



Your rights if accused or suspected of criminal offences in the EU

Fact sheet

Věra Jourová

Commissioner for Justice,
Consumers and Gender Equality



Directorate-General for
Justice and Consumers



Across the EU every year, 9 million people face criminal proceedings.

EU rules set common rights and minimum standards for all criminal proceedings, whether you are accused or suspected in your home country or elsewhere in the EU.



Your right to interpretation and translation

Interpretation must be provided free of charge during any questioning, including by police, all court hearings and any necessary interim hearings, as well as during essential meetings between you and your lawyer. This is to ensure proceedings are fully fair. Remote interpretation via videoconference, telephone, or internet can be used if the physical presence of the interpreter is not required to safeguard fairness.

You must also be provided with a **written translation of essential documents** if you don't speak the language. This includes any decision depriving you of your liberty, any charge and judgment.

Pavol goes on holiday to Spain. After going to a party, he is arrested by the police and accused of having damaged a car parked nearby. As Pavol does not speak nor understand Spanish, he will be provided with interpretation during police questioning and court hearings. Interpretation will also be available to communicate with his lawyer.

These rights have applied across the EU since 27 October 2013.



Your right to information

If you are suspected or accused of a crime, you must be promptly informed about the criminal act you are suspected or accused of.

You must be promptly informed of your **rights in criminal proceedings**. This should be given either orally or in writing, in simple and accessible language, taking into account any particular needs you may have. This information includes:

- your right of **access to a lawyer**;
- any **entitlement you may have to free legal advice**;
- your right to be **informed about the accusation**;

- your **right to interpretation and translation** if you do not understand the language of the proceedings;
- your **right to remain silent**.

If you are arrested, you must be informed of your **procedural rights** in an easy-to-read document, whether you ask for it or not. This “Letter of Rights” will contain information on:

- your right to **access the case materials**;
- your **right to have consular authorities and one person informed** (such as a family member or employer);
- your **right of access to urgent medical assistance**;
- your right to know the **maximum hours or days** suspects or accused persons may be **deprived of liberty** before being brought before a judicial authority;
- your right to **challenge your arrest, to review the detention or to ask for provisional release**.

Carla, an Italian student, travels to Malta to visit a friend. When she arrives at the airport in Valletta, she is arrested by Maltese authorities for smuggling drugs which have been found in her luggage. She does not understand English and does not know why she has been arrested. Shortly after her arrest, she receives a “Letter of Rights” in Italian informing her about her rights. She will be informed about the accusation, about her right to remain silent, and her right to have a lawyer. She will also be able to see the case file.

These rights have applied across the EU since 2 June 2014.



Your right to have a lawyer

If you are suspected or accused, no matter where you are in the EU, you have the right to be advised by a lawyer.

You have the right to:

- have your lawyer from the **first stage of police questioning** and throughout criminal proceedings;
- adequate, **confidential meetings** with the lawyer for you to effectively exercise your defence rights;
- for your **lawyer to play an active role** during questioning.

If you are arrested or detained, you have the right to:

- have **someone, such as a family member, to be made aware of your arrest**;
- have an opportunity to **communicate with your family**;
- **be in contact with your country’s consulate** and receive visits if you are arrested outside your home country.

If you are subject to a European Arrest Warrant, you have the right to **legal advice in both the country where you were arrested and your home country**.

Peter lives alone in Stockholm. He goes out with some friends, but a quarrel starts in the bar and ends in a big fight. Peter, his friends and ten other people are brought to the police station. Before being questioned by the police, Peter can discuss with a lawyer who stays with him during the entire police interview. The lawyer can also participate during the interview, asking questions and requesting clarifications. As asked for by Peter, his best friend will be informed that Peter is in police custody.

These rights will apply across the EU as of 27 November 2016.



Your right to be presumed innocent

If you are suspected or accused of a crime, you have a guarantee that you are presumed innocent by the police or justice authorities. The concept of presumption of innocence exists in all EU Member States, but the new rules will ensure that this right will be equally applied.

