

Commission promotes the right to information in criminal proceedings

A German tourist gets arrested after a bar brawl in Italy. He does not speak the language. As a result, he does not understand why he is being held and what the charge is. The police officer then hands him a document – in his own language – listing his rights: to speak to an attorney, find out about the charge and have an interpreter. It sounds like a TV police drama, but soon it will be reality throughout the European Union. The European Commission today proposed new rules to ensure that EU countries will inform anyone suspected or accused of a criminal offence of their rights in a language they understand. Anyone arrested – or the subject of a European Arrest Warrant – will have to be informed in writing with a Letter of Rights listing their basic rights during criminal proceedings. While EU countries are free to choose the exact wording of the Letter, the Commission proposal provides a model in 22 EU languages. This will provide consistency for people crossing borders and limit translation costs. The proposal is essential for boosting confidence in the EU's area of justice, especially as more Europeans travel: 47% of Germans, 34% of UK and 16% of Italians citizens take their holidays in other EU countries. To become law, today's Commission proposal needs to be approved by the European Parliament and EU Ministers of Justice.

"We all have seen police officers read rights to suspects on TV series. It makes good TV, but it also serves a very serious purpose: it gives people a chance to know and assert their rights. It gives them confidence that justice will be served, wherever they are in Europe," said Vice-President Viviane Reding, the EU's Commissioner for Justice, Fundamental Rights and Citizenship. "Individuals cannot fully exercise their defence rights unless they know what they are. Knowing what your rights are and what you are accused of is crucial for a fair trial. Dealing with the law can be an intimidating process and we cannot expect people to demand respect from the authorities for their procedural rights when they don't know what those rights are. The Commission's proposal will therefore ensure that everybody, everywhere in the EU is made aware of their rights."

There are over 8 million criminal proceedings in the EU every year. At the moment, the chance that citizens will be properly informed of their rights if they are arrested and face criminal charges varies across the EU, even though all 27 EU Member States have signed up to the fair trial rights in the European Convention on Human Rights. In some Member States, suspects only receive oral information about their procedural rights, and in others the written information is technical, complex and not given unless demanded.

Today's Commission proposal, if adopted by the European Parliament and EU Ministers of Justice, will help to avoid miscarriages of justice and reduce the number of appeals. Authorities prosecuting the case will have to ensure that suspects are given information about their rights. When someone is arrested, they will be given this information in writing – in a **Letter of Rights** – drafted in simple, everyday language. It will be provided to the suspect upon arrest in all cases, whether he asks for it or not, and translated if necessary.

When the Commission first considered a Letter of Rights in 2004, it existed in only one country. They are now available in 12 countries. Germany introduced one in January and the Netherlands in April. According to a survey carried out last year by the University of Maastricht, nine of the other countries provide some information in another form of writing (on the back of a charge sheet, for example) and six only orally (see list below). Today's proposal will increase the snowball effect, leading more countries to use a Letter of Rights and offer the certainty of the written word. This will be an efficient way of informing suspects of their rights. These rights should be used effectively and not remain theoretical.

In a recent case, UK courts executed a Portuguese European Arrest Warrant regarding a British citizen. The warrant, for a two-year jail sentence, took more than 14 months and required six court decisions before being executed. Justice would have been served more quickly and at less cost if information on the charge had been given at the first moment of the criminal proceedings. In addition, unnecessary appeals would have been avoided.

Background

The Lisbon Treaty, which took effect on 1 December, 2009, enables the EU to adopt measures to strengthen the rights of EU citizens, in line with the EU Charter of Fundamental Rights, particularly the rights of individuals in criminal procedure.

The rights to a fair trial and defence are set out in Articles 47 and 48 of the EU Charter of Fundamental Rights; as well as in Article 6 of the European Convention on Human Rights.

