

Arrest Rights Brief No.2: The Right to Information

A Legal Brief prepared by the Open Society Justice Initiative to assist legal practitioners to litigate the right of detained persons to be informed of the reason for their arrest and the nature and cause of any accusation or charge against them; the right to be informed of their defence rights; and the right to have access to the evidence upon which the accusations are based.

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TABLE OF CONTENTS

HOW TO USE THIS TEMPLATE BRIEF	3
I. THE RIGHT TO BE INFORMED OF REASONS FOR ARREST OR CHARGE.....	4
EUROPEAN CONVENTION ON HUMAN RIGHTS	4
<i>Right to be Informed of Reasons for Arrest.....</i>	4
<i>Right to be Informed of Nature and Cause of the Accusation.....</i>	5
DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE RIGHT TO INFORMATION IN CRIMINAL PROCEEDINGS.....	7
OTHER INTERNATIONAL STANDARDS	8
<i>International Covenant on Civil and Political Rights.....</i>	8
<i>Right to be Informed of Reasons for Arrest.....</i>	8
<i>Right to be Informed of Nature and Cause of Charge</i>	8
<i>Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment</i>	9
CONCLUSION	10
II. THE RIGHT TO BE INFORMED OF RIGHTS	10
EUROPEAN CONVENTION ON HUMAN RIGHTS	10
DIRECTIVE ON THE RIGHT TO INFORMATION IN CRIMINAL PROCEEDINGS.....	11
OTHER INTERNATIONAL AND EUROPEAN STANDARDS	12
<i>International Covenant on Civil and Political Rights.....</i>	12
<i>European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.....</i>	13
<i>UN Convention against Torture.....</i>	13
<i>Basic Principles on the Role of Lawyers.....</i>	13
<i>Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment </i>	13
CONCLUSION	14
III. THE RIGHT TO ACCESS EVIDENCE	14
EUROPEAN CONVENTION ON HUMAN RIGHTS	14
DIRECTIVE ON THE RIGHT TO INFORMATION IN CRIMINAL PROCEEDINGS.....	16
OTHER INTERNATIONAL STANDARDS	17
<i>International Covenant on Civil and Political Rights.....</i>	17
CONCLUSION	17
CONCLUSION ON THE RIGHT TO INFORMATION	17

HOW TO USE THIS TEMPLATE BRIEF

1. People who have been arrested or questioned by the police on suspicion of involvement in a criminal activity often find themselves in a vulnerable position. This vulnerability is heightened when people are not given information about why they have been detained, what accusations and evidence exist against them, and what their rights are. Knowledge is power, and one of the key factors in ensuring fair proceedings is whether suspects have a sufficiently detailed understanding of their situation and their rights.
2. While in most European countries there are legal provisions governing the defence rights of suspects in criminal proceedings, the observance and effectiveness of these rights varies significantly from country to country. There is substantial divergence in the way suspects are given information, the level of detail that is required, and the moment at which the information must be provided.
3. In recent years, there have been significant developments in Europe towards establishing clear minimum standards of arrest rights – those rights held by suspects during the early stages of criminal proceedings. The Justice Initiative is supporting these developments through publication of a series of template briefs to provide technical assistance to lawyers conducting litigation on arrest rights in domestic courts.
4. This brief provides the current regional and international legal standards on the rights of suspects to obtain information during criminal proceedings. There are three aspects to the right to information:
 - a) the right to be informed of the reasons for arrest and the nature and cause of any accusation or charge;
 - b) the right to be informed of defence rights; and
 - c) the right to have access to the evidence on which the accusations are based.
5. This brief covers the legal standards from the European Convention on Human Rights and the case law of the European Court of Human Rights, supported by principles and standards from the International Covenant on Civil and Political Rights, the UN Human Rights Committee, and other European and UN bodies. Particular focus is placed on the Directive of the European Parliament and of the Council on the Right to Information in Criminal Proceedings, which sets new and binding standards for the EU.
6. The Justice Initiative encourages lawyers to use the research and arguments in this brief to support domestic litigation. Litigation can be an effective tool to modify a national criminal justice system that fails to adequately provide for arrest rights. The Justice Initiative is monitoring developments in countries that have successfully reformed their laws relating to arrest rights. If you are planning or are engaged in a case with this aim, please contact us. We may be able to provide information on reforms that have been implemented in similar legal systems which could support your case, connect you with other lawyers or organizations who have successfully litigated this issue, or provide assistance or advice to strengthen the strategic impact of your case.
7. The Justice Initiative has gone to every effort to ensure our information is accurate. However, this brief is provided for information purposes only and does not constitute legal advice. The way you use this brief will depend on the details of your case, your client's situation, and specificities of your domestic legal framework.
8. If you have any questions or feedback about the brief, would like a translated version in another language, or would like to keep the Justice Initiative informed about cases in your country on the right to information or other arrest rights, please contact:

