EUROPEAN COMMISSION

Brussels, 9.3.2010
COM(2010) 82 final

2010/0050 (COD)

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the right to interpretation and translation in criminal proceedings

EXPLANATORY MEMORANDUM

1. INTRODUCTION

1. This proposal for a Directive of the European Parliament and the Council aims to set common minimum standards as regards the right to interpretation and translation in criminal proceedings throughout the European Union. The proposal is the first step in a series of measures set out in the Procedural Rights Roadmap, adopted in Council on 30 November 2009 instructing the Commission to put forward proposals on a "step by step" basis. This approach is now seen as the best way to proceed; it will gradually help build confidence and contribute to enhancing mutual trust. This proposal should therefore be considered as part of a package of legislation to be presented over the next few years which will provide a minimum set of procedural rights in criminal proceedings in the European Union.

2. The proposal seeks to improve the rights of suspects who do not understand and speak the language of the proceedings. Having common minimum standards in relation to these rights should facilitate the application of the principle of mutual recognition, thereby improving the functioning of judicial co-operation between Member States of the EU.

3. The proposal is similar to, and replaces, one which was put forward as a draft Framework Decision on 8 July 2009[1]. The text was discussed in Council working groups. Agreement was reached on a general approach at the Justice Council of 23 October 2009, but there was not enough time for adoption before 1 December 2009, date of entry into force of the Lisbon Treaty so that earlier proposal became obsolete.

4. As regards the legal basis, the proposal is based on Article 82(2) of the Treaty on the Functioning of the European Union (TFEU). That Article provides that, *"[t]o the extent necessary to facilitate mutual recognition of judgments and judicial decisions and police and judicial cooperation in criminal matters having a cross-border dimension, the European Parliament and the Council may, by means of directives adopted in accordance with the ordinary legislative procedure, establish minimum rules. Such rules shall take into account the differences between the legal traditions and systems of the Member States.*

   They shall concern:

   (a) mutual admissibility of evidence between Member States;

   (b) the rights of individuals in criminal procedure;

   (c) the rights of victims of crime;

   (d)[…]".

   For mutual recognition to function well it is necessary to have mutual trust. A certain degree of compatibility is necessary to improve mutual trust and hence, co-operation.

[1] COM(2009) 338, 8.7.2009.

5. The right to interpretation and translation, which stems from the European Convention on Human Rights (ECHR) and can also be derived from the EU Charter of Fundamental Rights[2], is fundamental for a person facing a criminal charge who does not understand the language of the proceedings so that he knows the charges against him and understands the procedure. In accordance with the ECHR, interpretation and translation must be provided free of charge.

6. Impact Assessment - SEC(2009)915 and its Summary SEC(2009)916 In order to inform the July 2009 proposal, the Commission carried out an Impact Assessment which is valid *mutatis mutandis* for the present proposal for a Directive. The report on the Impact Assessment is available at http://ec.europa.eu/governance/impact/ia_carried_out/docs/ia_2009/sec_2009_0917_en.pdf

2. BACKGROUND

7. Article 6(3) of the Treaty on European Union (TEU) provides that fundamental rights, as guaranteed by the ECHR and as they result from the constitutional traditions common to the Member States, shall constitute general principles of the Union's law. Article 6(1) TEU provides that the Union recognises the rights, freedoms and principles set out in the Charter of Fundamental Rights of the European Union of 7 December 2000, as adapted at Strasbourg, on 12 December 2007, which shall have the same legal value as the TFEU and TEU. Article 47 of the Charter of Fundamental Rights guarantees the right to a fair trial, including the right to legal advice and representation, while Article 48 provides that the rights of the defence should be respected.

8. The Presidency Conclusions of the Tampere European Council[3] stated that mutual recognition should become the cornerstone of judicial cooperation, but makes the point that mutual recognition "...and the necessary approximation of legislation would facilitate […] the judicial protection of individual rights"[4].

9. The Commission Communication to the Council and the European Parliament of 26 July 2000 on Mutual Recognition of Final Decisions in Criminal Matters[5] stated that "it must therefore be ensured that the treatment of suspects and the rights of the defence would not only not suffer from the implementation of the principle [of mutual recognition] but that the safeguards would even be improved through the process".

