Judicial cooperation in criminal matters: right to information in criminal proceedings

2010/0215(COD) - 22/05/2012 - Final act

PURPOSE: to set common minimum standards as regards the right to information in criminal proceedings throughout the European Union.

LEGISLATIVE ACT: Directive 2012/13/EU of the European Parliament and of the Council on the right to information in criminal proceedings.

CONTENT: the Council adopted a directive on the right to information in criminal proceedings, following an agreement with the European Parliament at first reading.

This Directive lays down:

- rules concerning the right to information of **suspects or accused persons**, relating to their rights in criminal proceedings and to the accusation against them;
- rules concerning the right to information of persons subject to a European Arrest Warrant relating to their rights.

Right to information about rights: the text states that Member States shall ensure that suspects or accused persons are provided promptly with information concerning at least the following procedural rights, as they apply under national law, in order to allow for those rights to be exercised effectively:

- the right of access to a lawyer;
- any entitlement to free legal advice and the conditions for obtaining such advice;
- the right to be informed of the accusation, in accordance with Article 6;
- the right to interpretation and translation;
- the right to remain silent.

Member States shall ensure that the information shall be given orally or in writing, in simple and accessible language, taking into account any particular needs of vulnerable suspects or vulnerable accused persons.

Letter of rights on arrest: the Directive also stipulates that any person arrested has the right to receive upon arrest a so-called "Letter of Rights" in a language that he or she understands. It should be drafted in a simple and accessible language so as to be easily understood.

In addition to the rights already mentioned above, this "Letter of Rights" should contain information on at least the following procedural rights:

- the right to 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 right to know how long you can be deprived of liberty in the country concerned before being brought before a judicial authority after arrest.

The Letter of Rights shall also contain **basic information** about any possibility, under national law, of challenging the lawfulness of the arrest; obtaining a review of the detention; or making a request for provisional release.

Member States shall ensure that persons who are arrested for the purpose of the execution of a **European Arrest Warrant** are provided promptly with an appropriate Letter of Rights. An indicative model Letter of Rights is set out in Annex II.

Right to information about the accusation: Member States shall ensure that suspects or accused persons are provided with information about the criminal act they are suspected or accused of having committed. That information shall be provided promptly and in such detail as is necessary to safeguard the fairness of the proceedings and the effective exercise of the rights of the defence. Suspects or accused persons who are arrested or detained are informed of the reasons for their arrest or detention, including the criminal act they are suspected or accused of having committed.

Right of access to the materials of the case: Member States shall ensure that documents related to the specific case in the possession of the competent authorities which are essential to challenging effectively, in accordance with national law, the lawfulness of the arrest or detention, are made available to arrested persons or to their lawyers. Access to this information shall be provided free of charge.

Access to certain materials may be refused if such access may lead to a serious threat to the life or the fundamental rights of another person or if such refusal is strictly necessary to safeguard an important public interest, such as in cases where access could prejudice an ongoing investigation or seriously harm the national security of the Member State in which the criminal proceedings are instituted.

Training: without prejudice to judicial independence and differences in the organisation of the judiciary across the Union, Member States shall request those responsible for the training of judges, prosecutors, police and judicial staff involved in criminal proceedings to provide appropriate training with respect to the objectives of this Directive.

Report: the Commission shall, by 2 June 2015, 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.

ENTRY INTO FORCE: 21/06/2012.

TRANSPOSITION: 02/06/2014. The United Kingdom and Ireland shall participate in the adoption and the application of this Directive. Denmark is not taking part in the adoption of this Directive and is not bound by it or subject to its application.