



JUDICIAL COOPERATION IN CRIMINAL MATTERS

RIGHTS OF SUSPECTED AND ACCUSED PERSON

TEXT 2

RIGHTS OF SUSPECTED AND ACUSED PERSON

Author: Karolina Jarmołowska (linguist)

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JUDICIAL COOPERATION IN CRIMINAL MATTERS

RIGHTS OF SUSPECTED AND ACCUSED PERSON

Before you start studying the lesson it is recommended:

- to have intermediate knowledge of general English;
- to have knowledge of key terms.

AIM: After studying the text you will be able in English:

- to understand key terms used in judicial cooperation in criminal matters;
- to use key terms of rights of suspected and accused person;
- to identify and use English terminology related to different rights of suspected and accused person.

SESSION 1

CHARTER OF FUNDAMENTAL RIGHTS AND EUROPEAN CONVENTION OF HUMAN RIGHTS

Exercise 1.1

Multiple choice cloze.

Choose the correct answer, A, B, C or D to fill in the gaps below:

1. The provision contains nothing capable of prejudicing the fundamental human rights _____ in the general principles of community law.
a) enshrine b) enshrined c) have enshrined d) are enshrined
2. Therefore, the validity of a community measure or its effect within a member state cannot be affected by allegations that it _____ to fundamental rights.
a) counter run b) counters run c) runs counter d) run counter



3. There is no difference between European and _____ legislation, and no reason why the United Kingdom should not be required to “secure” the rights in Article 3 of Protocol No. 1.
- a) domestic b) native c) indigenous d) internal
4. The presumption of compliance could be _____ in case of manifest deficiencies.
- a) rebutted b) refuted c) refused d) rejected
5. Article 6.2. of TEU says that the Union shall _____ to ECHR.
- a) comply b) accede c) grant d) inherit
6. The Charter does not extend the ability of the Court of Justice of the European Union, or any court or tribunal of Poland or of the United Kingdom, to find that the laws, regulations or administrative provisions, practices or action of Poland or of the United Kingdom are inconsistent _____ the fundamental rights, freedoms and principles that it reaffirms.
- a) in b) at c) with d) of
7. The European Parliament and the Council may establish minimum rules necessary to facilitate mutual recognition of judgments and judicial decisions and police and judicial cooperation in criminal matters having a _____ dimension.
- a) trans-border b) trans-boundary c) pan-boundary d) cross-border
8. _____ of the minimum rules referred to in this paragraph shall not prevent Member States from maintaining or introducing a higher level of protection for individuals.
- a) Approval b) Acceptance c) Agreement d) Adoption
9. Mutual recognition principle is not counterbalanced by common procedural standards (only fragmented legislation – e.g. certain _____ for refusal, such as in absentia).



- a) base b) ground c) grounds d) bases

10. In particular, and for the avoidance of doubt, nothing in Title IV of the Charter creates _____ rights applicable to Poland or the United Kingdom except in so far as Poland or the United Kingdom has provided for such rights in its national law.

- a) justiciable b) just c) justified d) judicial

Exercise 1.2

Match the words below with appropriate definitions:

1. to enshrine	A. subject to trial in a court of law;
2. to rebut	B. for the sake of clarity, in order to make things clear;
3. justiciable	C. while not present at the event being referred to;
4. to counterbalance	D. to preserve (a right, tradition, or idea) in a form that ensures it will be protected and respected;
5. for the avoidance of doubt	E. to neutralise or cancel by having an opposite influence;
6. in absentia	F. to be in opposition to something;
7. to run counter to	G. to claim or prove that something (e.g. evidence or an accusation) is false;

Exercise 1.3

Find in the sentences above characteristics of legal language, i.e.:

- long, complex sentences
- Latin or French words and expressions
- nominalisation (nouns preferred to verbs)
- common words used with uncommon meaning
- passive voice



SESSION 2: RIGHT TO TRANSLATION, INTERPRETATION AND INFORMATION FOR SUSPECTED AND ACCUSED PERSONS

Exercise 2.1

Listen to the interview with Sarah Ludford and try to find out as much information as possible about the Garry Mann trial, in particular:

Where is he from?

Where, when and on what grounds was he arrested?

Did he have an interpreter?