10. This was endorsed in the Programme of Measures to Implement the Principle of Mutual Recognition of Decisions in Criminal Matters[6] ("Programme of Measures"),

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2 Explanations relating to the Charter of Fundamental rights (OJ C 303, 14.12.2007), annexed to the Charter, in the Explanation on Article 48 stipulate: "Article 48 is the same as Article 6 (2) and (3) of the ECHR [*6(2) and 6(3) ECHR quoted*]. In accordance with Article 52(3), this right has the same meaning and scope as the right guaranteed by the ECHR." Article 52(3) of the Charter also states: "This provision shall not prevent Union law providing more extensive protection".

3 15 and 16 October 1999.

4 Conclusion 33.

5 COM(2000) 495, 29.7.2000.

6 OJ C 12, 15.1.2001, p. 10.

adopted by the Council and the Commission. It pointed out that "mutual recognition is very much dependent on a number of parameters which determine its effectiveness".

11. These parameters include mechanisms for safeguarding the rights of suspects (parameter 3) and the definition of common minimum standards necessary to facilitate application of the principle of mutual recognition (parameter 4). This proposal for a Directive represents an embodiment of the stated aim of enhancing the protection of individual rights.

12. The Commission put forward in 2004 a comprehensive proposal[7] for a legislation covering some important rights of defendants in criminal proceedings. This proposal could not be adopted by Council.

13. On 30 November 2009, the Justice Council adopted a Roadmap for strengthening procedural rights of suspected or accused persons in criminal proceedings[8] calling for the adoption of five measures covering some important procedural rights, based on a "step-by-step" approach and inviting the Commission to present the necessary proposals to this end. The first measure envisaged in the Roadmap concerns the right to interpretation and translation.

14. The Stockholm Programme, adopted by the European Council of 10-11 December 2009[9], reaffirmed the importance of the rights of the individual in criminal proceedings as a fundamental value of the Union and an essential component of mutual trust between Member States and of public confidence in the EU. The Stockholm Programme refers to the Roadmap as being integral part of the multiannual programme and calls on the Commission to come forward with appropriate proposals for its swift implementation.

3. THE RIGHT TO TRANSLATION AND INTERPRETATION AS ESTABLISHED UNDER THE ECHR AND UNDER THE EU CHARTER OF FUNDAMENTAL RIGHTS

15. Article 5 ECHR – Right to liberty and security – stipulates that:

"(1) Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law: (…)

(f) the lawful arrest or detention of a person …with a view to …extradition.

(2)Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him."

(…)

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7 COM(2004) 328, 28.4.2004.
8 OJ C 295, 4.12.2009, p. 1.
9 European Council Conclusions, 10-11 December 2009.

(4) Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful."

And Article 6 – Right to a fair trial – stipulates that:

"(3) Everyone charged with a criminal offence has the following minimum rights:

(a) to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;

(…)

(e) to have the free assistance of an interpreter if he cannot understand or speak the language used in court."

The Charter of Fundamental Rights of the European Union enshrines these rights in its Articles 6 and 47 to 50. In particular, Article 47 guarantees the right to a fair trial, including the right to legal advice and representation; Article 48 guarantees respect for the presumption of innocence and the rights of the defence[10].

16. The European Court of Human Rights (ECtHR) has held in relation to Article 6 ECHR that the accused has the right to interpretation free of charge, even in the event of his conviction, that he has a right to receive the documents setting out the charge in a language that he understands, that the interpretation must be sufficient to allow the person charged to understand the proceedings and that the interpreter must be competent. That the accused has the right to interpretation free of charge, even in the event of his conviction was established in *Luedicke, Belkacem and Koç v. Germany*[11]. In *Kamasinski v. Austria*[12], it was established that the interpretation provided should be of a high enough standard to enable the defendant to have knowledge of the case against him and to defend himself. The right applies to documentary material and the pre-trial proceedings. The ECtHR held that the standard of interpretation must be "adequate" and that details of the charge must be given to the person in a language that he understands (*Brozicek v. Italy*[13]). It is for the judicial authorities to prove that the defendant speaks the language of the court adequately and not for the defendant to prove he does not[14]. The interpreter must be

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10 See footnote 2.

11 *28 November 1978, Series A N° 29.* "46.The Court thus finds that the ordinary meaning of the term […] "free" in Article 6 para. 3(e) […] is confirmed by the object and purpose of Article 6. The Court concludes that the right protected by Article 6 para. 3(e) entails, for anyone who cannot speak or understand the language used in court, the right to receive the free assistance of an interpreter, without subsequently having claimed back from him payment of the costs thereby incurred".

12 19 December 1989, A Series N° 168.

13 19 December 1989, (10964/84) [1989] ECHR 23.

