

# OPEN SOCIETY JUSTICE INITIATIVE

## Submission to the European Commission consultation on the Freedom, Security Justice priorities for 2010-2014

The Justice Initiative is an operational programme of the Open Society Institute pursuing law reform activities grounded in the protection of human rights, and aimed at the development of legal capacity. The European Union and states in its immediate neighborhood are a priority area for Justice Initiative work. Within the EU, the Justice Initiative helps to ensure 1) effective law enforcement practices that are respectful of the principle of non-discrimination and address the issue of ethnic profiling and 2) the provision of universal, competent and cost-efficient legal defence for indigent criminal defendants, consistent with existing legal obligations upon Member States.

In support of the European Commission's consultation on the future directions of the Area of Freedom, Security and Justice (AFSJ) from 2010 to 2014, this submission highlights the ways in which the Commission can contribute to the realization of both goals. The Justice Initiative believes that the EU's fundamental commitments to liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, are not only the foundations of its identity but also essential elements in its success in defining and promoting norms for behaviour at the regional and global level.

The Justice Initiative urges the European Commission and EU member states to reaffirm the importance of fundamental rights and non-discrimination in the field of justice and home affairs. Several years of field research and close collaboration with justice and law enforcement officials in a number of EU member states have demonstrated convincingly that the EU and its member states can more effectively deliver security to their populations if they simultaneously protect human rights, including freedom from discrimination, in practice.

### Key recommendations on law enforcement and ethnic profiling:

- In order to provide guidance to Member States about permissible and impermissible law enforcement practices, and needed coherence across the EU, the European Commission should propose a Framework decision which makes clear that ethnic profiling is illegal. For

these purposes, ethnic profiling should be defined as the use, by law enforcement officers, of generalizations based on race, ethnicity, religion, or national origin rather than individual behaviour as the basis for making law enforcement and/or investigative decisions about who has been or may be involved in criminal activity.

- Safeguards against ethnic profiling should be incorporated into data protection standards for all European data bases and [are particularly important] for the exchange of sensitive personal data under the principle of availability / convergence principle.
- Intrusive data processing is only permissible where there is a clear need, no alternative, and where the processing is not unreasonably excessive. All such data processing should be limited to a particular inquiry, and data access should be granted on a case-by-case basis only. These standards should be applied in framework decisions and all other laws establishing data protection standards for the processing of personal data for purposes of law enforcement. In addition, mechanisms for ensuring oversight and immediate redress should be developed.
- The European Commission should provide financial support for pilot projects, research and dissemination of best practices, which have to date played a useful role in addressing ethnic profiling and enhancing law enforcement effectiveness.

### **Key recommendations for ensuring effective defence rights in the field of criminal justice:**

- The European Commission should propose a Framework decision on minimum procedural rights of the defendants which would flesh out the existing obligations of member states based on the European Convention of Human Rights and other European and international standards and provide a better basis for ensuring protection of fair trial rights in practice.
- The proposed legislation should be *binding* on the EU Member States. Non-binding (“soft”) measures will add little value to the existing international instruments applicable in the EU Member States, such as the European Convention of Human Rights, Charter of Fundamental Rights of the European Union, International Covenant on Civil and Political Rights, and others.
- The Framework decision should contain, at a minimum, a set of guarantees pertaining to the right to information about the accusation, evidence, and procedural rights; right to defence counsel and legal aid; and right to interpretation and translation.
- The EU should adopt a series of indicators to progressively measure compliance of the EU Member States with the minimum standards of suspects’ and defendants’ procedural rights, and encourage the Member States to undertake periodic self-assessment of progress.

## **1. Ethnic profiling by law enforcement in the EU**

### **The issue and findings of research**

EU Member States’ concerns over new terrorist threats and the possibility that terrorists are exploiting immigration and asylum policies to gain entry to the region have renewed interest in ethnic and religious profiling as a means of focusing law enforcement resources more effectively to detect potential terror suspects. The Justice Initiative is concerned that Member States may be tempted to use ethnic and religious profiles to exploit the EU’s rapidly-expanding immigration and border management data bases for law enforcement, counter-terrorism, and immigration control.

The Justice Initiative uses the term “ethnic profiling” to describe

the use, by law enforcement officers, of generalizations based on race, ethnicity, religion, or national origin rather than individual behaviour as the basis for making law enforcement and/or investigative decisions about who has been or may be involved in criminal activity.