Exercise 2.2

Listen to the interview again and try to find equivalents used in the video to describe the concepts below:

1. to guide, direct or instruct:
2. a mockery, parody, grotesque imitation:
3. to have no idea, be completely unaware:
4. a route, course, or method that provides for more rapid results than usual:
5. an unsuccessful outcome of something planned:
6. an action or event causing anger, shock, or indignation:
7. badly done or badly planned, and therefore unsuccessful:

Exercise 2.3

Fill in the words and phrases from the exercise into appropriate sentences below:

1. After a _____ trial, and his incarceration far from his family, Taoufik Ben Brik has been left in a state of health that makes one fear for his life.
2. Any _____ of justice in the application of capital punishment represents an irreparable and irreversible loss of human life.
3. He _____ what was going on because he did not speak Chinese.
4. He _____ the bill through Congress.
5. The board put the proposal on the _____ thanks to which it was reviewed within a few days.
6. The incident sparked a public _____.
7. The manipulation of the trial and the accused by the police was a _____ of justice.



Exercise 2.4

Below are excerpts from Irish news reports concerning interpreting in the courts. Consider and discuss the following situations you might face as a judge/prosecutor. Comment and try to consider how you would react in a similar situation. Discuss more than one possible course of action in each case. Evaluate the consequences of a course of action, bearing in mind the impact on the other parties to the interpreted event and any other difficulties. Try to agree on the best course of action in each case.

To help you discuss the issues, please find below a list of expressions useful when presenting argumentation and your point of view. Try to incorporate them into your contributions during group discussion. You may also find vocabulary from Exercise 2.2. and 2.3 useful.

Introduction

Let's begin/start with ...

What you think about somebody/something.

As far as I'm concerned ...

I think ...

In my opinion ...

As far as I know ...

In my view ...

I don't think ...

I don't believe that ...

Well, if you ask me ...

If you want my honest opinion ...

I've never come across the idea that ...

How to agree/disagree.

I must admit that ...

I totally/fully/partly agree.

I agree/don't agree with you.

I believe/don't believe ...

I'm convinced that ...

The way I see it ...

It seems to me that ...

I wouldn't say that ...

I don't think so.

You're right up to a point.

You could be right.

That can't be right.

I don't agree at all.

As a matter of fact, ...

That's right/wrong.

Exactly.

I can understand ...



It's hard to say.
It's a fact that ...
However, ...
That's why ...
John likes computers. - So do I.
Steve doesn't like mobiles. - Neither do I.

Asking for clarification

What do you think?
What's your opinion?
Would you like say something?
What do you mean?
What are your ideas?
What are you trying to say?

How to interrupt politely

I'm sorry, but ...
Can/May I add something?
Sorry to interrupt, but ...

Other opinions

On the one hand ...
On the other hand ...
They claim that ...
They also say ...
Opinion among teachers is that ...
That's a matter of opinion.

Phrases to keep a discussion going

Let's get back to ...
As we just heard ...
Where were we?

News item 1

A District Court Judge John Neilan was reported to have said that “foreigners earning wages could afford the translation service themselves”. ‘Not one of them is prepared to attend any of the classes available to assist them with having a command of the English language. That strikes me forcibly.’ Judge Neilan said: ‘Why should this court be put to the expense of bringing interpreters to the court? They have plenty of money.’ He said he would no longer be authorising payments to interpreters for foreigners who are earning good money in Ireland.

News item 2

Judge Con O’Leary demonstrated his awareness of issues around interpreting when he asked an interpreter to provide “simultaneous translation” or as close as possible to that. He then told her not to engage in conversation with the defendant except to clarify an ambiguity. She agreed. The judge then asked her to explain the word ambiguity and she could not define it.



'You are not competent. You are not acceptable. You are free to go. You are not honest. If you do not know the meaning of the word you should say so.' he said to the interpreter. She replied that she would look it up in the dictionary. The judge said, 'You are translating words you think you know the meaning of, but do not' and asked for another interpreter to be called.

News item 3

Tarnogorski doesn't have strong English and no Polish interpreter was in court, however he does speak a little Russian and was assisted by another interpreter. The language barrier led to some problems, particularly when Judge Donnchadh Ó Buachalla attempted to find out how long the defendant had been driving the car. 'I think I now know what it's like to be called a dentist,' commented Judge Ó Buachalla.

News item 4

Judge Aeneas McCarthy told a Polish interpreter at Galway District Court yesterday that she was inappropriately dressed for appearing before his court in a professional capacity. The young woman, who was wearing tight, low cut jeans and a skimpy top, which left her midriff exposed, had been assigned to the court in an official capacity to interpret for Polish defendants who came before the court. 'At the risk of sounding prudish, I think you are inappropriately dressed for this court bearing in mind you are here in a professional capacity,' the judge admonished the young woman. She made no reply.