14 "41[…] the Italian judicial authorities should have taken steps to comply with it so as to ensure observance of the requirements of Article 6 § 3 (a) (art. 6-3-a), unless they were in a position to establish that the applicant in fact had sufficient knowledge of Italian to understand from the notification the purport of the letter notifying him of the charges brought against him. No such evidence appears from the documents in the file or the statements of the witnesses heard on 23 April 1989. On this point there has therefore been a violation of Article 6 § 3 (a) (art. 6-3-a)".

competent and the judge must safeguard the fairness of the proceedings (*Cuscani v. UK*[15]*).*

17. The proposal for a draft Directive sets out minimum requirements and builds on the ECHR and the case-law of the ECtHR. The Commission's Reflection Forum on Multilingualism and Interpreter Training[16] produced a report with recommendations on the quality of interpretation and translation. This Report was the fruit of meetings of the Reflection Forum convened by the Directorate-General for Interpretation during 2008 to identify whether there was a need for action and if so, what action could be taken. The Forum concluded that there was a need and set out Recommendations as to how to improve the provision of competent and qualified interpreters in criminal proceedings. The Recommendations included having a Curriculum in Legal Interpreting and a system of accreditation, certification and registration for legal interpreters.

18. The Directorate-General for Translation of the European Commission (DGT) has launched the European Master's degree in Translation (EMT) initiative. In cooperation with an expert group consisting of eminent academics, a reference framework, made up of six competencies, for translator's university education has been created. In September 2009, the DGT set up a network of high-level translation programmes at Masters' level throughout the EU to pursue excellence in translator education, including the specialised field of legal translation, and enhance the translator profession in all member states.

19. Where necessary, appropriate use may be made of funding possibilities available at the level of the European Union to support member States' efforts to comply with the requirements of this legislation, in particular as regards State-funded translation and interpretation facilities.

4. SPECIFIC PROVISIONS

Article 1 - Scope of application

19. The scope covers criminal proceedings and proceedings for the execution of a European Arrest Warrant. It covers any person from the time that they are suspected of having committed a criminal offence until the conclusion of the proceedings (including any appeal). It is an important point that European Arrest Warrant cases are covered since the Framework Decision on the European Arrest Warrant only addresses these rights in general terms. In this respect, the proposal is a further development of Article 5 ECHR.

20. Since the case-law of the ECtHR has clarified that persons being questioned in relation to offences, whether or not formally charged, should be covered by Article 6 ECHR, persons arrested or detained in connection with a criminal charge also come within the ambit of this provision. These rights start to apply from the time when the person is informed that he is suspected of having committed an offence.

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15 24 September 2002 - No. 3277/96.

16 http://ec.europa.eu/commission_barroso/orban/docs/FinalL_Reflection_Forum_Report_en.pdf

Article 2 - Right to interpretation

21. This Article lays down the basic principle that interpretation should be provided during the investigative and judicial phases of the proceedings, i.e. during police questioning, at trial and at any interim hearings or appeals. This includes interpretation of communication between the suspected or accused person and his lawyer. There should be a system in place to ascertain whether the person needs an interpreter and for the person to challenge a decision that an interpreter is not needed or to challenge the quality of the interpretation.

22. European Arrest Warrant proceedings are explicitly covered.

Article 3 - Right to translation of essential documents

23. The suspect has the right to written translation of essential documents in order to safeguard the fairness of the proceedings. In *Kamasinski v. Austria*[17], the ECtHR stated that the right to interpretation applied to "documentary material" and that the accused should have sufficient knowledge of the case against him to enable him to defend himself[18]. The essential documents for the criminal proceedings should therefore include the charge sheet or indictment and any relevant documentary material such as key witness statements needed in order to understand "in detail, the nature and cause of the accusation against him" in accordance with Article 6(3)(a) of the ECHR. Translation should also be provided of any detention order or order depriving the person of his liberty and the judgment, which is necessary for the person to exercise his right of appeal (ECHR Protocol 7, Article 2). If the documents are very lengthy, translations can be limited to the relevant passages.

24. In respect of proceedings for the execution of a European Arrest Warrant, the European Arrest Warrant should be translated.

25. A person may also waive their right to translation on the condition that they have received legal advice beforehand.

Article 4 - Costs of interpretation and translation

26. This Article provides that the costs of interpretation and translation are to be met by the Member State. That the accused has the right to interpretation free of charge,

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17 19 December 1989, A Series N° 168.

