



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 15 July 2009

12116/09

**DROIPEN 66
COPEN 139**

NOTE

from : Presidency
to : Delegations

Subject : Proposal for a Resolution of the Council and of the Governments of the
Member States meeting within the Council fostering the implementation by
Member States of the right to interpretation and to translation in criminal
proceedings

The European Commission on 8 July 2009 presented a proposal for a Council Framework Decision on the right to interpretation and to translation in criminal proceedings ¹.

The Presidency considers that directions should be given to Member States with a view to promoting the effective implementation of the rights contained in this proposal. It therefore has drafted a proposal for a Resolution, which is set out in the Annex.

¹ 11917/09 DROIPEN 60 COPEN 133 + ADD 1 + ADD 2.

PRESIDENCY PROPOSAL**RESOLUTION OF THE COUNCIL AND OF THE GOVERNMENTS OF THE
MEMBER STATES MEETING WITHIN THE COUNCIL
FOSTERING THE IMPLEMENTATION BY MEMBER STATES OF THE RIGHT TO INTERPRETATION AND
TO TRANSLATION IN CRIMINAL PROCEEDINGS**

THE COUNCIL OF THE EUROPEAN UNION AND THE GOVERNMENTS OF THE
MEMBER STATES MEETING WITHIN THE COUNCIL,

Whereas:

Council Framework Decision 2009/XXX/JHA on the right to interpretation and to translation in criminal proceedings sets out certain requirements regarding the rights to a competent, qualified interpreter and to translation of essential documents in criminal proceedings.

Directions should be given to Member States with a view to promoting the effective implementation of these rights,

HAVE ADOPTED THIS RESOLUTION:

Scope and objectives

- (1) The implementation by the Member States of the rights to interpretation and translation of persons suspected of having committed a criminal offence ("suspects"), who do not understand or speak the language used in criminal proceedings in which they are involved, should be promoted.
- (2) This resolution should be read in conjunction with Framework Decision 2009/XXX/JHA on the right to interpretation and to translation in criminal proceedings .

- (3) Building further on the principles laid down in the European Convention for the Protection of Human Rights and Fundamental Freedoms, the Member States should actively promote the measures set out below with a view to ensuring the protection of
- i) the right of suspects, who do not understand or speak the language of the Member State in which the criminal proceedings take place, to be assisted by an interpreter in the course of questioning, consultation with defence counsel and court hearings;
 - ii) the right of suspects, who do not understand the language of the Member State in which the proceedings take place, to be provided with a translation of essential documents.
- (4) The aim of the measures taken should be to develop suitable, effective national standards for interpretation and translation in the course of criminal proceedings.
- (5) Member States should ensure that professional bodies representing accredited/certified interpreters and translators are in place. These bodies should be associated, where appropriate, with a view to putting the below measures into practice and achieving the objectives of this Resolution.

Measures

Training

- (6) Member States should organise appropriate training structures for interpreters and translators. The training should include, for example, language skills as well as training in criminal law and criminal procedure, police, court and prison practice.
- (7) This training should be provided before registration/accreditation of interpreters and translators. Member States should have a system of continuous professional development to allow interpreters and translators to keep their skills up to date.

Persons with hearing or speech impediments

- (8) Member States should ensure that appropriate training is given to interpreters assisting suspects with hearing or speech impediments.

Accreditation/certification

- (9) Member States should ensure that there is a system of accreditation/certification for interpreters and translators who can be employed in criminal proceedings.

Registration

- (10) Member States should ensure that there is a system of registration for accredited/certified interpreters and translators.
- (11) The system should include a national registry of the accredited/certified interpreters and translators that is easily accessible by authorities engaged in criminal proceedings.
- (12) The registrations in this system should be periodically reviewed, so as to encourage professionals to maintain their language skills and knowledge of court procedures up-to-date.
- (13) Member States are encouraged to make their national registry accessible to competent authorities of other Member States.
- (14) In this context, particular attention should be paid to the aim of facilitating the interconnection of databases for legal translators and interpreters, as envisaged in the European e-Justice action plan of 27 November 2008 ¹.

Engagement of accredited/certified interpreters and translators

- (15) Member States should ensure that only accredited/certified interpreters and translators carry out interpretations and translations from one official language of the European Union to another official language of the European Union.

¹ 15315/08 JURINFO 71 JAI 612 JUSTCIV 239 COPEN 216

- (16) Accredited/certified interpreters and translators should as far as possible also be engaged for carrying out interpretations and translations in cases involving a language which is not an official language of the European Union. If it is not reasonably possible to use an accredited/certified interpreter or translator in such cases, the services of a non accredited/certified interpreter or translator may be used, provided particular attention is paid to the quality of the interpretation or translation.

Remote access to interpretation and translation

- (17) In situations where it is appropriate, interpretation could be provided by a certified/accredited interpreter at a remote location, for example by using videoconference facilities.
- (18) Equally, Member States could provide the possibility that translations be carried out by using remote means while ensuring the authenticity of the documents transmitted, for example through certified e-mail.

Minors and persons with disabilities

- (19) Member States should ensure that special attention is given to the needs of minors and persons suffering any impairing disability, should they not understand or speak the language of the criminal proceedings.

Code of Conduct and Best Practice

- (20) Member States should ensure that there is a Code of Conduct for interpreters and translators, as well as Guidelines for Good Practice.
- (21) In order to ensure that Codes of Conduct and Guidelines on Best Practice are substantially similar throughout the European Union, the Member States should regularly exchange information on gained experiences and practices.

Evaluation

- (22) Member States should ensure that there is a mechanism for evaluation of the systems aiming to ensure the quality of interpretation and translation given in criminal proceedings.

Collection of data

- (23) In order to facilitate the evaluation and monitoring of the provisions of Framework Decision 2009/XXX/JHA and of this resolution, Member States are encouraged to keep data/statistics and make them available, in particular as regards the following:
- (a) the number of persons questioned in respect of a criminal offence and whose understanding of the language of the proceedings was such as to require the services of an interpreter during police questioning, preferably with a breakdown of the nationalities of the persons involved, together with the number of persons requiring sign language interpreting;
 - (b) the number of persons charged with a criminal offence and in respect of whom the services of an interpreter were requested before trial, at trial and/or at any appeal proceedings, preferably with a breakdown of the nationalities and the languages involved.
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