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I. THE RIGHT TO BE INFORMED OF REASONS FOR ARREST OR CHARGE

9. The European Court of Human Rights (ECtHR) and the Human Rights Committee have long established the importance of suspects being provided with basic information, as it protects their rights to a fair trial and safeguards them against arbitrary detention. Specifically, the European Convention on Human Rights (“ECHR”) guarantees the right of everyone who has been arrested to be informed of the reasons for their arrest and any charge against them, and the right of everyone who is charged with an offence to be informed of the nature and cause of the accusation against them. These rights have also been affirmed by the UN Human Rights Committee and the UN General Assembly.
10. In addition, the Council of the European Union has identified the right to information as a key component of a long-term plan to strengthen and protect the rights of suspects in criminal proceedings throughout the European Union. The EU has adopted binding legislation regulating this issue, which requires all Member States to bring into force the laws, regulations, and administrative provisions necessary to ensure that they comply with the Directive.

European Convention on Human Rights

Right to be Informed of Reasons for Arrest

11. All people who are arrested have a fundamental right to understand why they are being deprived of their liberty. Article 5(2) of the ECHR states that “everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and the charge against him”. The European Court of Human Rights (“ECtHR”) has explained that this is an elemental safeguard against arbitrary treatment and an integral part of the scheme of protection afforded by Article 5.¹
12. The word “arrest” has an autonomous meaning and refers to the moment at which a person is deprived of their liberty.² All detainees must be provided with this information so that they can challenge the lawfulness of their detention. According to the ECtHR, “[a]nyone entitled to take proceedings to have the lawfulness of his detention speedily decided cannot make effective use of that right unless he or she is promptly and adequately informed of the reasons relied on to deprive him of his liberty”.³
13. *Simple Language.* The information must be conveyed in way that the person can understand, using “simple, non-technical language” and it must cover the “legal and factual grounds” for the arrest.⁴ In *Fox, Campbell and Hartley v the UK* the ECtHR stated that it was insufficient for an arresting officer to simply tell the suspects that they were arrested under a particular law on suspicion of being terrorists. Instead, they must be informed of “the reasons why they were suspected of being terrorists” and of “their suspected involvement in specific criminal acts and their suspected membership of proscribed organisations”.⁵
14. *Prompt.* The ECHR requires that the information be provided “promptly”, meaning that it must be given immediately or as soon as practicable after the person is deprived of their liberty. However, it is difficult to draw exact rules about the parameters of acceptable timing from ECtHR jurisprudence as few cases have dealt with this issue. The ECtHR has assessed each case according to its special features and has avoided setting maximum time

¹ *Shamayev and Others v. Georgia and Russia*, ECtHR, Judgment of 12 April 2005 para. 413; *Fox, Campbell and Hartley v the UK*, ECtHR, Judgment of 30 August 1990, para. 40.

² *Van der Leer v. the Netherlands*, ECtHR, Judgment of 21 February 1990, para 27

³ *Shamayev and Others v. Georgia and Russia*, ECtHR, Judgment of 12 April 2005 para. 413. See also *Van der Leer v. the Netherlands*, ECtHR, Judgment of 21 February 1990, para. 28; See also *Fox, Campbell and Hartley v the UK*, ECtHR, Judgment of 30 August 1990, para. 40; *X v. the United Kingdom*, ECtHR, Judgment of 5 November 1981, para. 66.

⁴ *Fox, Campbell and Hartley v the UK*, ECtHR, Judgment of 30 August 1990, para. 40.

