



**Guidance Booklet
for Institutional
and Organizational
Stakeholders on the
Right to Information,
Right of Access to a
Lawyer and Right to
Legal Aid**

Contents

Purpose of the Booklet	03
Directives' Overview	04
Internal Checklists	08
Police stations / investigative authorities	08
Detention facilities	09
Courts and prosecution services	10
Legal aid authorities / Bar associations	10
Monitoring / inspection bodies	11
FULL-PROOF Project	12

PURPOSE OF THE BOOKLET

This Booklet provides institutional and organisational stakeholders with a practical overview of key European Union (EU) procedural rights instruments, notably Directives 2012/13/EU (right to information), 2013/48/EU (access to a lawyer), and 2016/1919/EU (legal aid). It offers clear guidance on systemic implementation, infrastructure requirements, training obligations, and monitoring mechanisms to ensure compliance and effective application of these rights.

Building on the principle that robust institutional frameworks enable tailored safeguards, this Booklet suggests practical questions that organisations such as police stations, courts, prisons, and training bodies should ask themselves in order to operationalise the procedural rights. It focuses on those managing facilities, staff development, detention conditions, and case processing from initial contact through trial.

It is grounded on the premise that access to clear, accessible and practical information can support observance of the rights established in these EU Directives.

These Directives form part of the "**Procedural Rights Roadmap**" adopted in 2009, which aims to strengthen the procedural rights of suspects and accused persons in criminal proceedings. It also covers the **right to interpretation and translation**, **the presumption of innocence and the right to be present at trial**, as well as **procedural safeguards for children who are suspects or accused persons**. The Roadmap was incorporated into the EU Stockholm Programme, within which the European Council highlighted that safeguarding the rights of suspects and accused persons is a fundamental value of the Union and essential to maintaining mutual trust among Member States.



DIRECTIVES' OVERVIEW

Directive 2012/13/EU on the **right to information** in criminal proceedings sets minimum rules for ensuring that suspects and accused must be promptly informed about (i) their procedural rights, (ii) the reasons for the arrest/accusation and (iii) given access to the case files throughout the EU.

Regarding the procedural rights, these should be promptly provided with information concerning at least the following:

- ✓ Access to a lawyer
- ✓ Any entitlement to free legal advice
- ✓ The right to be informed about the accusation
- ✓ The right to interpretation and translation
- ✓ The right to remain silent

Furthermore, upon arrest or detention, **a written Letter of Rights in clear and simple language must be given to the suspects or accused persons**, who must have the opportunity to read it and be allowed to keep it in their possession. This Letter must include, in addition to the rights mentioned above, the following:

- ✓ The right of access to the materials of the case;
- ✓ The right to have consular authorities and one person informed;
- ✓ The right of access to urgent medical assistance;
- ✓ The maximum number of hours or days suspects or accused persons may be deprived of liberty before being brought before a judicial authority.

Model examples of Letter of Rights in criminal proceedings and in European Arrest Warrant (EAW) proceedings can be found in Annex 1 and 2 of the [Directive](#), respectively.

Suspects and accused must also be informed, in sufficient detail, of the criminal act they are suspected or accused of, so they can effectively exercise their defence rights and ensure fair proceedings. They must also be told the reasons for any arrest or detention, including the specific offence involved.

Lastly, they (and their lawyers) must receive free access to essential documents to challenge the lawfulness of arrest or detention, and to all material evidence (including exculpatory) held by authorities.



For a more detailed description please see the Fair Trials' Toolkit on the Right to Information Directive, available [here](#). For a brief presentation of the main points of Directive 2012/13/EU, please take a look at the EU Agency for Fundamental Rights' (FRA) reports "[Rights in practice: access to a lawyer and procedural rights in criminal and European Arrest Warrant proceedings](#)", and "[Rights of suspected and accused persons across the EU: translation, interpretation and information](#)" which include dedicated sections on the right to information. Providing standards overview, regional challenges and examples of promising practices the following report from the EU Project 'From law to practice: Strengthening procedural rights in police custody (ProRPC)' is also available [here](#).

Directive 2013/48/EU on the **right of access to a lawyer** lays down essential requirements on the rights of suspects and accused persons in criminal proceedings and in EAW cases. It applies from the moment a person is made aware by authorities that they are suspected or accused of an offence, until the criminal proceedings are concluded.