News item 5

Similarly, Judge Mary Fahy was reported as saying that: ...it was 'absolutely ridiculous' to think that anyone living in this country for five years could not speak the language. The judge said she had granted Free Legal Aid but she was not going to certify for an interpreter.

News item 6

A Lithuanian national who turned up to court on Wednesday without the help of an English speaking person was told by a judge that 'this behaviour is intolerable.' Why do you not come in to court with someone who can speak English?' asked Judge William Harnett after communication with the defendant was proving difficult. 'I am beginning to lose patience; I find this intolerable.

Exercise 2.5

Below you will find a fragment of an authentic witness statement taken at a police station in Ireland which was used as evidence in a rape trial. Have a look at the style and discuss its characteristics. What could be the reason for the non-standard use of English in the statement?

On Monday morning was told to ring Wanda. Bartek and Artur were threatening me what to say. They stand beside. It was during the breakfast from Bartek's phone. They tell me to say something that I don't like her, I not friend anymore and not call anymore. At the end of the talking with Wanda, I not hit button to end call on purpose so Wanda could hear what's going on. On Monday afternoon at home I first see Bartek preparing "prety" iron bars. Bartek probably made these at work but finish at home, I was afraid to ask him what they for. After Bartek finish preparing I heard Bartek and Artur talking and pretend to fight in back yard. I



heard them say "I have to hit them in legs and you have to hit in legs". The Prety were 50cm, 5 or 8cm thick. Bartek and Artur were ready to kill someone.

Rewrite in correct English trying to clarify what you think the speaker tried to say. Are there any differences between your versions? What consequences could the above have for the trial?

Exercise 2.6

Listen to the recording and fill in the gaps with appropriate words or phrases:

In the European Union any person suspected or accused of committing a crime has _____. This is one of the _____ of a democratic and _____ society and is the best way to ensure that only someone guilty of committing a criminal offence will be convicted by a court.

In order to protect your right to a fair trial, EU law _____ a number of rights that apply to every accused or suspected person. These are: the right to information, the right to interpretation and translation and the right to access a lawyer and communicate _____ arrest.

From the moment you learn that you are suspected of a crime you must be given _____. This is your right to information. This means that when you are arrested by the police, you must be told _____. You must also be told of your right to _____ and your right to _____. All of this information should be given to you either _____ or _____ without any _____. To help you understand and remember your rights the police must give you a _____. This document should include information about who you can contact _____ your arrest, how long you can be detained and the materials you can access to help you prepare for your case. You must be allowed to keep _____.

All of the information you receive must be _____ in a language you understand. This is your right to interpretation and translation. Any information written in a language that you do not understand must _____. If you do not understand the language spoken to you, you must _____ who can help you. An interpreter must be allowed to accompany you during _____, at _____ and when _____. If you have hearing or speech difficulties, you must be given appropriate assistance, for example a _____. All of this must be provided without delay and _____.

If you are accused of a crime, you have the right to _____ without delay. If necessary, the police must give you information _____. This is your right to access a lawyer and communicate upon arrest. Before any police questioning can take place, you must _____. Your lawyer can also accompany you during questioning and other relevant times. For example, at _____. If you are arrested, you have



the right to _____ as soon as possible. If you are not a citizen of the country in which you have been arrested, you have the right to _____. Finally, if you are under 18 years of age, _____ must be told about your detention.

The right to a fair trial plays an important part in ensuring access to justice for everyone in the European Union. To find out more information about your rights, visit www.eujusticia.net.

Exercise 2.7

Change the sentences below from passive voice into active voice:

1. Only someone guilty of committing a criminal offence will be convicted by a court.

A court _____

2. When you are arrested by the police, you must be told about the crimes you are suspected of committing.

When the police _____

3. If you do not understand the language spoken to you, you must be assisted with a qualified interpreter who can help you.

4. Before any police questioning can take place, you must be allowed to speak to your lawyer in private.

The police _____

Is there any difference in meaning between the two versions?



SESSION 3

RIGHT FOR ACCESS TO A LAWYER FOR SUSPECTED AND ACCUSED PERSONS

Exercise 3.1

Listen to the programme on a right to lawyer in France and decide if the following statements are TRUE or FALSE.

