-gathering act, this should be noted using the recording procedure in accordance with the law of the Member State concerned.

27. Member States should endeavour to make general information available, for instance on a website or by means of a leaflet that is available at police stations, to facilitate the obtaining of a lawyer by suspects or accused persons. However, Member States would not need to take active steps to ensure that suspects or accused persons who are not deprived of liberty will be assisted by a lawyer if they have not themselves arranged to be assisted by a lawyer. The suspect or accused person concerned should be able freely to contact, consult and be assisted by a lawyer.

28. Where suspects or accused persons are deprived of liberty, Member States should make the necessary arrangements to ensure that such persons are in a position to exercise effectively the right of access to a lawyer, including by arranging for the assistance of a lawyer when the person concerned does not have one, unless they have waived that right. Such arrangements could imply, inter alia, that the competent authorities arrange for the assistance of a lawyer on the basis of a list of available lawyers from which the suspect or accused person could choose. Such arrangements could include those on legal aid if applicable.

29. The conditions in which suspects or accused persons are deprived of liberty should fully respect the standards set out in the ECHR, in the Charter, and in the case-law of the Court of Justice of the European Union (the Court of Justice) and of the European Court of Human Rights. When providing assistance under this Directive to a suspect or to an accused person who is deprived of liberty, the lawyer concerned should be able to raise a question with the competent authorities regarding the conditions in which that person is deprived of liberty.

30. In cases of geographical remoteness of the suspect or accused person, such as in overseas territories or where the Member State undertakes or participates in military operations outside its territory, Member States are permitted to derogate temporarily from the right of the suspect or accused person to have access to a lawyer without undue delay after deprivation of liberty. During such a temporary derogation, the competent authorities should not question the person concerned or carry out any of

the investigative or evidence-gathering acts provided for in this Directive. Where immediate access to a lawyer is not possible because of the geographical remoteness of the suspect or accused person, Member States should arrange for communication via telephone or videoconference unless this is impossible.

31. Member States should be permitted to derogate temporarily from the right of access to a lawyer in the pre-trial phase when there is a need, in cases of urgency, to avert serious adverse consequences for the life, liberty or physical integrity of a person. During a temporary derogation on that ground, the competent authorities may question suspects or accused persons without the lawyer being present, provided that they have been informed of their right to remain silent and can exercise that right, and provided that such questioning does not prejudice the rights of the defence, including the privilege against self-incrimination. Questioning may be carried out for the sole purpose and to the extent necessary to obtain information that is essential to avert serious adverse consequences for the life, liberty or physical integrity of a person. Any abuse of this derogation would in principle irretrievably prejudice the rights of the defence.

32. Member States should also be permitted to derogate temporarily from the right of access to a lawyer in the pre-trial phase where immediate action by the investigating authorities is imperative to prevent substantial jeopardy to criminal proceedings, in particular to prevent destruction or alteration of essential evidence, or to prevent interference with witnesses. During a temporary derogation on that ground, the competent authorities may question suspects or accused persons without a lawyer being present, provided that they have been informed of their right to remain silent and can exercise that right, and provided that such questioning does not prejudice the rights of the defence, including the privilege against self-incrimination. Questioning may be carried out for the sole purpose and to the extent necessary to obtain information that is essential to prevent substantial jeopardy to criminal proceedings. Any abuse of this derogation would in principle irretrievably prejudice the rights of the defence.

33. Confidentiality of communication between suspects or accused persons and their lawyer is key to ensuring the effective exercise of the rights of the defence and is an essential part of the right to a fair trial. Member States should therefore respect the confidentiality of meetings and other forms of communication between the lawyer and the suspect or accused person in the exercise of the right of access to a lawyer provided for in this Directive, without derogation. This Directive is without prejudice to procedures that address the situation where there are objective and factual circumstances giving rise to the suspicion that the lawyer is involved with the suspect or accused person in a criminal offence. Any criminal activity on the part of a lawyer should not be considered to be legitimate assistance to suspects or accused persons within the framework of this Directive. The obligation to respect confidentiality not only implies that Member States should refrain from interfering with or accessing such communication but also that, where suspects or accused persons are deprived of liberty or otherwise find themselves in a place under the control of the State, Member States should ensure that arrangements for communication uphold and protect confidentiality. This is without prejudice to any mechanisms that are in place in detention facilities with the purpose of avoiding illicit enclosures being sent to detainees, such as screening correspondence, provided that such mechanisms do not allow the competent authorities to read the communication between suspects or accused persons and their lawyer. This Directive is also without prejudice to procedures under national law according to which forwarding correspondence may be rejected if the sender does not agree to the correspondence first being submitted to a competent court.