⁵ *Fox, Campbell and Hartley v the UK*, ECtHR, Judgment of 30 August 1990, para. 41.

limits. For example, in *Kaboulov v. Ukraine*, the applicant was arrested to be deported, and the ECtHR held that a 40 minutes delay in informing him of the reasons for his arrest would not necessarily raise an issue under Article 5(2).⁶ In comparison, in *Saadi v. the United Kingdom*, the ECtHR found a breach of Article 5(2) where an asylum-seeker was only informed of the reasons for his detention at a reception center after 76 hours.⁷ Furthermore, the ECtHR has been particularly flexible in cases concerning investigations of alleged terrorists, holding that it may be sufficient to provide the general nature of the charge initially, with greater detail being provided soon afterwards.⁸ The ECtHR will tolerate short delays in providing information under Article 5(2), but only if there are special features and complexities in the particular case. As a general rule, information about the reasons for arrest should be given promptly after the person has been arrested.

15. *Sufficiency of Reasoning.* During the period of time immediately after arrest, the suspect must be informed of the reasons for his arrest and the charge against him or her. However, if the authorities continue to detain the suspect, the reasons that initially justified arrest may go stale over time. For example, while “reasonable suspicion of having committed an offence” is sufficient justification to effect an arrest,⁹ “there comes a time when [reasonable suspicion] is no longer enough,” and additional “relevant and sufficient” grounds must be provided to justify the continued deprivation of liberty.¹⁰ Furthermore, the Court has held that State authorities cannot rely on the reasons that initially justified detention by mere reference to them; rather, the authorities must explain why these reasons continue to apply, with reference to specific facts concerning the detainee’s behavior and personal circumstances.¹¹ As the purpose of Article 5(1) is to ensure that the suspect has sufficient information to challenge the lawfulness of their detention, it follows that the authorities are under a continuing obligation of disclosure. State authorities must inform the suspect of the evolving reasons for their detention throughout the period of detention.

Right to be Informed of Nature and Cause of the Accusation

16. When a person has been charged with a criminal offence, a further obligation arises for the authorities to take active steps to provide that person with detailed information about the accusation against him and ensure he understands it. Article 6(3)(a) of the ECHR states that everyone charged with a criminal offence must “be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him”. The ECtHR has explained the rationale of this article: the suspect must be provided with sufficient information as is necessary “to understand fully the extent of the charges against him with a view to preparing an adequate defence”.¹²
17. Whether the provision of the information is sufficient must be assessed in light of Article 6(3)(b) of the ECHR, which confers on everyone the right to have adequate time and facilities for the preparation of their defence, and in light of the more general right to a fair hearing embodied in Article 6(1) of the ECHR.¹³

⁶ *Kaboulov v. Ukraine*, ECtHR, Judgment of 19 November 2009, para. 147.

⁷ *Saadi v. the United Kingdom*, ECtHR, Judgment of 29 January 2008, paras. 84-85.

⁸ *Fox, Campbell and Hartley v the UK*, ECtHR, Judgment of 30 August 1990, para. 40. See also *Murray v. the United Kingdom*, ECtHR, 28 October 1994, para. 72.

⁹ ECHR, Article 5(1)(c).

¹⁰ *McKay v. UK*, ECtHR, Judgment of 3 October 2006, at para. 45; *Khudoyorov v. Russia*, ECtHR, Judgment of 8 November 2005, at para. 174.

¹¹ *Savenkova v. Russia*, ECtHR, Judgment of 4 March 2010, para. 84. *Clooth v. Belgium*, ECtHR, Judgment of 5 March 1998, at para. 41.

¹² *Mattoccia v Italy*, ECtHR, Judgment of 25 July 2000, para. 60.

¹³ *Vaudelle v France*, ECtHR, Judgment of 30 January 2001, para. 35; *F.C.B. v Italy*, ECtHR, Judgment of 28 August 1991, para. 29.