18 "74. The right […] to the free assistance of an interpreter applies not only to oral statements made at the trial hearing but also to documentary material and the pre-trial proceedings. Paragraph 3 (e) (art. 6-3-e) signifies that a person "charged with a criminal offence" who cannot understand or speak the language used in court has the right to the free assistance of an interpreter for the translation or interpretation of all those documents or statements in the proceedings instituted against him which it is necessary for him to understand or to have rendered into the court's language in order to have the benefit of a fair trial. […]However, paragraph 3 (e) (art. 6-3-e) does not go so far as to require a written translation of all items of written evidence or official documents in the procedure. The interpretation assistance provided should be such as to enable the defendant to have knowledge of the case against him and to defend himself, notably by being able to put before the court his version of the events. In view of the need for the right guaranteed by paragraph 3 (e) (art. 6-3-e) to be practical and effective, the obligation of the competent authorities is not limited to the appointment of an interpreter but, if they are put on notice in the particular circumstances, may also extend to a degree of subsequent control over the adequacy of the interpretation provided (see the Artico judgment)."

even in the event of his conviction was established in *Luedicke, Belkacem and Koç v. Germany*[19].

Article 5 - Quality of the interpretation and translation

27. This Article sets out the basic requirement to safeguard the quality of interpretation and translation. Recommendations in this respect can be found in the Report of the Reflection Forum on Multilingualism and Interpreter Training[20].

Article 6 - Non-regression clause

28. The purpose of this Article is to ensure that setting common minimum standards in accordance with this Directive does not have the effect of lowering standards in certain Member States and that the standards set in the European Convention on Human Rights, in the Charter of Fundamental Rights and in other relevant provisions of international law are maintained. Member States remain entirely at liberty to set standards higher than those agreed in this Directive.

Article 7 – Implementation

29. This Article requires that Member States must implement the Directive by xx/xx/ 20xx and, by the same date, send the text of the provisions transposing it into national law to the Council and the Commission.

Article 8 – Report

30. 12 months after implementation, the Commission must 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, accompanied, if necessary, by legislative proposals.

Article 9 - Entry into force

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

5. SUBSIDIARITY PRINCIPLE

32. The objective of the proposal cannot be sufficiently achieved by Member States alone, since the aim of the proposal is to promote trust between them and it is therefore important to agree on a common minimum standard that applies throughout the whole of the European Union. The proposal will approximate Member States' substantive procedural rules in respect of interpretation and translation in criminal

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19 "46.The Court thus finds that the ordinary meaning of the term […] "free" in Article 6 para. 3(e) […] is confirmed by the object and purpose of Article 6. The Court concludes that the right protected by Article 6 para. 3(e) entails, for anyone who cannot speak or understand the language used in court, the right to receive the free assistance of an interpreter, without subsequently having claimed back from him payment of the costs thereby incurred."

20 See footnote 14 above.

proceedings in order to build mutual trust. The proposal therefore complies with the subsidiarity principle.

6. PROPORTIONALITY PRINCIPLE

33. The proposal complies with the proportionality principle in that it does not go beyond the minimum required in order to achieve the stated objective at European level and what is necessary for that purpose.

2010/0050 (COD)

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the right to interpretation and translation in criminal proceedings

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 Article 82(2) thereof,

Having regard to the proposal from the European Commission[21],

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

Having regard to the opinion of the European Economic and Social Committee[22],

Having regard to the opinion of the Committee of the Regions[23],

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) Article 47 of the EU Charter of Fundamental Rights enshrines the right to a fair trial, including the right to legal advice and representation. Article 48 of the Charter guarantees respect for the presumption of innocence and the rights of the defence.

(2) The European Union has set itself the objective of maintaining and developing an area of freedom, security and justice. According to the conclusions of the European Council in Tampere of 15 and 16 October 1999, and in particular point 33 thereof, the principle of mutual recognition should become the cornerstone of judicial cooperation in both civil and criminal matters within the European Union.

(3) On 29 November 2000 the Council, in accordance with the Tampere Conclusions, adopted a programme of measures to implement the principle of mutual recognition in criminal matters[24]. The introduction to the programme of measures explains that mutual recognition is "designed to strengthen cooperation between Member States but also to enhance the protection of individual rights".