Several European bodies have also recently developed definitions of ethnic profiling that are helpful in identifying points of consensus on central aspects that distinguish impermissible ethnic profiling from permissible forms of criminal profiling.<sup>1</sup>

However, current EU norms do not clearly define ethnic profiling or delineate permissible versus discriminatory uses of sensitive personal data such as ethnicity, race, religion and national origin in the realm of law enforcement. This constitutes a serious gap in current law as, not only is profiling unlawful, it is also counterproductive. It misdirects law enforcement resources and alienates some of the very people whose cooperation is necessary for effective crime detection.

In some cases, profiling is an explicit investigative tool, as in the use of a profile to ‘mine’ or undertake computerized searches of data bases in the search for potential sleeper cells. Our recent research has found that in many cases, the actions in question are based solely or overwhelmingly on generalizations that assume an association between a propensity to engage in crime or terrorism and religion or nature of religious practice, national origin or ethnicity, rather than concrete and reliable intelligence indicating grounds for suspicion of involvement in terrorist activity.<sup>2</sup>

In many other counter-terror operations, ethnic profiling is manifest in the targeting of Muslim communities and individuals who appear to be Muslim through a range of ordinary policing tactics as well as specialized counter-terror operations—from the use of identity checks and “stop and search”, to raids, arrests, and monitoring and surveillance.

A basic principle of sound law enforcement is that State actions respond to information about an individual’s conduct. Profiling views people as suspicious because of who they are rather than because of what they do. To cast suspicion on people because of their race, ethnic origin or religion violates the principle of equal treatment and is a form of discrimination that is prohibited by international law. Ethnic profiling constitutes discrimination in breach of, inter alia, the European Convention on Human Rights.

The issue of police discrimination has been raised repeatedly by European regional anti-discrimination bodies, and ethnic profiling is mentioned in European Commission against Racism and Intolerance (ECRI) reports on Austria, Germany, Greece, Hungary, Romania, Russia, Spain, Sweden, Switzerland, Ukraine and the United Kingdom. Quantitative data recently obtained by the Justice Initiative through research and partnerships with police forces shows that, on the one hand, police are regularly profiling minorities in Bulgaria and Hungary, but also that, on the other, police can take steps to reduce ethnic profiling while enhancing the effectiveness with which they use discretionary powers to check IDs and stop and search.<sup>3</sup>

Ethnic profiling, whether it is explicit and deliberate or an unintended consequence of habitual reliance on stereotypes about minorities and crime, has direct and harmful consequences for individuals and communities. The assumption that an ethnic or national identity, or a religion, directly correlates with criminality grossly stigmatizes an entire group of people. Research shows that unsatisfactory police-public contacts can have a negative impact on public confidence in the police; lack of public trust and cooperation reduce the effectiveness of law enforcement.<sup>4</sup> Without public cooperation, police rarely identify or apprehend suspects, or obtain convictions. Ethnic

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<sup>1</sup> European Commission against Racism and Intolerance (ECRI) General policy recommendation No 11 on combating racism and racial discrimination in policing, adopted on 29 June 2007, CRI/Council of Europe (2007)39, paragraph 1.

<sup>2</sup> Open Society Justice Initiative, *Terror, Crime, and Suspect Communities; Ethnic Profiling in Europe*, (working title) forthcoming, March 2009.

<sup>3</sup> Open Society Justice Initiative, *I Can Stop and Search Whoever I Want: Ethnic Profiling by Police in Bulgaria, Hungary and Spain*, 2007, and *Addressing Ethnic Profiling by Police in Bulgaria, Hungary and Spain; a report on the Strategies for Effective Police Stop and Search (STEPSS) project*, November 2008.

<sup>4</sup> David Harris, *Profiles in Injustice: Why Racial Profiling Cannot Work*, (New York: The New Press, 2002). Joel Miller, Nick Bland, and Paul Quinton *The Impact of Stops and Searches on Crime and the Community: Police Research Series Paper 127* (London: Home Office, 2000). Ronald Weitzer and Steven A. Tuch “Determinants of Public Satisfaction with the Police” in *Police Quarterly* No. 8 (3) 2005.

profiling has also been shown to increase levels of hostility in encounters between individuals and police or other law enforcement officers. Greater hostility increases the chances that routine encounters will escalate into aggression and conflict, posing safety concerns for officers and community members alike. Unchecked and widespread profiling has contributed directly to civil unrest and riots in major cities in the European Union.

