

FAIR TRIALS
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Irish Council for
Civil Liberties

AMNESTY
INTERNATIONAL
European Institutions Office



Ms Viviane Reding
Vice-President of the European Commission
Commissioner for Justice, Fundamental Rights and Citizenship
B-10409 Brussels
Belgium

16 July 2013

Dear Vice President Reding,

Following the vote of the Civil Liberties, Justice and Home Affairs Committee of the European Parliament to adopt the Directive on the right of criminal suspects to access a lawyer and to communicate with consular officials and other third parties upon arrest (the “Directive”), our organisations – national and international NGOs working on justice and human rights – write to recognise the achievement of the European Commission, Council and Parliament on reaching agreement on this important instrument. The agreed text is a hard-won compromise that has the potential to improve substantially the rights of suspects and accused persons within the EU.

For this potential to be realised, however, effective implementation is crucial. We call upon the Commission to ensure that all three procedural rights directives so far agreed under the Roadmap (the Roadmap Directives) are implemented effectively by working with Member States as they transpose them into domestic law and providing training programmes for government officials, judges, police, prosecutors and lawyers.

Given the interdependent nature of the rights set out in the Stockholm Programme (the “Roadmap”), the full extent of the protections provided for by this Directive cannot be fully realised without the adoption and implementation of the other envisaged measures on procedural rights. In particular the Council recognised in the Resolution on the Roadmap that the promised measure on legal aid is necessary to ensure that the right to access a lawyer is effective. We call upon the Commission, Council and Parliament to press forward, as a matter of urgency, with the unfinished agenda of the Roadmap.

Legal Aid

Whilst we recognise that, in order to facilitate the passage of the Directive, the question of legal aid was removed from consideration and postponed to a later date, progress on legal aid cannot be delayed indefinitely. Without legal aid, the enjoyment of other protected rights may remain elusive in practice. The UN Guidelines on Access to Legal Aid in Criminal Justice Systems were adopted by the UN General Assembly in December 2012, placing legal aid high on the global agenda. We therefore urge the Commission to issue a robust proposal for a directive on the right to legal aid, for those who need it, in all circumstances in which the need for access to a lawyer has been recognised and guaranteed under the Directive. We hope that the forthcoming measure will include, as a minimum, standards relating to eligibility for legal aid, timely decisions, scope of legal aid, choice of lawyer and independence and quality of the lawyers providing legal aid.

Vulnerable Suspects

We also call upon the Commission to publish a directive on vulnerable suspects. This proposal must be designed to ensure that all accused persons are able to understand and follow the content of any criminal proceedings in which they are involved. This includes, but is not limited to, children, non-nationals, and people who have physical, mental, intellectual or sensory impairments. Without such additional legislative protection, large numbers of suspects caught up in the criminal justice systems of Member States may not be able to adequately exercise their rights provided by the Roadmap Directives.

Pre-Trial Detention

Little progress has been made on the important issue of minimum standards for pre-trial detention in the two years since the Commission’s Green Paper on Detention was published for consultation. The existence and application of appropriate safeguards relating to the use of pre-trial detention are key factors in the fair operation of, and public trust in, existing mutual recognition measures. We therefore urge the Commission to continue its work on pre-trial detention in the EU by committing to revisit the case for legislative action which we believe is necessary.

Stockholm Programme and Beyond

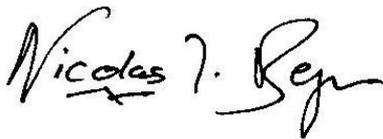
Important progress has been made to improve protections for criminal suspects in the past three years. The measures that have already been achieved promise to provide a lasting legacy, to improve the operation of important judicial cooperation measures, and to bolster respect for one of the key principles on which the European Union is founded: respect for human rights and the rule of law. With the European Parliament elections due in May 2014, the appointment of a new Commission, and the conclusion of the time-period allocated for the Stockholm Programme

following soon thereafter, we call upon the Commission, Council and Parliament to commit to maintaining momentum on the remaining Roadmap measures, and particularly a broad legislative proposal on legal aid, to ensure that the Stockholm Programme is concluded within the allocated timeframe. The need to improve respect for human rights in practice, and to facilitate mutual trust and recognition between Member States, has grown no less urgent than it was when the Roadmap was first proposed in 2009. We therefore urge the Commission, the Council, and the Parliament to ensure that the protection of defence rights continues to be a key feature of the new legislative programme that will follow in 2015.

Yours sincerely,



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Dr. Nicolas Beger, Director, Amnesty International, European Institutions Office



Zaza Namoradze, Director of Budapest Office, Open Society Justice Initiative



Mark Kelly, Director, Irish Council for Civil Liberties



Andrea Coomber, Director, JUSTICE

Cc:

Lithuanian Presidency of the Council of the European Union
President of the Republic of Lithuania, Dalia Grybauskaitė
Minister of Justice, Juozas Bernatoniš

Ambassador, Permanent Representative of Lithuania to the EU, Raimundas Karoblis,

Representative of Irish Presidency of the Council of European Union (January – July 2013)

Alan Shatter T.D, Minister for Justice, Equality and Defence

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