(4) Implementation of the principle of mutual recognition of decisions in criminal matters presupposes that Member States have trust in each other's criminal justice

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21 OJ C , , p. .
22 OJ C , , p. .
23 OJ C , , p. .
24 OJ C 12, 15.1.2001, p. 10.

systems. The extent of the mutual recognition exercise is very much dependent on a number of parameters, which include "mechanisms for safeguarding the rights of […] suspects"[25] and common minimum standards necessary to facilitate the application of the principle of mutual recognition.

(5) Mutual recognition can only operate effectively in a spirit of confidence, whereby not only judicial authorities, but all actors in the criminal process see decisions of the judicial authorities of other Member States as equivalent to their own, implying "not only trust in the adequacy of one's partners' rules, but also trust that these rules are correctly applied"[26].

(6) Although all Member States are parties to the European Convention for the Protection of Human Rights and Fundamental Freedoms, experience has shown that this in itself does not always provide a sufficient degree of trust in the criminal justice systems of other Member States.

(7) Article 82(2) of the Treaty 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. Common minimum standards 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.

(8) On 30 November 2009, the Council adopted the Roadmap on Procedural Rights which requested the Commission to put forward proposals on a "step by step" basis, on the right to interpretation and translation, the right to information about rights,, the right to legal advice, before trial and at trial, the right for a detained person to communicate with family members, employers and consular authorities, and protection for vulnerable suspects.

(9) This Directive, the first measure on the Roadmap, should lay down common standards to be applied in the fields of interpretation and translation in criminal proceedings in order to enhance the necessary confidence among Member States.

(10) The right to interpretation and translation for those who do not understand the language of the proceedings are enshrined in Article 6 of the ECHR, as interpreted by the case law of the European Court of Human Rights. The Directive should facilitate the application of those rights in practice, with a view to safeguarding the right to fair proceedings.

(11) The rights provided for in this Directive should also apply to proceedings for the execution of a European Arrest Warrant. Executing Members States should provide, and bear the costs for, interpretation and translation for any requested person who does not understand or speak the language of the proceedings.

(12) The suspected or accused person should be able, *inter alia*, to explain his version of the events to his legal counsel, point out any statements with which he disagrees and make his legal counsel aware of any facts that should be put forward in his defence.

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[25] OJ C 12, 15.1.2001, p. 10.
[26] COM(2000) 495, 26.7.2000, p. 4.

(13) The finding that there is no need for interpretation or translation should be subject to the possibility of review. Member States should ensure that the suspect or accused person has the right to challenge a decision finding that there is no need for interpretation including cases where interpretation or translation is so deficient that it amounts to an absence of interpretation.

(14) The duty of care towards suspects or accused persons who are in a potentially weak position, in particular because of physical impairments which affect their ability to communicate effectively, underpins a fair administration of justice. The competent authorities should therefore ensure that these persons are able effectively to exercise the rights provided for under this Directive, by being aware of any potential vulnerability that affects their ability to follow the proceedings and to make themselves understood and by taking appropriate steps to safeguard these rights.

(15) The fairness of the proceedings requires that essential documents should be translated for the benefit of the suspect or accused person. Essential documents that should be translated include any decision depriving a person of his liberty, the charge or indictment, key documentary evidence and any judgment.

(16) A waiver of the right to written translation of documents should be unequivocal and only be valid after legal advice has been received.

(17) The effectiveness of interpretation and translation should be ensured by various means such as offering training to judges, lawyers, prosecutors, police and other relevant court staff so as to raise awareness of the situation of those needing and those providing interpretation.

(18) This Directive should set minimum rules. Member States should be able to extend the rights set out in this Directive in order to provide a higher level of protection also in situations not explicitly dealt with in this Directive. The level of protection should never go below the standards provided by the European Convention on Human Rights, as interpreted in the case-law of the European Court of Human Rights.

(19) This Directive respects fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union. In particular, this Directive seeks to promote the right to liberty, the right to a fair trial and the rights of the defence and has to be implemented accordingly.

(20) Member States should ensure that the provisions of this Directive, which correspond to rights guaranteed by the European Convention on Human Rights are implemented consistently with them as well as with the relevant case-law of the European Court of Human Rights.

(21) Since the aim of achieving common minimum standards cannot be achieved by Member States acting unilaterally, neither at central nor at regional or local level, and can only be achieved at Union level, the European Parliament and the Council may adopt measures in accordance with the principle of subsidiarity as referred to in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in the same Article, this Directive does not exceed what is necessary in order to achieve that objective.