34. This Directive should be without prejudice to a breach of confidentiality, which is incidental to a lawful surveillance operation by competent authorities. This Directive should also be without prejudice to the work that is carried out, for example, by national intelligence services to safeguard national security in accordance with Article 4(2) of the Treaty on European Union (TEU) or that falls within the scope of Article 72 TFEU, pursuant to which Title V on an area of Freedom, Security and

Justice must not affect the exercise of the responsibilities incumbent upon Member States with regard to the maintenance of law and order and the safeguarding of internal security.

35. Suspects or accused persons who are deprived of liberty should have the right to have at least one person, such as a relative or an employer, nominated by them, informed of their deprivation of liberty without undue delay, provided that this does not prejudice the due course of the criminal proceedings against the person concerned or any other criminal proceedings. Member States may make practical arrangements in relation to the application of that right. Such practical arrangements should not prejudice the effective exercise and essence of the right. In limited, exceptional circumstances, however, it should be possible to derogate temporarily from that right when this is justified, in the light of the particular circumstances of the case, by a compelling reason as specified in this Directive. When the competent authorities envisage making such a temporary derogation in respect of a specific third person, they should firstly consider whether another third person, nominated by the suspect or accused person, could be informed of the deprivation of liberty.

36. Suspects or accused persons should, while deprived of liberty, have the right to communicate without undue delay with at least one third person, such as a relative, nominated by them. Member States may limit or defer the exercise of that right in view of imperative requirements or proportionate operational requirements. Such requirements could include, inter alia, the need to avert serious adverse consequences for the life, liberty or physical integrity of a person, the need to prevent prejudice to criminal proceedings, the need to prevent a criminal offence, the need to await a court hearing, and the need to protect victims of crime. When the competent authorities envisage limiting or deferring the exercise of the right to communicate in respect of a specific third person, they should first consider whether the suspects or accused persons could communicate with another third person nominated by them. Member States may make practical arrangements concerning the timing, means, duration and

frequency of communication with third persons, taking account of the need to maintain good order, safety and security in the place where the person is being deprived of liberty.

37. The right of suspects and accused persons who are deprived of liberty to consular assistance is enshrined in Article 36 of the 1963 Vienna Convention on Consular Relations where it is a right conferred on States to have access to their nationals. This Directive confers a corresponding right on suspects or accused persons who are deprived of liberty, subject to their wishes. Consular protection may be exercised by diplomatic authorities where such authorities act as consular authorities.

38. Member States should clearly set out in their national law the grounds and criteria for any temporary derogations from the rights granted under this Directive, and they should make restricted use of those temporary derogations. Any such temporary derogations should be proportional, should be strictly limited in time, should not be based exclusively on the type or the seriousness of the alleged offence, and should not prejudice the overall fairness of the proceedings. Member States should ensure that where a temporary derogation has been authorised under this Directive by a judicial authority, which is not a judge or a court, the decision on authorising the temporary derogation can be assessed by a court, at least during the trial stage.

39. Suspects or accused persons should be able to waive a right granted under this Directive provided that they have been given information about the content of the right concerned and the possible consequences of waiving that right. When providing such information, the specific conditions of the suspects or accused persons concerned should be taken into account, including their age and their mental and physical condition.

40. A waiver and the circumstances in which it was given should be noted using the recording procedure in accordance with the law of the Member State concerned. This should not lead to any additional obligation for Member States to introduce new mechanisms or to any additional administrative burden.

41. Where a suspect or accused person revokes a waiver in accordance with this Directive, it should not be necessary to proceed again with questioning or any procedural acts that have been carried out during the period when the right concerned was waived.

42. Persons subject to a European arrest warrant ('requested persons') should have the right of access to a lawyer in the executing Member State in order to allow them to exercise their rights effectively under Framework Decision 2002/584/JHA. Where a lawyer participates in a hearing of a requested person by an executing judicial authority, that lawyer may, inter alia, in accordance with procedures provided for under national law, ask questions, request clarification and make statements. The fact that the lawyer has participated in such a hearing should be noted using the recording procedure in accordance with the law of the Member State concerned.

43. Requested persons should have the right to meet in private with the lawyer representing them in the executing Member State. Member States may make practical arrangements concerning the duration and frequency of such meetings, taking into account the particular circumstances of the case. Member States may also make practical arrangements to ensure safety and security, in particular of the lawyer and of the requested person, in the place where the meeting between the lawyer and the requested person is conducted. Such practical arrangements should not prejudice the effective exercise and essence of the right of requested persons to meet with their lawyer.