This Directive is largely based on the principles and standards established in the European Court of Human Rights case law, such as [Salduz v Turkey \(2008\)](#), according to which access to a lawyer from the first police interrogation is a fundamental requirement of a fair trial and that restrictions on this right will generally irretrievably prejudice the rights of the defence.

Article 3 (2) specifies that the accused or suspected persons have the right to access a lawyer without undue delay, from the earliest of the following:

Before the interrogation by the police or other law enforcement or judicial authority



When the authorities are carrying out certain investigative or evidence gathering acts

After the deprivation of liberty



When the person has been summoned to appear before a criminal court

Moreover, confidential communication with legal counsel, their effective participation during questioning, and their presence at key investigative acts must be safeguarded. It also requires that if a person's status changes from witness to suspect, questioning must stop immediately and the person must be informed of their rights, including access to a lawyer. For EAW proceedings, the Directive ensures access to a lawyer in the executing State and the ability to appoint one in the issuing State.



For a more detailed explanation and concise overview of its main provisions, you may refer to the following materials: the FRA report "[Rights in practice: access to a lawyer and procedural rights in criminal and European Arrest Warrant proceedings](#)" and Fair Trials' [Toolkit on the Access to a Lawyer Directive](#).

Directive 2016/1919/EU on the **right to legal aid** establishes common minimum standards on access to state funded legal assistance for suspects, accused persons and requested persons in EAW proceedings. Its importance lies in guaranteeing equal access to justice and safeguarding the right to a fair trial.

This Directive is deeply intertwined with the Right of access to a lawyer Directive and serves the purpose of guaranteeing that same right, through public funding, i.e. funding by a Member State of the assistance of a lawyer, therefore enabling the exercise of the right of access to a lawyer and ensuring its effectiveness.

It applies to suspects or accused persons in criminal proceedings who benefit from the above-mentioned right of access to a lawyer pursuant to the respective Directive and meet one of the three additional criteria:

The persons are deprived of liberty.

Are required by law to be assisted by a lawyer in accordance with regional or national law.

Are required or permitted to attend an investigative or evidence gathering act.

It also applies to requested persons under an EAW who have the right to access a lawyer upon arrest by the executing State, as well as to persons who, while not being initially suspects or accused, became so during questioning.

To determine whether someone has sufficient resources to pay for its own lawyer within criminal proceedings, Member States can apply a means test, a merits test or both. In any event, the merits test is considered to be fulfilled in the following circumstances: (a) when a suspect or accused person is brought before a competent court or judge to decide on detention at any stage of the proceedings within the scope of this Directive; and (b) during detention.

Legal aid must be granted without undue delay, and at the latest:

Before questioning by the competent authority.

Before any investigative or evidence-gathering acts are carried out.



A more detailed description and implementation guidance regarding this Directive can be found in the [Commission Report to the European Parliament and the Council](#), as well as in specialised legal aid toolkits produced under EU funded projects and non-governmental organisations (for example, Fair Trials' and Legal Experts Advisory Panel's [Transposition toolkit](#) and [Legal Aid Directive Toolkit](#)).

INTERNAL CHECKLISTS

Different bodies and entities play a role in the safeguard of the procedural rights established by the Directives mentioned above. Therefore, brief checklists were prepared for each one of them, such as police stations, detention facilities, courts and prosecutors, legal aid authorities and bar associations, and monitoring bodies, to help guide their activity.

To ensure that the institution or organisation is doing its best to contribute to proper procedure and respect for suspects and accused' procedural rights, each one should ask the following sample questions:

Police stations / investigative authorities



Does it have soundproofed private rooms for lawyer-client meetings?



Does it have a national database of legal translators and interpreters?



Is interpretation equipment (headsets, booths) available 24/7 at all facilities?



Is the Letter of Rights drafted in simple, accessible language and, where necessary, explained orally to the suspect?



Is a lawyer notified without undue delay after deprivation of liberty and before any questioning begins?



Is interpretation available during questioning and for the immediate exercise of defence rights whenever the suspect does not speak or understand the language?



Are Letters of Rights printed in multiple languages/formats and readily accessible, given promptly after deprivation of liberty?



Is every waiver of the right to a lawyer or legal aid recorded, and do officers check that the waiver is informed, voluntary and unequivocal?



Is there a standard procedure in place to help suspects apply for legal aid directly from the police station?