18. *Positive duty.* Notification of the nature and cause of the accusation is a positive duty that requires active steps from the prosecutor or police. It is not sufficient to make the information available only if the suspect requests it. The ECtHR has stressed that the duty “rests entirely on the prosecuting authority’s shoulders and cannot be complied with passively by making information available without bringing it to the attention of the defence”.¹⁴ The authorities can be required to take additional steps to bring the information to the suspect’s attention and ensure that the suspect effectively understood the information.¹⁵ The fact that a suspect has the right to access the case-file or record of evidence does not relieve the prosecuting authorities from their obligation to inform the suspect promptly and in detail of the full accusation against him.¹⁶
19. *Language and form.* In relation to the form of the information, Article 6(3)(a) of the ECHR does not impose any specific requirements as to the manner in which the suspect is to be informed of the nature and cause of the accusation against him. In some circumstances, oral notification may be acceptable;¹⁷ but in others, the ECtHR has found that the circumstances required written notification, noting for example that a foreign defendant may be put at a disadvantage if he is not provided with a written translation of the indictment in a language he understands.¹⁸
20. *Substance.* Regarding the substance of the information, at a bare minimum the suspect must be notified of “the material facts alleged against him which are at the basis of the accusation, and of the nature of the accusation, namely, the legal qualification of these material facts”.¹⁹ The amount, detail and precision of information that has to be communicated to the suspect, as well as when the information must be communicated, is dependent on the particular complexity and nature of the case.²⁰ For example, in *Brozicek v Italy*, the ECtHR found that the details provided were sufficient to comply with Article 6(3)(a) because the notification “sufficiently listed the offences of which he was accused, stated the place and the date thereof, referred to the relevant Articles of the Criminal Code and mentioned the name of the victim”.²¹
21. In contrast, it is unacceptable for the notification to be vague about essential details such as the time and place of the alleged crime. In *Mattoccia v Italy*,²² the ECtHR found a breach of Article 6(3)(a) and (b) taken in conjunction with Article 6(1) of the ECHR, stressing that “the provision of full, detailed information concerning the charges against a defendant is an essential prerequisite for ensuring that the proceedings are fair”.²³
22. *Prompt.* Article 6(3)(a) requires that the information be given promptly, during the preliminary stages of the proceedings. In *Mattoccia v Italy*, the ECtHR criticized the national authorities for not providing sufficient information to the suspect before his first interview with the police, and not allowing access to the evidence on the prosecution file until the end of the preliminary investigation.²⁴
23. *Ongoing duty.* While the person must be informed promptly of the charges against them, the obligation to provide information on the accusation against the suspect is also an

¹⁴ *Mattoccia v Italy*, ECtHR, Judgment of 25 July 2000, para. 65.

¹⁵ *Brozicek v Italy*, ECtHR, Judgment of 19 December 1989, para. 41; *Kamasinski v Austria*, ECtHR, Judgment of 19 December 1989, para. 79; *Mattoccia v Italy*, ECtHR, Judgment of 25 July 2000, para. 65.

¹⁶ *Mattoccia v Italy*, ECtHR, Judgment of 25 July 2000, paras. 64-65.

¹⁷ E.g. *Pélissier and Sassi v France*, ECtHR, Judgment of 26 March 1999, para. 53.

¹⁸ *Kamasinski v Austria*, ECtHR, Judgment of 19 December 1989, para. 79.

¹⁹ *Mattoccia v Italy*, ECtHR, Judgment of 25 July 2000, para. 59. See also *Pélissier and Sassi v France*, ECtHR, Judgment of 26 March 1999, para. 51.

²⁰ *Mattoccia v Italy*, ECtHR, Judgment of 25 July 2000, para. 60.

²¹ *Brozicek v Italy*, ECtHR, Judgment of 19 December 1989, para.42.

²² *Mattoccia v Italy*, ECtHR, Judgment of 25 July 2000.

²³ *Mattoccia v Italy*, ECtHR, Judgment of 25 July 2000, para. 59.