Current counter-terror efforts have generated a new interest in criminal profiling with a particular focus on the potential of data mining as a counter-terror tool. This has come to the fore with discussions of the proposal for a Council Framework Decision on the use of Passenger Name Record (PNR) data for law enforcement purposes. It is also of direct relevance to the Council Framework Decision on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters, and to the ongoing development of European border control data bases, and the potential for data mining of such data bases. Discussions of data mining have generated definitions of profiling based on automated data search techniques and personal data protection standards. Two such definitions are:

“A computer method making use of data mining on a data warehouse enabling or intended to enable the classification with some probability -and thus some margin of error- of an individual in a specific category in order to take individual decisions towards that person”.<sup>5</sup>

“The process of inferring a set of characteristics (typically behaviour) about an individual person or collective entity and treating that person/entity (or other persons/entities) in the light of these characteristics”.<sup>6</sup>

These definitions view profiling as a neutral process of investigation, but they overlook the possibility or consequences of using sensitive personal data and the risks of discrimination. Nor do they take account of ethnic profiling as a widespread law enforcement practice. Accordingly, as they stand, both of the above proposed Framework Decisions lack sufficient protection against discrimination and breaches of fundamental human rights.

Both of the above proposed Framework Decisions must be modified to incorporate an explicit ban on ethnic profiling. An adequate definition must note that ethnic profiling is a form of discrimination specific to law enforcement practices; that ethnic profiling is not limited to the explicit or sole use of ethnicity; that ethnic profiling is often, but not always, the result of reliance—conscious or unconscious—on stereotypes about ethnicity and offending; and finally, that ethnic profiling may result from institutional policies as well as individual actions. Such a definition does not exclude the possibility of using sensitive personal data such as ethnicity, religion, or national origin, but rather makes clear the need for safeguards on the use of such data to be sure that it is necessary and objective (with a basis in specific and timely intelligence), and that it is used in a proportionate manner.

International and regional legal norms establish the following fundamental non-discrimination standards and commitment of law enforcement: (a) that all persons will be treated equally, that is on the basis of their actions and not who they are defined by the colour of their skin, their ethnic or national background, religion or other irrelevant personal characteristic; (b) that law enforcement agencies have a positive obligation to recognize and take steps to address disproportionate treatment of ethnic minorities; and (c) that elected authorities and law enforcement agencies have a duty to respond to the security needs of all communities alike. The basic components of an effective regime of legal protections against ethnic profiling are well summed up in the final opinion of the European network of independent experts in fundamental rights as follows:

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<sup>5</sup> See the recent study of the Council of Europe on profiling.

<sup>6</sup> L.A. Bygrave, *Minding the machine: Article 15 of the EC Data Protection Directive and Automated Profiling*, *Computer Law & Security Report*, 2001, vol. 17, p. 17-24

“In sum, a legal framework assuring adequate protection from the risk of ethnic profiling in the field of law enforcement, should a) clearly prohibit ethnic profiling, to the extent that indicators relating to ‘race’, ethnicity or national origin, cannot be used as proxies for criminal behaviour, either in general or in the specific context of counter-terrorism strategies; b) facilitate the proof that such ethnic profiling is being practiced by law enforcement authorities by allowing the use of ethnic statistics to highlight the discriminatory attitudes of such authorities, insofar as this may be reconciled with the rules relating to the protection of private life in the processing of personal data; c) define with the greatest clarity possible the conditions under which law enforcement authorities may exercise their powers in areas such as identity checks or stop-and-search procedures; d) sanction any behaviour amounting to ethnic profiling not only through the use of criminal penalties, but also (or instead) through any other means, including by providing civil remedies to victims or by administrative or disciplinary sanctions, insofar as the rules relating to evidence in criminal proceedings may constitute an obstacle to effectively combating such behaviour and protecting the victims of the behaviour.”<sup>7</sup>

## Recommendations

Given the rapid expansion of agreements facilitating law enforcement cooperation and creating the minimum standards for cross-border policing, there is an urgent need for oversight and accountability mechanisms that will provide the necessary safeguards for fundamental rights at EU level. Currently, accountability and recourse are almost entirely left to national authorities. This approach fails to reflect the greater complexity entailed in assuring that cross-border operations fully comply with EU fundamental rights standards.