Is basic vulnerability and age screening carried out at first contact?

Detention facilities



Are dedicated confidential meeting rooms for lawyers and detainees available and routinely used?



Can detainees contact a lawyer without undue delay (e.g. by phone, mail or other means) and are such contacts not arbitrarily restricted?



Is at least one third person (such as a relative or employer) informed promptly of the deprivation of liberty if the detainee so wishes?



Is information on rights and on how to obtain legal aid visibly displayed and available in writing in detention areas?



Are there internal procedures to assist detainees in applying for legal aid and in obtaining information on decisions?



Are children never detained together with adults, except where a documented best interests assessment justifies an exception?



Is a medical examination available without undue delay for detained children and other clearly vulnerable persons, with arrangements for ongoing health and mental health monitoring where needed?



When a child is detained, is the holder of parental responsibility (or another appropriate adult) promptly informed, and are regular family visits ensured while avoiding any incommunicado detention?


Courts and prosecution services

- ✓ At the start of key hearings, does the court verify that the accused understands the nature of the charges and the core procedural rights?
- ✓ Has the accused had a genuine opportunity to consult a lawyer before trial or other decisive procedural steps, and does the court check this?
- ✓ When an accused appears without a lawyer, does the court examine whether this is the result of a valid waiver or another problem (e.g. legal aid delay)?
- ✓ Are any waivers of the right to a lawyer checked in person by the court to ensure they are informed, voluntary and unequivocal, and then recorded in the file?
- ✓ Are decisions on legal aid based on clear criteria, taken within a timeframe that does not delay proceedings, and reviewed where fairness is at risk?
- ✓ Are interpretation and, where needed, translation of essential documents provided so that the accused can follow and participate effectively in the proceedings?
- ✓ When the accused is a child, does the court adapt scheduling, explanations and the conduct of the hearing to secure the child's effective participation? Does it ensure that a parent (or other nominated adult) is present?

Legal aid authorities / Bar associations

- ✓ Is there an on call or duty lawyer system that guarantees the availability of lawyers at police stations and courts at all times?
- ✓ Are eligibility criteria for legal aid (means and/or merits) clearly defined, published, and consistent with the minimum EU standards?
- ✓ Are time limits for deciding on legal aid applications set and respected so that access to a lawyer is not unduly delayed?
- ✓ Do lawyers providing legal aid receive training on EU procedural rights, and, where relevant, on representing children and vulnerable persons?
- ✓ Is there a mechanism to reassign a legal aid case where representation is clearly ineffective in order to safeguard the right to a fair trial?
- ✓ Are there mandatory training modules covering vulnerability identification, child development, communication techniques with children, and best interests assessments for all officials who deal with children in criminal proceedings?
- ✓ For police, prosecutors and judges: Is participation in these child specific and vulnerability-focused trainings a formal requirement for assignment to cases involving children or other vulnerable suspects or accused persons?

Monitoring / inspection bodies

- ✓ Do monitoring visits to police stations and detention facilities include specific checks on provision of the Letter of Rights, access to a lawyer, access to legal aid and access to an interpreter and/or translator?
 - ✓ Are data collected on key indicators, for example, time from arrest to first contact with a lawyer, frequency and context of waivers, and number of legal aid refusals?
 - ✓ Do inspection tools contain specific questions on safeguards for children and vulnerable suspects/accused (e.g. parental notification, separate detention, individual assessments)?
- 

FULL-PROOF Project

FULL-PROOF is a European Union co-funded project that aims to contribute to the streamlining of criminal justice procedures by comprehensively addressing breaches of procedural rights occurring in the initial stages of justice proceedings, concretely those in Directive 2012/13/EU, Directive 2013/48/EU, and Directive 2016/1919/EU.



If you want to know more about this project, please visit our website at:

www.full-proof.eu

The Consortium

Portugal



IPS_Innovative Prison Systems

Bulgaria



Bulgarian Helsinki Committee Organisation

Italy



University of Bologna

Slovakia



Academy of Police Force in Bratislava

Poland



Polish Platform for Homeland Security

Slovenia



Peace Institute

Romania



Police Academy 'Alexandru Ioan Cuza'





FULL-PROOF.EU

Co-funded by the European Union.

Views and opinions expressed are however those of the author(s) only and do not necessarily reflect those of the European Union or the European Commission. Neither the European Union nor the European Commission can be held responsible for them.

