



Right to a fair trial: New rules to guarantee presumption of innocence

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Commissioner Věra Jourová, EU's Commissioner for Justice, Consumers and Gender Equality, said: *"The right to a fair trial is a fundamental right and must be respected in practice everywhere in Europe. Today, there are still some disparities in the protection of the presumption of innocence across the European Union. The new common rules will guarantee that the rights of citizens involved in criminal proceedings are respected by police and judicial authorities. Before the verdict, anyone accused should be protected by the presumption of innocence. A fair trial also requires suspects to benefit from the right to remain silent and to be present at their trial. This will help build a true European Area of Justice and Fundamental Rights based on mutual trust."*

The new rules apply to all people suspected or accused in criminal proceedings. They will enforce the following fundamental rights:

- **Innocence until proven guilty:** The new rules prohibit public authorities and judicial decisions from making any public references to guilt, before a person is proven guilty. There is now a common definition across all Member States of what the presumption of innocence is.
- **Burden of proof on the prosecution:** The new rules clarify that the burden of proof for establishing guilt is on the prosecution, rather than on the accused person to prove that they are not guilty. Any doubt is to the benefit of the suspected or accused person.
- **Right to remain silent:** The right to remain silent and not to self-incriminate are also protected. This cannot be used against suspects and accused persons to secure conviction.
- **Right to be present at trial:** The right to be present at trial is essential to guarantee a fair trial. Breaching this right will grant suspects or accused persons a right to a new trial.

The new rules are based on EU fundamental rights laid down in the [EU Charter of Fundamental Rights](#) and the [European Convention of Human Rights](#). The rights set in the Directive will be part of EU law and will be enforced as such by the Member States.

These EU fundamental rights will be equally applied on the ground in all EU Member States. This will enhance the trust Member States place in each other's judicial decisions and it will allow easier mutual recognition of criminal justice decisions.

Next steps

Following today's formal adoption of the new rules by Council, Member States will have two years to comply with the Directive. The Commission will work closely with Member States to ensure that the Directive is correctly implemented.

Background

In October 2015, the European Parliament, the Council and European Commission agreed upon the final text for the new rules on presumption of innocence and right to be present at trial. The European Parliament adopted its position on 20 January (see [press release](#)).

This Directive will apply to all Member States, except Denmark and the UK.

Today's new rules are part of an important package to guarantee the right to a fair trial for citizens in criminal proceedings, proposed by the Commission in November 2013 (see [IP/13/1157](#)). This package

included three legislative proposals:

- The [Directive on Presumption of innocence and the right to be present at trial in criminal proceedings](#), adopted today;
- The [Directive on special safeguards for children](#), agreed upon by the European Parliament, Council and Commission in December 2015 (see [MEX/15/6350](#)) and still to be adopted by Council;
- A [Directive on provisional legal aid for persons deprived of liberty and legal aid in European Arrest Warrant proceedings](#), for which negotiations are underway.

The Commission has put forward several proposals strengthening the rights of suspects and accused persons by setting common minimum standards on fair trial rights. Three directives have already been adopted: the [Directive on the right to interpretation and translation in criminal proceedings](#) (2010); the [Directive on the right to information in criminal proceedings](#) (2012); and the [Directive on the right of access to a lawyer and to communicate with third parties](#) (2013). The [Victims' rights directive](#) became applicable on 16 November 2015.

For more information

[Directive on Presumption of innocence and the right to be present at trial in criminal proceedings](#)

[Rights of suspected and accused](#)

[Impact assessment: European Court of Human rights cases on the violation of presumption of innocence \(2007-2012\)](#)

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