1. New minimum European standards on rights of suspects are expected to be adopted next year.
2. In France the suspect has no right to remain silent or have a lawyer present during questioning.
3. The woman interviewed was detained in 2004 on accusations of theft.
4. She was detained for 3 days without an access to a lawyer and spent a year in prison.
5. It was hard for her to be detained, but it was even harder for her parents and husband.
6. The cells are generally dirty and full of vomit, excrement and urine.
7. In the past a lawyer was able to see the client for up to 90 minutes, but was not able to be present during interrogation.
8. The new rules will guarantee the confidentiality of meetings between the accused and their family.
9. The Police Union was against the reform.
10. It is still under debate whether there should be separate rules for suspects of terrorism.

Exercise 3.2

English vowels. Read the words below which illustrate the pronunciation of six English vowels and vowel clusters. Then match the words underneath with the sound that is represented by the underlined segment.

1. ɪ hit, sitting
2. i: see, heat
3. əʊ so, over
4. ɔ: call, four
5. aɪ five, eye



6. ei say, eight

law, low, rights, reform, heated, show, court, remain, silent, detained, fraud, ill, vital,
interrogation, assault, basis, even, lawyer, no

SESSION 4

PRESUMPTION OF INNOCENCE AND RIGHTS OF SUSPECTED AND ACCUSED CHILDREN

Exercise 4.1

Listen to the video of Gerard Batten, MEP, talking about procedural safeguards for children suspected or accused in criminal proceedings and answer the following questions:

1. Why will UK not adopt the proposed legislation (give two reasons)?
2. What safeguards for children in the UK legal system does the speaker list (give four)?

Exercise 4.2

Fill in the gaps in the text below with a single word.

The next instrument in the series of procedural _____ focused on presumption of innocence. This act did not figure in the Roadmap, referred to above, but the European leaders agreed in the Stockholm Programme that these aspects should be also _____ by the EU legislation.

The Directive on presumption of innocence will guarantee that suspects are not considered _____ simply because they _____ their right to remain _____. It also asks Member States to ensure that, before a final _____, public authorities should _____ from public statements that could _____ the person's reputation or influence the jury or the court's final decision ("innocent until proven guilty").



The Directive sets out that the _____ of proof is on the prosecution and any doubt benefits the suspect or accused person. It also lays down the _____ that everyone has

the right to remain silent as regards the facts he/she is accused of. Finally, the Directive provides that the accused has the right to be present at the _____.

The last directive adopted under the Roadmap focuses on rights of suspected and accused children. It was agreed that the category of vulnerable persons referred to in the Roadmap should _____ children in the first _____. This Directive aims to make sure that children are able to understand and _____ criminal proceedings, including by having _____ access to a lawyer in the proceedings. This means that children cannot _____ their right to be assisted by a lawyer, as there is a high risk that they would not understand the _____ of their actions. Children are also set to benefit from other _____ such as being informed _____ about their rights, being assisted by their parents (or other appropriate persons), not being questioned in public _____ and the right to receive medical examination if _____ of liberty.

KEY TO EXERCISES:

Exercise 1.1: 1B; 2C; 3A; 4A; 5B; 6C; 7D; 8D; 9C; 10A

Exercise 1.2: 1D; 2G; 3A; 4E; 5B; 6C; 7F

Exercise 2.1

Video for exercise 2.1, 2.2 and 2.3: <https://www.youtube.com/watch?v=W0us1DLYxAA>

Garry Mann is an English football fan who was arrested in Portugal during the Euro 2004 tournament for hooliganism. He did not have a professional interpreter, a wife of a cafe owner next to the court was assisting him with interpretation in broken English.

Exercise 2.2: 1. SHEPHERD THROUGH; 2. TRAVESTY; 3. TO HAVE NO CLUE; 4. FAST TRACK; 5. MISCARRIAGE; 6. OUTRAGE; 7. BOTCHED

Exercise 2.3: 1. BOTCHED; 2. MISCARRIAGE; 3. DID NOT HAVE A CLUE; 4. SHEPHERDED THROUGH; 5. FAST TRACK; 6. OUTRAGE; 7. TRAVESTY

Exercise 2.6

Video: <http://eujusticia.net/index.php/resources/category/video>



In the European Union any person suspected or accused of committing a crime has **the right to a fair trial**. This is one of the **cornerstones** of a democratic and **just** society and is the best way to ensure that only someone guilty of committing a criminal offence will be convicted by a court.

In order to protect your right to a fair trial, EU law **recognizes** a number of rights that apply to every accused or suspected person. These are: the right to information, the right to interpretation and translation and the right to access a lawyer and communicate **upon** arrest.

