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Council approves EU-wide minimum standards as regards the right to information in criminal proceedings

The Council adopted today a directive on the right to information in criminal proceedings ([*PE-CONS 78/11*](#)). On 13 December 2011, the European Parliament had already given its green light to the compromise text reached between both institutions.

Member states shall transpose the directive by two years after its publication in the Official Journal. While the UK and Ireland participate in the adoption and application of this directive, Denmark will not be bound by it.

The main goal of the directive is to ensure that any person who is suspected or accused of having committed a criminal offence is provided with information concerning his or her fundamental procedural rights, as well as information on the accusation against him or her - including access to the material of the case.

Right to information about rights

The text stipulates that **suspects or accused** persons are provided promptly with information concerning at least the following procedural rights:

- the right to access to a lawyer
- any entitlement to legal advice free of charge and the conditions to obtaining it
- the right to be informed of the accusation

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- the right to interpretation and translation
- the right to remain silent

This information shall be provided either orally or in writing in a simple and accessible language, taking into account any particular need of vulnerable suspected or 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 directive provides an indicative model of such a "Letter of Rights" and member states would be free to use this model or draw up a similar document on the basis of that model.

An important right provided for in the directive is the right to access the materials of the case. This right is intended to provide the suspect or accused person with detailed information about the charge in order to allow him or her to prepare a defence. This information or access must be provided free of charge. Access to certain materials may however be refused if it could seriously jeopardise the fundamental rights of another person or if refusal is necessary to safeguard an important public interest.

The right to written information about rights on arrest will also apply to persons arrested for the purpose of the execution of a European Arrest Warrant. A model of such letter of rights is also annexed in the directive.

The directive is a second step in a wider package of legislative and non-legislative initiatives that are aimed at strengthening the procedural rights of suspected or accused persons in criminal proceedings. The Council unanimously agreed on this wider package, or roadmap, in October 2009 ([14552/1/09](#)).