44. Requested persons should have the right to communicate with the lawyer representing them in the executing Member State. It should be possible for such communication to take place at any stage, including before any exercise of the right to meet with the lawyer. Member States may make practical arrangements concerning the duration, frequency and means of communication between requested persons and their lawyer, including concerning the use of videoconferencing and other communication technology in order to allow such communications to take place. Such

practical arrangements should not prejudice the effective exercise and essence of the right of requested persons to communicate with their lawyer.

45. Executing Member States should make the necessary arrangements to ensure that requested persons are in a position to exercise effectively their right of access to a lawyer in the executing Member State, including by arranging for the assistance of a lawyer when requested persons do not have one, unless they have waived that right. Such arrangements, including those on legal aid if applicable, should be governed by national law. They could imply, inter alia, that the competent authorities arrange for the assistance of a lawyer on the basis of a list of available lawyers from which requested persons could choose.

46. Without undue delay after being informed that a requested person wishes to appoint a lawyer in the issuing Member State, the competent authority of that Member State should provide the requested person with information to facilitate the appointment of a lawyer in that Member State. Such information could, for example, include a current list of lawyers, or the name of a lawyer on duty in the issuing State, who can provide information and advice in European arrest warrant cases. Member States could request that the appropriate bar association draw up such a list.

47. The surrender procedure is crucial for cooperation in criminal matters between the Member States. Observance of the time-limits contained in Framework Decision 2002/584/JHA is essential for such cooperation. Therefore, while requested persons should be able to exercise fully their rights under this Directive in European arrest warrant proceedings, those time-limits should be respected.

48. Pending a legislative act of the Union on legal aid, Member States should apply their national law in relation to legal aid, which should be in line with the Charter, the ECHR and the case-law of the European Court of Human Rights.

49. In accordance with the principle of effectiveness of Union law, Member States should put in place adequate and effective remedies to protect the rights that are conferred upon individuals by this Directive.

50. Member States should ensure that in the assessment of statements made by suspects or accused persons or of evidence obtained in breach of their right to a lawyer, or in cases where a derogation from that right was authorised in accordance with this Directive, the rights of the defence and the fairness of the proceedings are respected. In this context, regard should be had to the case-law of the European Court of Human Rights, which has established that the rights of the defence will, in principle, be irretrievably prejudiced when incriminating statements made during police interrogation without access to a lawyer are used for a conviction. This should be without prejudice to the use of statements for other purposes permitted under national law, such as the need to execute urgent investigative acts to avoid the perpetration of other offences or serious adverse consequences for any person or related to an urgent need to prevent substantial jeopardy to criminal proceedings where access to a lawyer or delaying the investigation would irretrievably prejudice the on-going investigations regarding a serious crime. Further, this should be without prejudice to national rules or systems regarding admissibility of evidence, and should not prevent Member States from maintaining a system whereby all existing evidence can be adduced before a court or a judge, without there being any separate or prior assessment as to admissibility of such evidence.

51. The duty of care towards suspects or accused persons who are in a potentially weak position underpins a fair administration of justice. The prosecution, law enforcement and judicial authorities should therefore facilitate the effective exercise by such persons of the rights provided for in this Directive, for example by taking into account any potential vulnerability that affects their ability to exercise the right of access to a lawyer and to have a third party informed upon deprivation of liberty, and by taking appropriate steps to ensure those rights are guaranteed.

52. This Directive upholds the fundamental rights and principles recognised by the Charter, including the prohibition of torture and inhuman and degrading treatment, the right to liberty and security, respect for private and family life, the right to the integrity of the person, the rights of the child, integration of persons with disabilities, the right to an effective remedy and the right to a fair trial, the presumption of innocence and the rights of the defence. This Directive should be implemented in accordance with those rights and principles.

53. Member States should ensure that the provisions of this Directive, where they correspond to rights guaranteed by the ECHR, are implemented consistently with those of the ECHR and as developed by case-law of the European Court of Human Rights.

54. This Directive sets minimum rules. Member States may extend the rights set out in this Directive in order to provide a higher level of protection. Such higher level of protection should not constitute an obstacle to the mutual recognition of judicial decisions that those minimum rules are designed to facilitate. The level of protection should never fall below the standards provided by the Charter or by the ECHR, as interpreted by the case-law of the Court of Justice and of the European Court of Human Rights.