²⁴ *Mattoccia v Italy*, ECtHR, Judgment of 25 July 2000, para. 63-64.

ongoing one. It is therefore also unacceptable for the prosecution to contradict or amend the accusation without notifying the accused. Thus in *Pélissier and Sassi v France*, the ECtHR found a breach of Article 6(3)(a) on the grounds that the applicants were not notified that the facts against them had been recharacterized and that they were suspected of a variation of the original crime.²⁵

Directive of the European Parliament and of the Council on the Right to Information in Criminal Proceedings

24. The right to information has now been legislated at an EU-level, with significant impacts on the obligations of Member States. On 26 April 2012, the European Union Council and Parliament approved a Directive to protect people's right to information in criminal proceedings,²⁶ as part of the *Resolution on a Roadmap for Strengthening Procedural Rights of Suspected and Accused Persons in Criminal Proceedings* ("the EU Roadmap").²⁷
25. This Directive lays down minimum requirements across the EU for the notification of suspects and accused persons about the case against them. All Member States are now required to bring into force the laws, regulations, and administrative provisions necessary to ensure that they comply with the Directive. The Directive is binding and enforceable; individuals can bring actions against the State for any failure to properly implement it.²⁸
26. Article 3 of the Directive requires that any person who is suspected or accused of a criminal offence – regardless of whether they have been arrested, detained, or formally charged – must be provided with basic information about their procedural rights.
 - “1. Member States shall ensure that suspects or accused persons are provided promptly with information concerning at least the following procedural rights, as they apply under national law, in order to allow for those rights to be exercised effectively:
 - (a) the right of access to a lawyer;
 - (b) any entitlement to legal advice free of charge and the conditions for obtaining such advice;
 - (c) the right to be informed of the accusation, in accordance with Article 6;
 - (d) the right to interpretation and translation;
 - (e) the right to remain silent .
 2. Member States shall ensure that the information provided for under paragraph 1 shall be given orally or in writing, in simple and accessible language, taking into account any particular needs of vulnerable suspected or accused persons”.
27. Article 6 of the Directive specifically protects the right to be informed about the accusation. All suspects and accused persons must be “provided with information about the criminal act they are suspected or accused of having committed. That information shall be provided promptly and in such detail as is necessary to safeguard the fairness of the proceedings and the effective exercise of the rights of the defence”.
28. Recital 28 provides further clarification on the timing and content of the information about the accusation. It requires that the information be provided “promptly, and at the latest before their first official interview by the police or another competent authority”. It also states that notification should include sufficient detail to safeguard the fairness of the proceedings, including “A description of the facts, including, where known, time and place ... and the possible legal classification of the alleged offence”.

²⁵ *Pélissier and Sassi v France*, ECtHR, Judgment of 26 March 1999, para. 50-56.

²⁶ *Directive of the European Parliament and of the Council on the Right to Information in Criminal Proceedings*, 2010/0215(COD), COM(2010) 392/3. This Directive forms Measure B of the EU Roadmap.

²⁷ Resolution of the Council of 30 November 1999, (2009/C 295/01).

²⁸ *Van Duyn v Home Office*, ECJ, Judgment of 4 December 1974.

29. In conclusion, the Directive on the Right to Information contains detailed obligations for all Member States across the EU, and specifies the minimum rules for the provision of information to suspects and accused persons. These obligations, which reflect and clarify the minimum standards set down by the ECtHR, must be implemented into the national law and practice of all Member States

Other International Standards

30. A number of other international bodies have emphasized the fundamental importance of the right to information and have clarified and expanded upon the ECtHR standards.

International Covenant on Civil and Political Rights

31. The UN Human Rights Committee, applying the ICCPR, has affirmed the principles set down by the ECtHR and established that all people have the right to be informed of the reasons for arrest and to be provided with details about the nature and cause of the accusations against them. The Human Rights Committee has also gone further than the ECtHR in stipulating what they consider to be ‘prompt’ notification.

Right to be Informed of Reasons for Arrest

32. Article 9(2) of the ICCPR states “anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him”. The Committee has explained that “one of the most important reasons for the requirement of ‘prompt’ information on a criminal charge is to enable a detained individual to request a prompt decision on the lawfulness of his or her detention by a competent judicial authority”.²⁹ In *Krasnova v Kyrgyzstan* the Human Rights Committee clarified what they considered to be ‘prompt’ notification, finding a breach of Article 9(2) because the applicant had not been informed of the reasons for his arrest for the first 24 hours that he was detained.³⁰

