

Judicial cooperation in criminal matters: right to interpretation and to translation in criminal proceedings. Initiative Belgium, Germany, Estonia, Spain, France, Italy, Luxembourg, Hungary, Austria, Portugal, Romania, Finland and Sweden

2010/0801(COD) - 18/12/2018 - Follow-up document

The Commission presents a report on the implementation of Directive 2010/64/EU of the European Parliament and of the on the right to interpretation and translation in criminal proceedings.

It recalls that the Directive is the first measure following the Roadmap for strengthening procedural rights of suspected or accused persons in criminal proceedings adopted in 2009. By providing common minimum standards for procedural rights in criminal proceedings, the Directive contributes to the general objective of increasing mutual trust.

The report focuses on the measures Member States have taken so far to implement the Directive. It assesses whether Member States have implemented the Directive within the given timeframe, and whether national legislations achieve the objectives and fulfil the requirements of the Directive.

Transposition

Member States had to transpose the Directive into national law by 27 October 2013. At the date of expiry of the transposition period, 16 Member States had not communicated the necessary measures to the Commission: Belgium, Bulgaria, Ireland, Greece, Spain, Italy, Cyprus, Lithuania, Luxembourg, Hungary, Malta, Austria, Romania, Slovenia, Slovakia and Finland. As a result, the Commission decided on 29 November 2013 to launch infringement proceedings against those 16 Member States for non-communication or partial communication of transposing measures.

General assessment

The Commission states that the Directive has a significant impact on the protection of suspected or accused persons in Member States by providing a more consistent implementation of the rights and guarantees set out in the Charter of Fundamental Rights and the European Convention on Human Rights through the establishment common European minimum standards. Overall, the Directive has provided EU added value by raising the level of protection of citizens involved in criminal proceedings, especially in some Member States where the right to translation and interpretation did not exist before. The extent of the Directive's impact on Member States varies according to the national criminal justice systems in place. The evaluation highlights certain difficulties on key provisions of the Directive in some Member States.

Communication between suspected or accused persons and their legal counsel

The Directive provides the right to receive interpretation services for communication between suspected or accused persons and their legal counsel in direct connection with any questioning or hearing during the proceedings or with the lodging of an appeal or other procedural applications. Most Member States have

explicitly introduced a provision into national law. However, in some Member States, this right is only referred to in legal practice, commentaries of national acts or case law and provisions ensuring the general right to interpretation. This affects compliance with the Directive. In some other Member States, contrary to the Directive, this right is conditional on a specific request by the suspected or accused person, or alternatively by their legal counsel. In one Member State, criminal authorities first appoint the legal counsel as an interpreter if they know the language of the suspected or accused person, and only alternatively provide a qualified interpreter.

Translation of essential documents

Contrary to the requirements of the Directive, in eight Member States, the national legislation does not state that translation of essential documents will be provided within a reasonable period of time. This affects compliance with the Directive. Other problems have arisen with regard to:

- the definition of essential documents;
- the decision on the essential character of a document;

Costs of interpretation and translation

Almost all Member States, except three, have transposed correctly this obligation. In most Member States, the requirement to cover the costs of interpretation and translation 'irrespective of the outcome of the proceedings' has been implied from other national provisions ensuring that the right to interpretation and translation applies to the pre-trial and trial phase and that the related costs are not borne by the suspected or accused person. Some Member States provide that the costs of interpretation and translation in criminal proceedings are borne by the State. Some other Member States provide that the costs are borne by specific authorities (e.g. pre-trial authorities at the pre-trial stage and courts at the court stage).

Revision

The Commission considers that its evaluation shows that there is currently no need to revise the Directive but that application of the Directive can be further improved in practice. It will continue to assess Member States' compliance with the Directive and will take every appropriate measure to ensure conformity with its provisions throughout the European Union.