55. This Directive promotes the rights of children and takes into account the Guidelines of the Council of Europe on child friendly justice, in particular its provisions on information and advice to be given to children. This Directive ensures that suspects and accused persons, including children, are provided with adequate information to understand the consequences of waiving a right under this Directive and that any such waiver is made voluntarily and unequivocally. Where the suspect or accused person is a child, the holder of parental responsibility should be notified as soon as possible after the child's deprivation of liberty and should be provided with the reasons therefor. If providing such information to the holder of parental responsibility is contrary to the best interests of the child,

another suitable adult such as a relative should be informed instead. This should be without prejudice to provisions of national law which require that any specified authorities, institutions or individuals, in particular those that are responsible for the protection or welfare of children, should be informed of the deprivation of liberty of a child. Member States should refrain from limiting or deferring the exercise of the right to communicate with a third party in respect of suspects or accused persons who are children and who are deprived of liberty, save in the most exceptional circum stances. Where a deferral is applied the child should, however, not be held incommunicado and should be permitted to communicate, for example with an institution or an individual responsible for the protection or welfare of children.

56. In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents[(1)], Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.

57. Since the objectives of this Directive, namely setting common minimum rules for the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings and the right to have a third person informed of the deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty, cannot be sufficiently achieved by the Member States, but can rather, by reason of the scale of the measure, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality, as set

(1) OJ C 369, 17.12.2011, p. 14.

out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.

58. In accordance with Articles 1 and 2 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the Area of Freedom, Security and Justice, annexed to the TEU and to the TFEU and without prejudice to Article 4 of that Protocol, those Member States are not taking part in the adoption of this Directive and are not bound by it or subject to its application.

59. In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the TEU and to the TFEU, Denmark is not taking part in the adoption of this Directive, and is not bound by it or subject to its application.

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Subject matter

This Directive lays down minimum rules concerning the rights of suspects and accused persons in criminal proceedings and of persons subject to proceedings pursuant to Framework Decision 2002/584/JHA ('European arrest warrant proceedings') to have access to a lawyer, to have a third party informed of the deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty.

Article 2

Scope

1. This Directive applies to suspects or accused persons in criminal proceedings from the time when 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, and irrespective of whether they are deprived of liberty. It applies 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 offence, including, where applicable, sentencing and the resolution of any appeal.

2. This Directive applies to persons subject to European arrest warrant proceedings (requested persons) from the time of their arrest in the executing Member State in accordance with Article 10.

3. This Directive also applies, under the same conditions as provided for in paragraph 1, to persons other than suspects or accused persons who, in the course of questioning by the police or by another law enforcement authority, become suspects or accused persons .

4. Without prejudice to the right to a fair trial, in respect of minor offences:

   a) where the law of a Member State provides for the imposition of a sanction by an authority other than a court having jurisdiction in criminal matters, and the imposition of such a sanction may be appealed or referred to such a court; or

   b) where deprivation of liberty cannot be imposed as a sanction;

   this Directive shall only apply to the proceedings before a court having jurisdiction in criminal matters.

   In any event, this Directive shall fully apply where the suspect or accused person is deprived of liberty, irrespective of the stage of the criminal proceedings.

Article 3

The right of access to a lawyer in criminal proceedings

1. Member States shall ensure that suspects and accused persons have the right of access to a lawyer in such time and in such a manner so as to allow the persons concerned to exercise their rights of defence practically and effectively.

2. Suspects or accused persons shall have access to a lawyer without undue delay. In any event, suspects or accused persons shall have access to a lawyer from whichever of the following points in time is the earliest:

   a) before they are questioned by the police or by another law enforcement or judicial authority;

   b) upon the carrying out by investigating or other competent authorities of an investigative or other evidence-gathering act in accordance with point (c) of paragraph 3;

   c) without undue delay after deprivation of liberty;

d) where they have been summoned to appear before a court having jurisdiction in criminal matters, in due time before they appear before that court.

3. The right of access to a lawyer shall entail the following:

a) Member States shall ensure that suspects or accused persons have the right to meet in private and communicate with the lawyer representing them, including prior to questioning by the police or by another law enforcement or judicial authority;

b) Member States shall ensure that suspects or accused persons have the right for their lawyer to be present and participate effectively when questioned. Such participation shall be in accordance with procedures under national law, provided that such procedures do not prejudice the effective exercise and essence of the right concerned. Where a lawyer participates during questioning, the fact that such participation has taken place shall be noted using the recording procedure in accordance with the law of the Member State concerned;

c) Member States shall ensure that suspects or accused persons shall have, as a minimum, the right for their lawyer to attend the following investigative or evidence-gathering acts where those acts are provided for under national law and if the suspect or accused person is required or permitted to attend the act concerned:

i) identity parades;

ii) confrontations;

iii) reconstructions of the scene of a crime.