33. In *Drescher Caldas v. Uruguay*, the Human Rights Committee clarified the level of detail required by Article 9(2) of the ICCPR. The Committee stated that the information must be sufficient to enable the suspect “to take immediate steps to secure his release if he believes that the reasons given are invalid or unfounded”.³¹ In this case, the Committee held that it was not sufficient to simply inform the applicant that he was being arrested under the “prompt security measures” of Uruguay without any indication of the substance of the complaint against him.³² Similarly, in *Carballal v. Uruguay*, the ECtHR found it was insufficient to merely notify a person that they had been arrested for “subversive activities” with no explanation of the scope and meaning of the activities that constitute a crime under the relevant legislation.³³

Right to be Informed of Nature and Cause of Charge

34. Article 14(3)(a) of the ICCPR mirrors Article 6(3)(a) of the ECHR by confirming that everyone charged with crime must “be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him”. However, the Human Rights Committee has gone further than the ECtHR in specifying how this right must be respected in practice. In General Comment 32, the Human Rights Committee

²⁹ *Campbell v Jamaica*, UNHRC, Decision of 30 March 1992, U.N. Doc. CCPR/C/44/D/248/1987

³⁰ *Krasnova v Kyrgyzstan*, UNHRC, Decision of 29 March 2011, U.N. Doc. CCPR/C/101/D/1402/2005, at para 8.5. See also *P. Grant v. Jamaica*, UNHRC, Decision of 22 March 1996, U.N. Doc. GAOR, A/51/40 (vol. II), para. 8.1; and *Paul Kelly v. Jamaica*, UNHRC, Decision of 8 April 1991, U.N. Doc. CCPR/C/41/D/253/1987 at para 5.8.

³¹ *Drescher Caldas v. Uruguay*, UNHRC, Decision of 21 July 1983, U.N. Doc. Supp. No. 40 (A/38/40) at para 13.2.

³² *Adolfo Drescher Caldas v. Uruguay*, UNHRC, Decision of 21 July 1983, U.N. Doc. Supp. No. 40 (A/38/40) at para 13.2.

³³ *Carballal v. Uruguay*, UNHRC, Decision of 27 March 1981, U.N. Doc. CCPR/C/OP/1, para. 12.

provided the following comprehensive and overarching guidance about the applicability of Article 14(3)(a) of the ICCPR.

35. First, in relation to the **scope of the right** the Committee expressly recognized that all people who are charged with a criminal offence have the right to be informed of the charges against them, irrespective of whether they have been formally arrested or detained. The Committee specified that Article 14(3)(a) “applies to all cases of criminal charges, including those of persons not in detention, but not to criminal investigations preceding the laying of charges”.³⁴
36. Second, in relation to the **timing of notification** the Committee stated that “[t]he right to be informed of the charge ‘promptly’ requires that information be given as soon as the person concerned is formally charged with a criminal offence under domestic law, or the individual is publicly named as such”.³⁵ In *Williams v. Jamaica*, the Committee further clarified that detailed information about the charges must be provided at “the beginning of the preliminary investigation or the setting of some other hearing which gives rise to a clear official suspicion against the accused”.³⁶
37. Third, in relation to the **form of notification** the Committee clarified that informing the suspect of the charges orally is only acceptable if that notification is later confirmed in writing.³⁷ This refines the gap in the standards set by the ECtHR and upholds the importance of ensuring the suspect understands the information provided.

Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment

38. The Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment adopted by the UN General Assembly on 9 December 1988, specifies principles that apply for the protection of all persons under any form of detention or imprisonment, clarifying the information that must be provided on arrest.³⁸ Although non-binding, this Resolution sets down authoritative general principles accepted by the international community to protect the rights of people to detailed information about criminal charges, and are therefore influential in the interpretation of fundamental rights..
39. Principle 10 provides the general rule that “Anyone who is arrested shall be informed at the time of his arrest of the reason for his arrest and shall be promptly informed of any charges against him.” Principle 11(2) states that “A detained person and his counsel, if any, shall receive prompt and full communication of any order of detention, together with the reasons therefor”. Principle 12 goes further to specify what level of detail must be provided to the detained person: “(a) The reasons for the arrest; (b) The time of the arrest and the taking of the arrested person to a place of custody as well as that of his first appearance before a judicial or other authority; (c) The identity of the law enforcement officials concerned; (d) Precise information concerning the place of custody”. Thus, the principles stipulate additional important information that must be provided to all persons upon arrest – the time of arrest, the identity of the law enforcement officials, and the place of custody – and calls on all countries to make every effort to ensure the human rights of detained or imprisoned persons are protected. .