From the moment you learn that you are suspected of a crime you must be given **information about all of your rights**. This is your right to information. This means that when you are arrested by the police, you must be told **about the crimes you are suspected of committing**. You must also be told of your right to **access free legal advice** and your right to **remain silent**. All of this information should be given to you either **orally** or **in writing** without any **unreasonable delay**. To help you understand and remember your rights the police must give you a **letter of rights**. This document should include information about who you can contact **following** your arrest, how long you can be detained and the materials you can access to help you prepare for your case. You must be allowed to keep **this letter of rights**.

All of the information you receive must be **communicated to you simply** in a language you understand. This is your right to interpretation and translation. Any information written in a language that you do not understand must **be translated for you**. If you do not understand the language spoken to you, you must **be provided with a qualified interpreter** who can help you. An interpreter must be allowed to accompany you during **police questioning**, at **court hearings** and when **speaking to your lawyer**. If you have hearing or speech difficulties, you must be given appropriate assistance, for example a **sign language interpreter**. All of this must be provided without delay and **free of charge**.

If you are accused of a crime, you have the right to **speak to a lawyer** without delay. If necessary, the police must give you information **to help you find a lawyer**. This is your right to access a lawyer and communicate upon arrest. Before any police questioning can take place, you must **be allowed to speak to your lawyer in private**. Your lawyer can also accompany you during questioning and other relevant times. For example, at **identity parades**. If you are arrested, you have the right to **inform at least one other person of your detention** as soon as possible. If you are not a citizen of the country in which you have been arrested, you have the right to **contact the relevant consular authorities**. Finally, if you are under 18 years of age, **your parent or guardian** must be told about your detention.

Exercise 2.7

5. A court will convict only someone guilty of a criminal offence.
6. When the police arrests you, they must tell you about the crimes you are suspected of committing.
7. A qualified interpreter must assist you if you do not understand the language spoken to you.
8. The police must allow you to speak to your lawyer in private before any questioning can take place.



Exercise 3.1

Video: <https://www.youtube.com/watch?v=AHBOwBpSr54>

11. FALSE 2. FALSE 3. FALSE 4. TRUE 5. FALSE 6. TRUE
7. FALSE 8. FALSE 9. TRUE 10. TRUE

Exercise 3.2

- 1: reform, ill, interrogation
2: even, heated
3: low, no, show
4. law, lawyer, court, fraud, assault
5. rights, silent, vital
6. remain, detained, basis

Exercise 4.1

1. Because they have and opt-out and already have such safeguards under their own law.
2. The four rights are: to be present at one's own trial, to legal representation, to be kept separately from adults in custody, to be visited by a parent or guardian.

Exercise 4.2

The next instrument in the series of procedural **measures** focused on presumption of innocence. This act did not figure in the Roadmap, referred to above, but the European leaders agreed in the Stockholm Programme that these aspects should be also **addressed** by the EU legislation.

The Directive on presumption of innocence will guarantee that suspects are not considered **guilty** simply because they **exercise** their right to remain **silent**. It also asks Member States to ensure that, before a final **conviction**, public authorities should **refrain** from public statements that could **damage** the person's reputation or influence the jury or the court's final decision ("innocent until proven guilty"). The Directive sets out that the **burden** of proof is on the prosecution and any doubt benefits the suspect or accused person. It also lays down the **principle** that everyone has the right to remain silent as regards the facts he/she is accused of. Finally, the Directive provides that the accused has the right to be present at the **trial**.

The last directive adopted under the Roadmap focuses on rights of suspected and accused children. It was agreed that the category of vulnerable persons referred to in the Roadmap



should **cover** children in the first **place**. This Directive aims to make sure that children are able to understand and **follow** criminal proceedings, including by having **mandatory** access to a lawyer in the proceedings. This means that children cannot **waive** their right to be assisted by a lawyer, as there is a high risk that they would not understand the **consequence** of their actions. Children are also set to benefit from other **safeguards** such as being informed **promptly** about their rights, being assisted by their parents (or other appropriate persons), not being questioned in public **hearings** and the right to receive medical examination if **deprived** of liberty.

FINAL TEST – CROSSWORD

Across:

3. ABSENTIA; 6. INTERPRETER; 8. PRESUMPTION; 10. TRAVESTY;
11. GUILTY; 12. PARENT

Down:

1. SILENT; 2. AVOIDANCE; 4. FAIR; 5. PROSECUTION; 7. LIBERTY; 9. CLUE