4. Member States shall endeavor to make general information available to facilitate the obtaining of a lawyer by suspects or accused persons.

Notwithstanding provisions of national law concerning the mandatory presence of a lawyer, Member States shall make the necessary arrangements to ensure

that suspects or accused persons who are deprived of liberty are in a position to exercise effectively their right of access to a lawyer, unless they have waived that right in accordance with Article 9.

5. In exceptional circumstances and only at the pre-trial stage, Member States may temporarily derogate from the application of point (c) of paragraph 2 where the geographical remoteness of a suspect or accused person makes it impossible to ensure the right of access to a lawyer without undue delay after deprivation of liberty.

6. In exceptional circumstances and only at the pre-trial stage, Member States may temporarily derogate from the application of the rights provided for in paragraph 3 to the extent justified in the light of the particular circumstances of the case, on the basis of one of the following compelling reasons:

   (a) where there is an urgent need to avert serious adverse consequences for the life, liberty or physical integrity of a person;

   (b) where immediate action by the investigating authorities is imperative to prevent substantial jeopardy to criminal proceedings.

Article 4

Confidentiality

Member States shall respect the confidentiality of communication between suspects or accused persons and their lawyer in the exercise of the right of access to a lawyer provided for under this Directive. Such communication shall include meetings, correspondence, telephone conversations and other forms of communication permitted under national law.

Article 5

The right to have a third person informed of the deprivation of liberty

1. Member States shall ensure that suspects or accused persons who are deprived of

liberty have the right to have at least one person, such as a relative or an employer, nominated by them, informed of their deprivation of liberty without undue delay if they so wish.

2. If the suspect or accused person is a child, Member States shall ensure that the holder of parental responsibility of the child is informed as soon as possible of the deprivation of liberty and of the reasons pertaining thereto, unless it would be contrary to the best interests of the child, in which case another appropriate adult shall be informed. For the purposes of this paragraph, a person below the age of 18 years shall be considered to be a child.

3. Member States may temporarily derogate from the application of the rights set out in paragraphs 1 and 2 where justified in the light of the particular circumstances on the case of the basis of one of the following compelling reasons.

   a) where there is an urgent need to avert serious adverse consequences for the life, liberty or physical integrity of a person;

   b) where there is an urgent need to prevent a situation where criminal proceedings could be substantially jeopardised.

4. Where Member States temporarily derogate from the application of the right set out in paragraph 2, they shall ensure that an authority responsible for the protection or welfare of children is informed without undue delay of the deprivation of liberty of the child.

Article 6

The right to communicate, while deprived of liberty, with third persons

1. Member States shall ensure that suspects or accused persons who are deprived of liberty have the right to communicate without undue delay with at least one third person, such as a relative, nominated by them.

2. Member States may limit or defer the exercise of the right referred to in paragraph 1 in view of imperative requirements or proportionate operational requirements.

Article 7

The right to communicate with consular authorities

1. Member States shall ensure that suspects or accused persons who are non-nationals and who are deprived of liberty have the right to have the consular authorities of their State of nationality informed of the deprivation of liberty without undue delay and to communicate with those authorities, if they so wish. However, where suspects or accused persons have two or more nationalities, they may choose which consular authorities, if any, are to be informed of the deprivation of liberty and with whom they wish to communicate.

2. Suspects or accused persons also have the right to be visited by their consular authorities, the right to converse and correspond with them and the right to have legal representation arranged for by their consular authorities, subject to the agreement of those authorities and the wishes of the suspects or accused persons concerned.

3. The exercise of the rights laid down in this Article may be regulated by national law or procedures, provided that such law or procedures enable full effect to be given to the purposes for which these rights are intended.

Article 8

General conditions for applying temporary derogations

1. Any temporary derogation under Article 3(5) or (6) or under Article 5(3) shall:

   a) be proportionate and not go beyond what is necessary;

   b) be strictly limited in time;

   c) not be based exclusively on the type or the seriousness of the alleged offence; and

   d) not prejudice the overall fairness of the proceedings.

2. Temporary derogations under Article 3(5) or (6) may be authorised only by a duly reasoned decision taken on a case-by-case basis, either by a judicial authority, or by another competent authority on condition that the decision can be submitted to judicial review. The duly reasoned decision shall be recorded using the recording procedure in accordance with the law of the Member State concerned.

3. Temporary derogations under Article 5(3) may be authorised only on a case-by-case basis, either by a judicial authority, or by another competent authority on condition that the decision can be submitted to judicial review.