- Develop oversight and accountability mechanisms at the EU level for the use of the information stored in European databases. The increased ability to store massive quantities of personal data, including biometric data, calls for strong oversight and accountability mechanisms on the use of such data both at the European level as well as by member states in order to assure that the right to privacy and non-discrimination are fully respected. Safeguards and means of recourse should not be undermined by broad exemptions to personal data protections for purposes of counter-terrorism and the fight against serious and organized crime. Currently, under the principle of availability / convergence principle, the exchange of law enforcement data will increase across member states, but there has been no parallel increase in oversight at the regional level of the use of this information.
- Improve EU legislation in the realm of fundamental rights and data protection: Standards in the realm of the exchange of information for law enforcement cooperation fail to meet necessary standards or provide adequate safeguards. This has been noted both by the European Data Protection Supervisor’s comments on the framework decision on personal data processed for law enforcement cooperation and the EU Agency on Fundamental Rights’ recent statement on the PNR framework decision. Indeed, the FRA notes that protections of data privacy and non-discrimination are particularly important in sensitive areas such the exchange of law enforcement information that gives rise the possibility of secret surveillance with serious implications for fundamental rights.<sup>8</sup>
- Elaborate and adopt a basic set of rights in criminal investigations: In relation to ethnic profiling, a basic set of rights should ensure that consistent and coherent non-discrimination standards apply across all interventions by the police and other relevant authorities involved in passport and other immigration control, customs, and airport security. These provisions should explicitly prohibit discriminatory interventions by police and other agents; and, importantly, they should introduce a specific requirement that police stops be based on reasonable suspicion of an actual or possible offence or crime.

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<sup>7</sup> European network of independent experts in fundamental rights, CRF-CDF.Opinion4-2006, at 6.

<sup>8</sup> Opinion of the European Union Agency for Fundamental Rights on the proposal for a Council Framework Decision on the use of Passenger Name Record (PNR) data for law enforcement purposes, October 2008.

- To address all these issues, the Commission draft to Council on the 2010-2014 justice and home affairs programme and Stockholm programme should propose common basic principles on profiling, non-discrimination and law enforcement. Such a document should:
  - Define and prohibit illegal profiling on ethnic, national, racial, religious and other relevant grounds, and establish safeguards
  - Require that safeguards against ethnic profiling be incorporated into data protection standards for all European data bases and for the exchange of sensitive personal data under the principle of availability.
  - Assure that intrusive data processing is only permissible where there is a clear need, no alternative, and the processing is not unreasonably excessive. All such data processing should be limited to a particular inquiry, access should be granted to data on a case-by-case basis only, and this standard should be apply to all law enforcement entities.
  - Set clear and non-discriminatory criteria for profiling taking the following issues into account:
    - o proportionality
    - o time limits
    - o transparency
    - o how the data subject can get immediate redress
  - Require EU institutions, including member states, to take heed of this prohibition in establishing policies and practices in law enforcement, security, and fundamental rights.
- Exchanges between police services are useful for sharing good and promising practices, and building understanding of the differences between legal standards and operational practices among the EU member states. Such exchanges frequently focus on areas of cross-border operational cooperation and seek to facilitate and enhance the effectiveness of such operations. Funding programmes should also support law enforcement cooperation in sharing good practices with regard to effective and non-discriminatory law enforcement; in particular, programmes should support projects that seek to replicate or adapt best practices from the forthcoming EU FRA handbook on good and promising practices addressing ethnic profiling.<sup>9</sup> We encourage support for further dissemination and exchange of good practices, and the development and promotion of practical tools and training programmes that will assist law enforcement agencies across the EU in adapting and replicating good practices in addressing ethnic profiling.
- Finally, there is still a great need and scope for further research that can help to address current shortfalls in understanding of ethnic profiling. Well-designed studies can play an important role in mapping the extent and nature of ethnic profiling, and the factors that underlie patterns of profiling, thus providing useful insights for policy initiatives and training. Both academic centers and official bodies with research mandates, including those in law enforcement bodies, should be supported in undertaking well-designed studies that will advance knowledge and good practice.