The rules clarify that the **burden of proof for establishing guilt is on the prosecution**, rather than on you to prove that you are not guilty. Any doubt is in your benefit.

Public authorities and judicial decisions are **prohibited from making any public references to guilt**, before you are proven guilty.

You have the right to:

- **remain silent and not self-incriminate** (admit that you have committed a crime). If you choose not to talk to the police or other authorities, this cannot be used against you to secure conviction.
- **be present at your trial**. Breaching this right will give you the right to a new trial.

Barbara is a well-known politician leading the main opposition party. She is arrested by the police and accused of bribery. Barbara claims she is innocent. However, in a press conference, the public prosecutor presents Barbara as being a corrupt politician guilty of large-scale bribery, without providing any concrete evidence. Measures and remedies must be offered to reaffirm Barbara's presumption of innocence.

These rights will apply across the EU as of 1 April 2018.



Your rights as a child

Every year in the EU, over 1 million children face criminal justice proceedings. Children are vulnerable and need special protection at all stages of the proceedings.

If you are under the age of 18:

- you must be **quickly informed of your legal rights**, and be assisted by your parents (or other appropriate persons);
- you must in principle **be assisted by a lawyer**. This must be the case when you are brought before a court to decide on detention and when you are in detention. No prison sentence can be imposed if you have not been assisted by a lawyer during the court hearings.
- **you must be detained separately from adults if sent to prison**. This is to prevent ill-treatment and abuse. There must also be the possibility for measures to help you reintegrate into society. All measures possible must be taken to avoid you being imprisoned.
- **you do not have to reimburse the costs of certain procedural measures**, for example, for individual assessment, medical examination, or audio-visual recording of interviews.
- **your privacy will be respected and questioning will be audio-visually recorded or recorded in another appropriate manner**. Repeatedly questioning you should be avoided.

Sophie, a sixteen year-old girl from the Netherlands, leaves together with a group of friends to Slovenia. One evening, Sophie and several of her friends get involved in a fight with other youngsters. Two people are injured. Sophie and her friends are arrested by the Slovenian police and taken to the police station where they have to spend the night. Sophie's parents are informed as soon as possible. She will have the right to contact a lawyer and see a doctor. She and her friends will be held separately from adults.

These rights will apply across the EU as of 11 June 2019.



Your right to legal aid

If you are suspected or accused, you have the right to **legal aid**, that is, financial support for example if you do not have the resources to covers the costs of the proceedings.

Today, there are still large disparities in the way legal aid is provided in the European Union. With the new rules, you have the right to legal aid **at the early stages of criminal proceedings**, at the latest before questioning by the police. This is when you are particularly vulnerable, especially if you have been deprived of liberty.

Member States may apply a means test (related to the income and wealth of the person concerned), a merits test (related to the necessity to ensure effective access to justice) or both to determine whether legal aid has to be granted. The EU rules define clear criteria to grant legal aid.

Decisions concerning legal aid must be taken diligently. You must be informed in writing if your application is rejected in full or in part.

A right to legal aid applies in European Arrest Warrant proceedings, both in the Member States that executes it and in the Member State where it has been issued.

In the event of a breach of your rights under this Directive, you must be offered an effective remedy.

André, a French citizen, is arrested in Finland on the basis of a European arrest warrant. He is accused of hitting a pedestrian in his car and driving off, a couple of months ago in France. He is very worried because he has no money to pay for a lawyer himself. André receives free legal assistance from a Finnish lawyer before his first hearing by the judge. After contact from his Finnish lawyer with a legal aid lawyer in France, André agrees during this hearing to be surrendered to the French authorities in order to seek for a quick clarification of the allegations. Eventually André is released two weeks later in France because it turns out that he could not have been the driver of the car.

These rights will apply across the EU as of May 2019.

> For more information:

http://ec.europa.eu/justice/criminal/criminal-rights/index_en.htm