Article 9

Waiver

1. Without prejudice to national law requiring the mandatory presence or assistance of a lawyer, Member States shall ensure that, in relation to any waiver of a right referred to in Articles 3 and 10:

   a) the suspect or accused person has been provided, orally or in writing, with clear and sufficient information in simple and understandable language about the content of the right concerned and the possible consequences of waiving it; and

   b) the waiver is given voluntarily and unequivocally.

2. The waiver, which can be made in writing or orally, shall be noted, as well as the circumstances under which the waiver was given, using the recording procedure in accordance with the law of the Member State concerned.

3. Member States shall ensure that suspects or accused persons may revoke a waiver subsequently at any point during the criminal proceedings and that they are informed about that possibility. Such a revocation shall have effect from the moment it is made.

Article 10

The right of access to a lawyer in European arrest warrant proceedings

1. Member States shall ensure that a requested person has the right of access to a lawyer in the executing Member State upon arrest pursuant to the European arrest warrant.

2. With regard to the content of the right of access to a lawyer in the executing Member State, requested persons shall have the following rights in that Member State:

   a) the right of access to a lawyer in such time and in such a manner as to allow the requested persons to exercise their rights effectively and in any event without undue delay from deprivation of liberty;

   b) the right to meet and communicate with the lawyer representing them;

   c) the right for their lawyer to be present and, in accordance with procedures in national law, participates during a hearing of a requested person by the executing judicial authority. Where a lawyer participates during the hearing this shall be noted using the recording procedure in accordance with the law of the Member State concerned.

3. The rights provided for in Articles 4, 5, 6, 7, 9, and, where a temporary derogation under Article 5(3) is applied, in Article 8, shall apply, *mutatis mutandis*, to European arrest warrant proceedings in the executing Member State.

4. The competent authority in the executing Member State shall, without undue delay after deprivation of liberty, inform requested persons that they have the right to appoint a lawyer in the issuing Member State. The role of that lawyer in the issuing Member State is to assist the lawyer in the executing Member State by providing that lawyer with information and advice with a view to the effective exercise of the rights of requested persons under Framework Decision 2002/584/JHA.

5. Where requested persons wish to exercise the right to appoint a lawyer in the issuing Member State and do not already have such a lawyer, the competent authority in the executing Member State shall promptly inform the competent authority in the issuing Member State. The competent authority of that Member State shall, without undue delay, provide the requested persons with information to facilitate them in appointing a lawyer there.

6. The right of a requested person to appoint a lawyer in the issuing Member State is without prejudice to the time-limits set out in Framework Decision 2002/584/JHA or the obligation on the executing judicial authority to decide, within those time-limits and the conditions defined under that Framework Decision, whether the person is to be surrendered.

Article 11

Legal aid

This Directive is without prejudice to national law in relation to legal aid, which shall apply in accordance with the Charter and the ECHR.

Article 12

Remedies

1. Member States shall ensure that suspects or accused persons in criminal proceedings, as well as requested persons in European arrest warrant proceedings, have an effective remedy under national law in the event of a breach of the rights under this Directive.

2. Without prejudice to national rules and systems on the admissibility of evidence, Member States shall ensure that, in criminal proceedings, in the assessment of statements made by suspects or accused persons or of evidence obtained in breach of their right to a lawyer or in cases where a derogation to this right was authorised in accordance with Article 3(6), the rights of the defence and the fairness of the proceedings are respected.

Article 13

Vulnerable persons

Member States shall ensure that the particular needs of vulnerable suspects and vulnerable accused persons are taken into account in the application of this Directive.

Article 14

Non-regression clause

Nothing in this Directive shall be construed as limiting or derogating from any of the rights and procedural safeguards that are ensured under the Charter, the ECHR, or other relevant provisions of international law or the law of any Member State, which provides a higher level of protection.

Article 15

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 27 November 2016. They shall immediately inform the Commission thereof.

2. When Member States adopt those measures, they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. The methods of making such a reference shall be laid down by Member States.

3. Member States shall communicate to the Commission the text of the measures of national law, which they adopt in the field covered by this Directive.

Article 16

Report

The Commission shall, by 28 November 2019, submit a report to the European Parliament and to the Council, assessing the extent to which the Member States have taken the necessary measures in order to comply with this Directive, including an evaluation of the application of Article 3(6) in conjunction with Article 8(1) and (2), accompanied, if necessary, by legislative proposals.

Article 17

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union.*

Article 18

Addresses

This Directive is addressed to the Member States in accordance with the Treaties.

Done at Strasbourg, 22 October 2013.