Today's Commission proposal for a Directive on the right to information in criminal proceedings is the second step in a series of measures to set common EU standards in criminal cases. The Council, on 30 November 2009, invited the Commission to propose such measures on a "step by step" basis to gradually build up mutual trust between national justice authorities. This comprehensive package of legislation will be presented over the next few years to provide a minimum set of procedural rights in criminal proceedings in the European Union:

The first measure, which involved giving suspects the right to translation and interpretation, has already been politically agreed between Parliament and Council ([IP/10/746](#)). The next measures, planned by the Commission for 2011, will be a Directive on the right to have access to a lawyer; and on the right to communicate with relatives, employers and consular authorities.

For more information

The text of the Commission proposal for a Directive on the right to information in criminal proceedings can be found at:

http://ec.europa.eu/justice_home/news/intro/news_intro_en.htm

Justice and Home Affairs Newsroom:

http://ec.europa.eu/justice_home/news/intro/news_intro_en.htm

Homepage of EU Justice Commissioner Viviane Reding:

http://ec.europa.eu/commission_2010-2014/reding/index_en.htm

**How Member States provide information about some or all procedural rights
(2009)**

(see [MEMO/10/351](#) for breakdown of rights provided)

Country	Letter of Rights	Other type of written notification¹	Oral
Austria	Yes	No	Yes
Belgium	No	Yes	Yes
Bulgaria	No	Yes	Yes
Cyprus	No	No	Yes
Czech Republic	Yes	Yes	Yes
Denmark	No	No	Yes
Estonia	No	Yes	Yes
Finland	No	No	Yes
France	No	No	Yes
Germany	Yes	Yes	Yes
Greece	No	No	Yes
Hungary	No	Yes	Yes
Ireland	No	Yes	Yes
Italy	Yes	No	Yes
Latvia	Yes	Yes	Yes
Lithuania	No	Yes	Yes
Luxembourg	Yes	Yes	Yes
Malta	No	Yes	Yes
The Netherlands	Yes	Yes	Yes
Poland	Yes	Yes	Yes
Portugal	No	Yes	Yes
Romania	No	Yes	Yes
Slovakia	Yes	No	Yes
Slovenia	No	No	Yes
Spain	Yes	No	Yes
Sweden	Yes	No	Yes
United Kingdom	Yes	No	Yes

¹ This refers to written information not containing a detailed explanation of the rights in every day language. It may also not be given systematically but only for example if the suspected person actually requests it. It may also not be translated into other languages.



Indicative model Letter of Rights for suspected and accused persons on arrest:

If you are arrested by the police you have the following rights:

A. to be informed of what offence you are suspected

B. to the assistance of a lawyer

C. to an interpreter and translation of documents, if you do not understand the language

D. to know for how long you can be detained

You are entitled to keep this Letter of Rights with you during your detention.

A. Information on the suspicion

- You have the right to know why you are suspected of having committed a criminal offence immediately after deprivation of liberty, even if the police do not question you.
- You or your lawyer can ask to see the parts of the case-file relating to your arrest and detention or be informed about their content in detail.

B. Help of a lawyer

- You have the right to speak to a lawyer before the police start questioning you.
- If you ask to speak to a lawyer, it does not make you look like you have done anything wrong.
- The police must help you to get in touch with a lawyer.
- The lawyer is independent from the police and will not reveal any information you give him without your consent.
- You have the right to speak with a lawyer in private, both at the police station and/or on the telephone.
- If you are not able to pay for a lawyer the police have to provide you with information about free or partially free legal assistance.

C. Help of an interpreter

- If you do not speak or understand the language, an interpreter will be called for you. The interpreter is independent from the police and will not reveal any information you give him without your consent.
- You can also ask for an interpreter to help you to talk to your lawyer.
- The help of an interpreter is free of charge.
- You have the right to receive a translation of any order by a judge allowing your arrest or keeping you in custody. You may also ask to have other essential documents in the investigation translated.

D. How long can you be deprived of your liberty?

- If you are not released, you must be brought before a judge within * 2hours after you have been deprived of your liberty.
- The judge must then hear you and can decide whether you are to be kept in custody or released. You have the right to receive a translation of the judge's decision if he decides that you will remain in custody.
- You have the right to ask for your release at any time. Your lawyer can advise you on how to proceed.

² To be completed by the Member State authorities in accordance with national rules and the ECHR.