



**To: Civil Liberties, Justice, and Home Affairs Committee of the European Parliament
Council of the European Union, and the Presidency
European Commission, DG Justice**

The *JUSTICIA* European Rights Network, which brings together 19 civil society organizations from 18 EU member states, believes that an effective system of legal aid is vital to ensure that everyone, regardless of economic status, is treated fairly by the law.

The Directive on Legal Aid is the last in a series of groundbreaking directives that collectively have the potential to bring about significant improvements on defence rights across the EU. We are encouraged by the progress made on this file under the Dutch Presidency. As you enter the final stages of the trilogue negotiations we urge you to continue to work towards a strong and comprehensive Directive.

Legal aid is crucial, both as a right for suspects and accused persons, but also because it underpins the equality of arms and is a foundation for the enjoyment of other essential fair trial rights. Legal aid is one of the most important safeguards for the fairness of criminal proceedings, and ensures that the right to a fair trial is not reserved for those able to afford a lawyer.

The *JUSTICIA* Network has raised core concerns on this Directive through [previous statements](#) and a [series of fact-sheets](#) on the provision of legal aid across the member states. Before these important upcoming negotiations we would like to re-draw your attention to the following outstanding issues and concerns:

SCOPE:

The Directive on Legal Aid should mirror the scope of the Directive on Access to a Lawyer. In particular this means that it should cover both provisional and ordinary legal aid. Given the inherent urgency, provisional legal aid should be directly accessible to all, whereas ordinary legal aid can be linked to a fair and effective means test.

Access to legal aid should also not be limited to those deprived of liberty. A suspect or accused person may be at liberty in the early stages of proceedings, for example because they are called to appear before a police or judicial authority but are not detained. In addition suspects who are released on bail should still be eligible for legal aid. Restricting access limits the right to a fair trial, and the standards set down by the European Convention on Human Rights.

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This Directive represents a critical opportunity for EU Member States to ensure that every person charged with a crime has the right to be treated equally and to defend themselves, regardless of their financial circumstances. Without a comprehensive Directive on Legal Aid, many of the rights in the Directive on Access to a Lawyer will remain illusory and we risk creating a “two-tier” system of rights, one for the rich and one for the poor. Additionally, certain socio-economic groups may experience greater disadvantage: [research indicates for example that Roma may be disproportionately affected](#) by lack of access to effective legal aid. Growing inequalities across Europe make the case for a comprehensive legal aid Directive even more urgent.

KEY PRINCIPLES:

JUSTICIA is encouraged that there are considerations to include key principles on the provision of legal aid. Research by network members and academics shows that despite the crucial significance of legal aid, many countries across the EU fail to provide a fair, accessible and credible system to ensure effective access to a lawyer. The directive does not need to prescribe a single model for legal aid, but should include **minimum requirements including on quality and independence**. It is also important to include a provision for **effective remedies** for breaches of the Directive, to strengthen practical implementation.

THE BENEFITS OF LEGAL AID:

Whilst there are initial costs implications in providing access to legal aid it is important to note that **ensuring defence rights from the beginning of the criminal justice process can save significant costs, both monetary and human, at a later stage**. For example, providing access to legal aid that results in a suspect being safely and effectively bailed saves the much larger expense required to keep a suspect in pretrial detention. [Research also shows increased costs](#) for the system of unrepresented suspects. The full costs are significant, from the direct costs to the State in wasted resources, to the costs to the community and the detained individual in lost wages, employment and productivity.

Effective legal aid systems also **increase the public’s trust in the justice system** both in terms of fairness of the proceedings and outcomes. The Council of Europe’s European Committee for the Prevention of Torture and the UN Subcommittee on Prevention of Torture have both repeatedly emphasized that a functioning and efficient legal aid system is a fundamental safeguard against intimidation, ill-treatment and torture.

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Yours sincerely,

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The *JUSTICIA* European Rights Network, a trans-European Network of 19 organisations based in 18 Member States is comprised of the following civil society organisations:

Associazione Antigone Onlus (Italy)
Association for the Defence of Human Rights in Romania – the Helsinki Committee
Bulgarian Helsinki Committee
Civil Rights Defenders (Sweden)
Croatian Legal 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 (UK)
The Peace Institute (Slovenia)

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