## **2. *Effective defence rights for criminal defendants***

### **The issue and findings of research**

The EU has been actively engaged in policymaking in the criminal justice field. Its emphasis so far has been on law enforcement, and risks obscuring the need to balance enhancing the State's law enforcement capacity with the substantive and procedural values that the EU has championed and the European Convention has codified into law.

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<sup>9</sup> The contract for the preparation of the handbook was awarded to the University of Warwick, with the Open Society Justice Initiative as a pro bono sub-contractor

EU criminal justice legislation, with the exception of one instrument that affords various guarantees to victims of crime, aims exclusively to facilitate co-operation between law enforcement authorities of the Member States in prosecuting cross-border crime.

Where the EU has left a void, incoherence has encroached on Member States' practices in criminal justice. The Justice Initiative is concerned about a marked lack of consistency in the protection of procedural rights of criminal suspects and defendants. In many cases it appears that Member States currently fail to meet minimally acceptable levels of procedural protection. We believe that a harmonised protection of procedural rights, together with an agreed system of indicators and evaluation, would contribute to EU-wide judicial and police cooperation ('mutual trust'), and thus to the implementation of the European Arrest Warrant and other 'mutual recognition' instruments.

'Mutual trust' is the pre-condition and the guarantee for the effective implementation of 'mutual recognition'. Effective implementation of 'mutual recognition' will depend on the national courts' willingness to automatically recognise judicial decisions emanating from another Member State. National courts are unlikely to readily waive their power to review foreign judgments, unless they are reassured that the trial was fair and that no individual rights were breached.

A review of laws and practices in the first three EU Member States – Belgium, Hungary and England and Wales – of nine to be surveyed in a study undertaken by Maastricht University, University of West of England, JUSTICE and the Justice Initiative, revealed profound deficiencies in the protection of criminal defendants' procedural rights, despite their longstanding obligations under the European Convention on Human Rights, International Covenant on Civil and Political Rights and other international instruments.<sup>10</sup> The underlying reason for these disturbing findings is that neither national laws nor international instruments offer sufficient detail to provide clear guidance to national authorities as to what is required of them. This is what a new EU instrument should do.

Among the key findings from the studies are:

In Belgium, law enforcement authorities and courts are not obliged to inform criminal suspects and defendants about their procedural rights – orally or in writing - at any stage of the proceedings. In Hungary, notification of the defence rights in writing is made only at the late stage of pre-trial proceedings, after the defendant has been interrogated (often several times) and the investigation completed.

In Belgium and Hungary neither legal advice nor representation is available in the first moments after police arrest when the suspect is most vulnerable and susceptible to pressure. Emergency schemes for providing legal assistance on a 24 hour basis exist in only in a few Member States.

In Hungary, the obligation to provide representation for indigent defendants is often addressed by having investigators and prosecutors themselves choose the defence lawyers. In Belgium, poor defendants who can not afford private counsel are usually represented by trainee lawyers, often without proper supervision even in the most serious cases.

In Hungary and Belgium, countries with a strong tradition of reliance on written documents in criminal proceedings, translation of procedural documents is crucial to ensure that those defendants who lack command of the official state language(s) understand and can meaningfully participate in the proceedings. However, in Belgium procedural documents are not translated for those defendants who do not understand the language of the proceedings and whose native

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<sup>10</sup> The research project Effective criminal Defence Rights in Europe seeks to provide empirical information on the extent to which procedural rights that are indispensable for an effective defence, such as the right to information, the right of access to a lawyer and the right to an interpreter, are provided in practice in eight countries of the European Union and one accession country (Turkey). The research was completed in Belgium, Hungary, England and Wales. Country studies in six other countries will be undertaken in the course of 2009.

language is not one of the three official Belgian languages. In Hungary, important procedural documents such as interrogation records and records of court hearings are not translated for defendants who cannot pay for translation.