(22) In accordance with Articles 1, 2, 3 and 4 of Protocol on the position of United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on the Functioning of the European Union, the United Kingdom and Ireland have notified of their wish to participate in the adoption and application of this Directive] / [Without prejudice to Article 4 of Protocol on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, the United Kingdom and Ireland will not participate in the adoption of this Directive and will not be bound by or be subject to its application][27]. In accordance with Articles 1 and 2 of Protocol on the position of Denmark annexed to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Directive and is therefore not bound by it or subject to its application

HAVE ADOPTED THIS DIRECTIVE:

Article 1
Subject-matter and scope

1. This Directive lays down rules concerning the rights to interpretation and translation in criminal proceedings and proceedings for the execution of a European Arrest Warrant.

2. Member States should ensure that these rights referred to in paragraph 1 apply to any person from the time that person is informed by the competent authorities of a Member State that he is suspected of having committed a criminal offence until the conclusion of the proceedings.

Article 2
The right to interpretation

1. Member States shall ensure that a suspect or accused person who does not understand and speak the language of the criminal proceedings concerned is provided without delay with interpretation of a quality sufficient to safeguard the fairness of the criminal proceedings. Interpretation shall be provided during those proceedings before investigative and judicial authorities, including during police questioning, during all necessary meetings between the suspect and his lawyer, during all court hearings and during any necessary interim hearings.

2. Member States shall ensure that, where necessary, legal advice received throughout the criminal proceedings is interpreted for the suspect.

3. Member States shall ensure that a procedure is in place to ascertain whether the suspect or accused person understands and speaks the language of the criminal proceedings.

4. Member States shall ensure that the suspect or accused person has the right to challenge a decision finding that there is no need for interpretation.

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[27] The final wording of this recital in the Directive will depend on the actual position of the UK and IE, taken in accordance with the provisions of Protocol No 21.

5. The right to interpretation includes assistance of persons with hearing or speech impediments.

6. With regard to proceedings for the execution of a European Arrest Warrant, Member States shall ensure that any person subject to such proceedings who does not understand and speak the language of the proceedings shall be provided with interpretation during those proceedings.

Article 3

The right to written translation of essential documents

1. Member States shall ensure that a suspect or accused person who does not understand the language of the criminal proceedings concerned is provided with written translations of all essential documents of a quality sufficient to safeguard the fairness of the criminal proceedings.

2. The essential documents to be translated shall include the detention order depriving the person of his liberty, the charge/indictment, essential documentary evidence and the judgment.

3. The suspect or accused person or his lawyer may submit a reasoned request for translation of further documents, including written legal advice from the suspect's lawyer.

4. Member States shall ensure that the suspect or accused person has the right to challenge a decision finding that there is no need for translation.

5. With regard to proceedings for the execution of a European Arrest Warrant, Member States shall ensure that any person subject to such proceedings who does not understand the language in which the European Arrest Warrant is drawn up, shall be provided with a translation of the said document.

6. A person who has a right under this Article to translation of documents may waive the right after receiving legal advice on the point.

Article 4

Member States to meet the costs of interpretation and translation

Member States shall cover the costs of interpretation and translation resulting from the application of Articles 2 and 3, irrespective of the outcome of proceedings.

Article 5

Effectiveness of the interpretation and translation

1. Interpretation and translation shall be provided in such a way as to ensure that the suspect or accused person is fully able to exercise his rights.

2. Member States shall offer training to judges, lawyers, prosecutors, police officers and other relevant court personnel in order to ensure the suspect's ability to

understand the proceedings and to better comprehend the role of interpreters and translators.

Article 6
Non-regression clause

Nothing in this Directive shall be construed as limiting or derogating from any of the rights and procedural safeguards that may be ensured under the European Convention for the Protection of Human Rights and Fundamental Freedoms, under the EU Charter of Fundamental Rights, under other relevant provisions of international law or under the laws of any Member States which provide a higher level of protection.

Article 7
Implementation

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by …* (* - 24 months after the day in which this Directive enters into force)

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 reference shall be laid down by the Member States.

3. Member States shall transmit to the Commission the text of the provisions transposing into their national law the obligations imposed on them under this Directive together with a table showing how the provisions of this Directive correspond to the national provisions adopted.

Article 8
Report

The Commission shall, by ……. [*36 months after publication of this Directive in the Official Journal*] 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, accompanied, if necessary, by legislative proposals. The report shall also address the future cost implications of the measures taken by Member States pursuant to this Directive.

Article 9
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 10

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

Done at Brussels,

For the European Parliament	*For the Council*
The President	*The President*