

Fair trials: civil liberties MEPs back new EU rules on presumption of innocence

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The civil liberties committee on Tuesday approved a deal struck by Parliament and Council negotiators on new EU rules to ensure that the right to be presumed innocent until proven guilty in criminal proceedings is respected throughout the EU. The aim is to enhance the right to a fair trial and to strengthen member states' trust in each other's criminal justice systems.

The new law will apply "at all stages from the moment when a person is suspected or accused of having committed a criminal offence, or an alleged criminal offence, until the final determination of the question whether the person has committed the offence concerned and that decision has become definitive". Around nine million people are the subject of criminal justice proceedings every year in the EU.

"Parliament fought successfully to get rid of the clause that gave member states a real possibility of reversing the burden of proof. The burden of proof lies with the prosecution. This is a key principle of criminal law and it was our red line. We also secured a paragraph preventing the use of evidence obtained in breach of Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), i.e. as a result of torture, as well as a clause enshrining the absolute right to silence. Furthermore, we have ensured that the accused cannot be made to look guilty, before a verdict is reached, for example by being handcuffed or made to wear prison uniform," said the rapporteur, Nathalie Griesbeck (ALDE, FR).

Banning public authority statements that presume guilt

Member states will be required under the directive to take measures to ensure that public authorities do not refer to suspects or accused persons as being guilty "before such persons have been proven guilty according to law". This is without prejudice to acts of the prosecution which aim to prove the guilt of the suspect or accused person (e.g. the indictment), or to preliminary decisions of a procedural nature, such as decisions on pre-trial detention, provided that they do not refer to the suspect or accused person as being guilty.

National authorities must also abstain from presenting suspects or accused persons as being guilty, in court or in public, "through the use of measures of physical restraint", such as handcuffs, glass boxes, cages, and leg irons, unless the use of such measures is required for case-specific reasons, relating to security or to the need to prevent them from absconding or from having contact with third persons, such as witnesses or victims.

Burden of proof is on the prosecution

The burden of proof in establishing the guilt of suspects or accused persons is on the prosecution and any doubt should benefit the accused, under the rules agreed by Parliament and Council. The directive also includes safeguards to ensure that the rights of the defence are respected.

Silence must not be used against suspects

The new rules state that the exercise of the right to remain silent and of the right not to incriminate oneself may not be used against a suspect or accused person and "shall not be considered as evidence that the person concerned has committed the offence which he or she is suspected or accused of having committed".

Press release

The new directive also lays down rules on the right to be present at one's trial, sets out strict conditions under which trials would be allowed in the absence of the suspect or accused person, and clarifies the cases in which the accused would have the right to a new trial.

Next steps

The agreement on the new directive still needs to be approved by the full House at a forthcoming plenary session. Once the directive has been formally approved by both Parliament and the Council, member states will have two years from the date of its publication in the EU Official Journal to transpose it into national law.

The UK and Ireland have opted out of adopting this directive and will not be bound by it, while Denmark has a blanket opt-out for justice and home affairs legislation.

In the chair: Iliana Iotova (S&D, BG)

Procedure: co-decision (ordinary legislative procedure), 1st reading agreement

Result of the vote: 45 in favour, 3 against, 7 abstentions

Note to editors

This draft directive is part of a package of proposals to further strengthen procedural rights for citizens in criminal proceedings. The package includes a proposal for safeguards for children and another covering legal aid. These two other proposals are at the "trialogue" stage of proceedings (three-way talks between Parliament, Council and Commission aimed at reaching an agreement).

The previous Parliament passed three other EU laws that are part of a roadmap for strengthening procedural rights: a directive on the right to interpretation and translation, a directive on the right to information and a directive on the right of access to a lawyer.

Further information

- Text of the provisional EP/Council agreement
: <http://data.consilium.europa.eu/doc/document/ST-13471-2015-INIT/en/pdf>
- Legal situation in the EU member states regarding presumption of innocence (annex V of the impact assessment)
: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52013SC0478&from=EN>
- Procedure file
: [http://www.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2013/0407\(COD\)&l=EN](http://www.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2013/0407(COD)&l=EN)
- Committee on Civil Liberties, Justice and Home Affairs:
<http://www.europarl.europa.eu/committees/en/libe/home.html>
- Profile of rapporteur Nathalie Griesbeck (ALDE, FR): <http://www.europarl.europa.eu/meps/en/28208.html>
- Catch up via Video on Demand (10.11.2015): <http://www.europarl.europa.eu/ep-live/en/committees/?legislature=8&start-date=01-07-2014&end-date=09-11-2015&committee=LIBE>

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