For the European Parliament	*For the Council*
The President	*The President*
M. SCHULZ	V. LEŠKEVIČIUS

ANNEX 2: USEFUL CONTACTS

For more information about the ***JUSTICIA*** European Rights Network, please see www.eujusticia.net. The website addresses of the ***JUSTICIA*** European Rights Network member organisations are listed below:

Country	Organisation	Description
Austria	Ludwig Boltzmann Institute of Human Rights (1992) http://bim.lbg.ac.at/en/the-institute	The Ludwig Boltzmann Institute of Human Rights (BIM) was established as an independent research centre with the aim of contributing to the scientific discourse of human rights at the national, European and global level. Their research is based on a holistic approach covering civil, political, economic, social, cultural and collective human rights with a multidimensional and interdisciplinary research approach.
Bulgaria	Bulgarian Helsinki Committee (1992) www.bghelsinki.org	Bulgarian Helsinki Committee is an independent, non-governmental organisation dedicated to strategic litigation and legal protection of human rights in Bulgaria. Its work is focused on selected areas, such as discrimination, freedom of assembly and of association, freedom of expression, right to privacy, torture and ill treatment by law enforcement officers.
Croatia	Croatian Law Centre (HPC) www.hpc.hr	The Croatian Law Centre promotes and affirms the rule of law, political accountability of public authorities, efficiency and effectiveness of the public sector, and participation of civil society in making all relevant decisions for the development and future of Croatia.The organisation focuses on the protection of human rights, modernisation of public administration, and legal education.

Country	Organisation	Description
Cyprus	KISA - Action for Equality, Support, Antiracism (1998) http://kisa.org.cy	KISA is a non-governmental organisation whose action is focused on the fields of Migration, Asylum, Racism, Discrimination and Trafficking. It works through awareness-raising as well as lobbying in order to influence the legal and structural framework, policies and practices in these fields.
Czech Republic	League of Human Rights (LIGA) (2002) www.llp.cz	LIGA is an independent non-profit watchdog organisation focused on promoting respect for human rights in the Czech Republic. LIGA has been implementing projects promoting human rights of children, persons with disabilities, victims of police violence and hate crimes, and offenders.
Estonia	Estonian Human Rights Centre (EHRC) (2009) http://humanrights.ee/en/	Estonian Human Rights Centre (EHRC) is an independent human rights advocacy NGO dedicated to the advancement of protection of human rights in Estonia and abroad. EHRC is regularly consulted by stakeholders, such as government, other NGOs or the media.
Greece	Greek Helsinki Monitor (1992) www.greekhelsinki.gr	Greek Helsinki Monitor is an organisation which monitors, publishes and lobbies on human rights issues in Greece and, occasionally, in the Balkans. It has participated in, and often coordinated, the monitoring of Greek and Balkan media for stereotypes and hate speech. It has also prepared parallel reports to UN Treaty Bodies and specialised reports on ill-treatment, ethnicity issues, religious and immigrant communities.

Country	Organisation	Description
Hungary	Hungarian Helsinki Committee (HHC) (1989) www.helsinki.hu	The HHC is an NGO that monitors the enforcement in Hungary of human rights enshrined in international human rights instruments; provides legal defence to victims of human rights abuses by state authorities; and, informs the public about rights violations. The HHC strives to ensure that domestic legislation guarantee the consistent implementation of human rights norms, and promotes legal education and training in fields relevant to its activities, both in Hungary and abroad.
Hungary: Transnational Organisation	Open Society Justice Initiative (OSJI) (1993) www.opensocietyfoundations.org	OSJI is a programme of the Open Society Foundations, which is dedicated to strengthening the rule of law and respect for human rights, minorities, and diversity of opinions. OSJI promotes human rights and builds legal capacity for open societies through litigation, advocacy, research and technical assistance.
Ireland	Irish Council for Civil Liberties (ICCL) (1976) www.iccl.ie and www.eujusticia.net	With its headquarters in Dublin, ICCL is Ireland's independent human rights watchdog, which monitors, educates and campaigns around the protection and promotion of human rights in Ireland. ICCL is the lead partner in **JUSTICIA**.
Italy	Associazione Antigone Onlus (1991) www.associazioneantigone.it	Antigone is an Italian NGO dealing with human rights protection in the criminal justice system, especially in relation to the penal system. Antigone campaigns, educates, researches and monitors.

