



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 31 August 2009

12530/09

**DROIPEN 77
COPEN 149**

NOTE

from :	Presidency
to :	Delegations
No Prev. doc.:	12116/09 DROIPEN 66 COPEN 139
Subject :	Proposal for a Resolution of the Council and of the Governments of the Member States meeting within the Council fostering the implementation by Member States of the right to interpretation and to translation in criminal proceedings

The European Commission on 8 July 2009 presented a proposal for a Council Framework Decision on the right to interpretation and to translation in criminal proceedings ¹.

The Presidency, considering that guidelines should be given to Member States with a view to promoting the effective application of the rights contained in this proposal, submitted a draft Resolution to accompany the Framework Decision (12116/09 DROIPEN 66 COPEN 139).

The Friends of the Presidency on 29/30 July 2009 proceeded to a general exchange of views and to a first examination of this draft Resolution.

¹ 11917/09 DROIPEN 60 COPEN 133 + ADD 1 + ADD 2.

Delegations generally welcomed the draft text, subject to refinements being made to the text.

All delegations have a general scrutiny reservation on the text. Some Member States also have a Parliamentary scrutiny reservation.

In view of the comments presented by delegations at the meeting, the Presidency has made a revised draft of the text, which is set out in the Annex.

DRAFT

RESOLUTION OF THE COUNCIL AND OF THE GOVERNMENTS OF THE
MEMBER STATES MEETING WITHIN THE COUNCIL

FOSTERING THE IMPLEMENTATION BY MEMBER STATES OF THE RIGHT TO INTERPRETATION AND
TO TRANSLATION IN CRIMINAL PROCEEDINGS

THE COUNCIL OF THE EUROPEAN UNION AND THE GOVERNMENTS OF THE
MEMBER STATES MEETING WITHIN THE COUNCIL,

Whereas:

Council Framework Decision 2009/XXX/JHA on the right to interpretation and to translation in criminal proceedings sets out certain requirements regarding the rights, for the person suspected or accused of a criminal offence who does not understand or speak the language of the proceedings, to be assisted by an interpreter and to receive translations of essential documents in criminal proceedings.

Guidelines should be given to Member States with a view to promoting the effective implementation of these rights,

HAVE ADOPTED THIS RESOLUTION:

Scope and objectives

(1) This Resolution aims at fostering the rights to interpretation and translation in favour of

- persons suspected or accused of having committed a criminal offence;
- persons who are subject to proceedings for the execution of a European Arrest Warrant

who do not understand or speak the language used in the proceedings in which they are involved, including persons with hearing or speech impediments.

- (2) This Resolution is designed to be read in conjunction with Framework Decision 2009/XXX/JHA on the right to interpretation and to translation in criminal proceedings.
- (3) Building further on the principles laid down in the European Convention for the Protection of Human Rights and Fundamental Freedoms, Member States, while ensuring implementation of Framework Decision 2009/XXX/JHA, are encouraged to actively promote the measures set out below.
- (4) The aim of the measures taken should be to develop suitable, effective national standards for interpretation and translation in the course of criminal proceedings.

Measures

Professional bodies

- (5) Member States are encouraged to promote the setting up of professional bodies representing interpreters and translators. These bodies should be involved, where appropriate, in the procedure aimed at the implementation of the measures set out below, as well as in achieving the objectives of this Resolution.

Training

- (6) Member States should strive for a high level of qualification for interpreters and translators and encourage the organisation of appropriate training structures for interpreters and translators who may be involved in criminal proceedings. The training could include, for example, language skills, in particular relating to legal terminology, as well as training in criminal law and criminal procedure, police, court and prison practice. This training should be provided before registration/accreditation/certification of interpreters and translators.
- (7) (...) Member States should have a system of continuous professional development to allow interpreters and translators to keep their skills up to date.

(...)

- (8) Member States should ensure that appropriate training is given to interpreters assisting suspected or accused persons with hearing or speech impediments.

Accreditation or certification

- (9) Member States should ensure that there is a system of accreditation or certification for interpreters and translators who can be employed in criminal proceedings.

Registration

- (10) Member States should keep a register of accredited or certified interpreters and translators. Member States should ensure that the register is kept up to date and is easily accessible by authorities engaged in the proceedings.
- (12) Accreditation and certification should be periodically reviewed, so as to encourage interpreters and translators to maintain their professional skills up-to-date.
- (13) Member States are encouraged to make their national registry accessible to competent authorities of other Member States.
- (14) In this context, particular attention should be paid to the aim of facilitating the interconnection of databases for legal translators and interpreters, as envisaged in the European e-Justice action plan of 27 November 2008 ¹.

Engagement of accredited or certified interpreters and translators

- (15) Member States should ensure that, insofar as possible, only accredited or certified interpreters and translators are employed to interpret and translate. The services of a non-accredited or certified interpreter or translator may be used only if it is not reasonably possible to employ an accredited or certified interpreter or translator (...). In such cases, the competent authorities should pay particular attention to the quality of the interpretation or translation.

¹ 15315/08 JURINFO 71 JAI 612 JUSTCIV 239 COPEN 216.

Remote access to interpretation and translation

- (17) In situations where it is appropriate, distance interpretation could be provided, for example by using multiple-party telephone calls or videoconferencing facilities.
- (18) Equally, Member States could use translations carried out using remote means as long as the authenticity of the documents transmitted is safeguarded, for example through certified e-mail.

Minors and persons with disabilities

- (19) Member States should ensure that special attention is given to the needs of minors and persons suffering any impairing disability, should they not understand or speak the language of the criminal proceedings.

Code of Conduct and Guidelines on Best Practice

- (20) Member States should ensure that there is a Code of Conduct, as well as Guidelines on Best Practice, for interpreters and translators.
- (21) In order to ensure that Codes of Conduct and Guidelines on Best Practice are substantially similar throughout the European Union, Member States should regularly exchange information about experiences and practices.

Evaluation

- (22) Member States should ensure that there is a mechanism for evaluation of the systems aiming to ensure the quality of interpretation and translation given in criminal proceedings.

[Collection of data

- (23) In order to facilitate the evaluation and monitoring of the provisions of Framework Decision 2009/XXX/JHA and of this resolution, Member States are encouraged to keep data/statistics and make them available, in particular as regards the following:
- (a) the number of persons questioned in respect of a criminal offence and whose understanding of the language of the proceedings was such as to require the services of an interpreter during police questioning, preferably with a breakdown of the nationalities of the persons involved, together with the number of persons requiring sign language interpreting;
 - (b) the number of persons charged with a criminal offence and in respect of whom the services of an interpreter were requested before trial, at trial and/or at any appeal proceedings, preferably with a breakdown of the nationalities and the languages involved.]
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