The findings are corroborated by the results of earlier research in these and other Member States.<sup>11</sup> In addition, the European Committee for the Prevention of Torture has found that most of the EU Member States fail to provide access to legal assistance and other defence rights (among them such fundamental guarantees as the right to be informed about rights, the right to interpretation, and the right to a private consultation with the lawyer) from the first moments of detention.<sup>12</sup>

## Recommendations

- Procedural rights of suspects and defendants in criminal proceedings should be prioritized in the 2010-2014 AFSJ.
- The European Commission should propose a Framework decision on minimum procedural rights of the defendants, which would spell out the detailed safeguards to ensure protection of fair trial rights in practice.
- The proposed legislation should be *binding* on the EU Member States. Non-binding (“soft”) measures will add little value to the existing international instruments applicable in the EU Member States, such as the European Convention of Human Rights, Charter of Fundamental Rights of the European Union, International Covenant on Civil and Political Rights, and others.
- The Framework decision should contain, at a minimum, a set of guarantees pertaining to the right to information about the accusation, evidence, and procedural rights; right to defence counsel and legal aid; and right to interpretation and translation. These include:
  - Suspects and defendants must be informed about any criminal suspicion against them and their rights to remain silent and to legal advice at a sufficiently early moment, and in any case before the investigation has been completed, to ensure meaningful exercise of their procedural rights at the pre-trial stage, including the right to defend themselves against a criminal accusation. Persons questioned by police in relation to suspicion of having committed a criminal offence, should be informed about such suspicion, even when responding to police questioning voluntarily.
  - Information about procedural rights must be provided in writing and in a comprehensible manner; standard text for information about the rights, and the implications of waiving the rights must be developed in each Member State (“letter of rights”). The investigating authorities and judges must verify that the rights and the implications of waiving the rights have been understood, and make a record of such verification.
  - The right to legal advice and representation must apply from the moment of police arrest. There must be mechanisms in place to guarantee prompt access to a lawyer,

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<sup>11</sup> See E. Cape, J. Hodgson, E. Pranke, T. Spronken (eds.), *Suspects in Europe: Procedural Rights at the Investigative Stage of the Criminal Process in the European Union* (2007, Intersentia, Antwerpen-Oxford, 280 p); T. Spronken and M. Attinger, *Procedural Rights in Criminal Proceedings: Existing Standards on the European Level* (2005, 286 p).

<sup>12</sup> See the Reports to the *Andorra* Government on the visits to Andorra of the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published on 20 September 2006 and 20 July 2000; Reports to the *Austrian* Government on the visits to Austria of the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published on 21 July 2005, 21 June 2001 and others; Reports to the *Belgian* Government on the visits to Belgium published on 21 November 2006, 2 July 2003, 12 July 1999 and others; Reports to the *French* Government on the visits to France of the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published on 10 December 2007, 21 December 2005, 31 March 2003 and others; etc. All reports are available from the CPT website: [www.cpt.coe.int](http://www.cpt.coe.int).

- ideally within one hour after arrest; and to ensure that the lawyer has an opportunity to speak with the suspect before the interrogation in private, and monitor the interrogation process.
- States must ensure that the rights to defence of poor defendants who can not afford counsel and of those who have a privately-retained lawyer are equally protected. To this end, States must guarantee that:
    - a) Indigent defendants are appointed lawyers who are independent from the prosecution and sufficiently qualified to render defence in a given case;
    - b) Payment for legal aid services is adequate; and the remuneration system incentivises lawyers to provide effective defence, in particular that it covers consultations with the client, identification and questioning of witnesses, engagement of experts and private detectives.
  - The procedural rights of suspects and defendants to translation and interpretation are absolute, and in no circumstances can they be circumvented or waived. Translation and interpretation of the proceedings and procedural documents must be provided for free for every suspect and defendant who cannot speak or understand the language of the proceedings. Interpretation of oral proceedings is not sufficient, written records of such procedures, and in particular of court hearings and suspects' interrogations, must also be translated to ensure that recording was adequate.
  - Member States must introduce mechanisms to verify the professional qualifications and independence of translators and interpreters. There must be effective mechanisms for the court and defence counsel to verify adequacy of translation and interpretation; and to require replacement of an interpreter or translator if the service provided is not of an adequate quality.
  - If bearing the cost of interpretation of communication with her lawyer would result in a substantial financial hardship for a suspect or defendant, States must provide such interpretation free of charge
  - The EU should adopt a series of indicators to progressively measure compliance of the EU Member States with the minimum standards of suspects' and defendants' procedural rights, and encourage the Member States to undertake periodic self-assessment of progress.