Country	Organisation	Description
Latvia	Latvian Centre for Human Rights (LCHR) (1993) www.cilvektiesibas.org.lv	LCHR is an independent non-governmental organisation which works for the elimination of discrimination and hate speech, asylum, migration and fundamental rights issues. LCHR conducts human rights monitoring, research and policy analysis, provides legal assistance on human rights issues and is actively involved in advocacy for change.
Lithuania	Human Rights Monitoring Institute (HRMI) (2003) www.hrmi.lt	HRMI is a non-governmental organisation dedicated to the promotion of an open democratic society. HRMI engages in monitoring of human rights situation in Lithuania, advocating for changes in national legislation and pursuing strategic litigation in areas such as the right to a fair trial, right to privacy, equality and non-discrimination, rights of vulnerable groups.
Poland	Helsinki Foundation for Human Rights (HFHR) (1989) www.hfhr.pl	HFHR is an organisation dedicated to promote the development of a culture based on the respect of freedom and human rights in Poland and abroad. Its methods of activity include strategic litigation, monitoring and interventions. Since 2007, HFHR holds consultancy status with the United Nations Economic and Social Council (ECOSOC).
Romania	Association for the Defence of Human Rights in Romania – the Helsinki Committee (APADOR-CH) (1990) www.apador.org	The Association for the Defence of Human Rights in Romania – the Helsinki Committee (APADOR-CH) is a non-governmental, not-for-profit organisation which seeks to be an influential and principled actor in dialogue with state authorities and in cooperation with civil society. APADOR-CH engages and actively participates in societal and institutional change to create a more democratic culture based on the respect of human rights.

Country	Organisation	Description
Slovenia	The Peace Institute (1991) www.mirovni-institut.si	The Peace Institute is a non-profit research institution developing interdisciplinary research activities in various fields of social sciences and humanities.
Spain	Rights International Spain; Rights International Spain (2010) www.rightsinternationalspain.org	Rights International Spain is an independent, non-governmental organisation composed of lawyers specialised in international law. Its main objective is the promotion and defence of human rights and civil liberties through the effective use of international human rights law and national and international protection mechanisms.
Sweden	Civil Rights Defenders (1982) www.civilrightsdefenders.org	Civil Rights Defenders is an independent expert organisation with the aim of defending human rights, and in particular people's civil and political rights, and to support and empower human rights defenders at risk.
UK: Transnational Organisation	Statewatch (1991) www.statewatch.org	Statewatch is a non-profit-making voluntary group with contributors drawn from 18 countries. The organisation is dedicated to monitoring state and civil liberties in Europe. One of Statewatch's primary purposes is to provide a service for civil society to encourage informed discussion and debate.

NOTES:

NOTES:

Irish Council for Civil Liberties

PRODUCED IN DECEMBER 2015.

THE JUSTICIA NETWORK IS COORDINATED BY THE IRISH COUNCIL FOR CIVIL LIBERTIES WWW.ICCL.IE. THE NETWORK IS FINANCIALLY SUPPORTED BY THE CRIMINAL JUSTICE PROGRAMME OF THE EUROPEAN UNION.

JUSTICIA PARTNERS ARE:

ASSOCIAZIONE ANTIGONE ONLUS (ITALY)
ASSOCIATION FOR THE DEFENCE OF HUMAN RIGHTS IN ROMANIA – THE HELSINKI COMMITTEE
BULGARIAN HELSINKI COMMITTEE
CIVIL RIGHTS DEFENDERS (SWEDEN)
CROATIAN LAW CENTRE
ESTONIAN HUMAN RIGHTS CENTRE
GREEK HELSINKI MONITOR
HELSINKI FOUNDATION FOR HUMAN RIGHTS (POLAND)
HUMAN RIGHTS MONITORING INSTITUTE (LITHUANIA)
HUNGARIAN HELSINKI COMMITTEE
IRISH COUNCIL FOR CIVIL LIBERTIES
KISA – ACTION FOR EQUALITY, SUPPORT, ANTIRACISM (CYPRUS)
LATVIAN CENTRE FOR HUMAN RIGHTS
LEAGUE OF HUMAN RIGHTS (CZECH REPUBLIC)
LUDWIG BOLTZMANN INSTITUTE OF HUMAN RIGHTS (AUSTRIA)
OPEN SOCIETY JUSTICE INITIATIVE (HUNGARY)
RIGHTS INTERNATIONAL SPAIN
STATEWATCH (UNITED KINGDOM)
THE PEACE INSTITUTE (SLOVENIA)

9–13 BLACKHALL PLACE
DUBLIN 7, D07 P2NX, IRELAND

T + 353 1 799 4504
F + 353 1 799 4512

INFO@EUJUSTICIA.NET
WWW.EUJUSTICIA.NET

THE **JUSTICIA** EUROPEAN RIGHTS NETWORK IS FINANCIALLY SUPPORTED BY THE CRIMINAL JUSTICE PROGRAMME OF THE EUROPEAN UNION.