

Directive 2012/13/EU of the European Parliament and of the Council
of 22 May 2012 on the right to information in criminal proceedings

Article 1

Subject matter

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. It also lays down rules concerning the right to information of persons subject to a European Arrest Warrant relating to their rights.

Article 2

Scope

1 This Directive applies from the time persons are made aware by the competent authorities of a Member State that they are suspected or accused of having committed a criminal offence until the conclusion of the proceedings, which is understood to mean the final determination of the question whether the suspect or accused person has committed the criminal offence, including, where applicable, sentencing and the resolution of any appeal.

2 Where the law of a Member State provides for the imposition of a sanction regarding minor offences by an authority other than a court having jurisdiction in criminal matters, and the imposition of such a sanction may be appealed to such a court, this Directive shall apply only to the proceedings before that court, following such an appeal.

Article 3

Right to information about rights

1 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:

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

2 Member States shall ensure that the information provided for under paragraph 1 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.

Article 4

Letter of Rights on arrest

1 Member States shall ensure that suspects or accused persons who are arrested or detained are provided promptly with a written Letter of Rights. They shall be given an opportunity to read the Letter of Rights and shall be allowed to keep it in their possession throughout the time that they are deprived of liberty.

2 In addition to the information set out in Article 3, the Letter of Rights referred to in paragraph 1 of this Article shall contain information about the following rights as they apply under national law:

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

3 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.

4 The Letter of Rights shall be drafted in simple and accessible language. An indicative model Letter of Rights is set out in Annex I.

5 Member States shall ensure that suspects or accused persons receive the Letter of Rights written in a language that they understand. Where a Letter of Rights is not available in the appropriate language, suspects or accused persons shall be informed of their rights orally in a language that they understand. A Letter of Rights in a language that they understand shall then be given to them without undue delay.

Article 5

Letter of Rights in European Arrest Warrant proceedings

1 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 containing information on their rights according to the law implementing Framework Decision 2002/584/JHA in the executing Member State.

2 The Letter of Rights shall be drafted in simple and accessible language. An indicative model Letter of Rights is set out in Annex II.

Article 6

Right to information about the accusation

1 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.

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2 Member States shall ensure that 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.

3 Member States shall ensure that, at the latest on submission of the merits of the accusation to a court, detailed information is provided on the accusation, including the nature and legal classification of the criminal offence, as well as the nature of participation by the accused person.

4 Member States shall ensure that suspects or accused persons are informed promptly of any changes in the information given in accordance with this Article where this is necessary to safeguard the fairness of the proceedings.

Article 7

Right of access to the materials of the case

1 Where a person is arrested and detained at any stage of the criminal proceedings, 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.

2 Member States shall ensure that access is granted at least to all material evidence in the possession of the competent authorities, whether for or against suspects or accused persons, to those persons or their lawyers in order to safeguard the fairness of the proceedings and to prepare the defence.

3 Without prejudice to paragraph 1, access to the materials referred to in paragraph 2 shall be granted in due time to allow the effective exercise of the rights of the defence and at the latest upon submission of the merits of the accusation to the judgment of a court. Where further material evidence comes into the possession of the competent authorities, access shall be granted to it in due time to allow for it to be considered.

4 By way of derogation from paragraphs 2 and 3, provided that this does not prejudice the right to a fair trial, 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. Member States shall ensure that, in accordance with procedures in national law, a decision to refuse access to certain materials in accordance with this paragraph is taken by a judicial authority or is at least subject to judicial review.

5 Access, as referred to in this Article, shall be provided free of charge.

Article 8

Verification and remedies

1 Member States shall ensure that when information is provided to suspects or accused persons in accordance with Articles 3 to 6 this is noted using the recording procedure specified in the law of the Member State concerned.

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2 Member States shall ensure that suspects or accused persons or their lawyers have the right to challenge, in accordance with procedures in national law, the possible failure or refusal of the competent authorities to provide information in accordance with this Directive.

Article 9

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.

Article 10

Non-regression

Nothing in this Directive shall be construed as limiting or derogating from any of the rights or procedural safeguards that are ensured under the Charter, the ECHR, other relevant provisions of international law or the law of any Member State which provides a higher level of protection.

Article 11

Transposition

1 Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 2 June 2014.

2 Member States shall transmit the text of those measures to the Commission.

3 When Member States adopt those measures they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by the Member States.

Article 12

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.

Article 13

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

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Article 14

Addressees

This Directive is addressed to the Member States in accordance with the Treaties.

Done at Strasbourg, 22 May 2012.

For the European Parliament

The President

M. SCHULZ

For the Council

The President

N. WAMMEN