³⁴ UNHRC, General Comment No. 32, *Right to equality before the courts and tribunals and to a fair trial*, UN Doc. CCPR/C/GC/32, 23 August 2007, para. 32, 34. See also *Khachatrian v. Armenia*, UNHRC, Decision of 28 October 2005, U.N. Doc. CCPR/C/85/D/1056/2002, para. 6.4.

³⁵ UNHRC, General Comment No. 32, *Right to equality before the courts and tribunals and to a fair trial*, UN Doc. CCPR/C/GC/32, 23 August 2007, para. 32, 34.

³⁶ *Desmond Williams v. Jamaica*, UNHRC, Decision of 8 April 1997, U.N. Doc. CCPR/C/59/D/561/1993 para. 9.2.

³⁷ UNHRC, General Comment No. 32, *Right to equality before the courts and tribunals and to a fair trial*, UN Doc. CCPR/C/GC/32, 23 August 2007, para. 31.

³⁸ *Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*, UNGA, U.N. Doc A/RES/43/173.

Conclusion

40. Under Article 5(2) of the ECHR and Article 9(2) of the ICCPR, a person deprived of his liberty must be informed of the reasons for his detention and of any charge against him. The information should be provided as soon as practicable after the person is deprived of their liberty, although some short delays are permitted if the special circumstances of the case require it. The information must be conveyed in a way the person understands using simple, non-technical language, and it should be provided in writing. Sufficient detail about the legal and factual grounds for the arrest must be provided so as to enable the person to request a prompt decision on the lawfulness of his detention by a competent judicial authority.
41. Under Article 6(3)(a) of the ECHR and 14(3)(a) of the ICCPR, any person who is charged with a criminal offence must be promptly provided with detailed information about the nature and cause of the charge or accusation against them. This obligation cannot be complied with passively; it is a positive duty that requires active steps from the prosecutor or police. The information must be provided as soon as the person is charged, publicly named as being charged, or at the beginning of the preliminary investigation or the setting of some other hearing which gives rise to a clear official suspicion against the accused. The information should be comprehensive in order to ensure the person fully understands the extent of the charges and to allow the person to prepare an adequate defence. As a bare minimum, it must include the material facts which are at the basis of the allegation and the legal qualification of those facts.
42. In addition to the existing standards from the ECtHR and the Human Rights Committee, the right to information has now been legislated on an EU-level, creating new binding and enforceable obligations on all Member States. The Directive on the Right to Information requires that all Member States amend their laws, regulations and administrative provisions to ensure that people are provided with specific information upon arrest and charge. All people arrested in the EU have the right to know why they are suspected of having committed a criminal offence immediately after they are deprived of their liberty. They also have the right to detailed information about the charges against them, including a description of the circumstances in which the alleged offence was committed and the nature and legal classification of the offence.

II. THE RIGHT TO BE INFORMED OF RIGHTS

43. The right to a fair trial can only be realized in a practical and effective manner if people are informed of what their rights are, as a person who is not aware of their rights will be unable to exercise them. In order to protect the fundamental rights of fair trial, judicial authorities must take all reasonable steps to ensure that suspects are fully aware of their defence rights from the earliest point of the criminal justice proceedings.

European Convention on Human Rights

44. The ECtHR has repeatedly held that authorities are required to take positive measures in order to comply with the fair trial requirements of Article 6 of the ECHR, including by actively ensuring that suspects are aware of their rights. Although the text of the ECHR does not contain an express requirement that judicial authorities inform suspects of their defence rights, this obligation has been recognized by the Court as implied within the right to a fair trial on the basis that the Convention is intended to guarantee rights that are not theoretical or illusory but rights that are practical and effective. The ECtHR has held that this is particularly so of the right to a defence and to a fair trial.³⁹

³⁹ *Airey v Ireland*, ECtHR, Judgment of 9 October 1979, para. 24.

45. In *Panovits v Cyprus*, the applicant, who was a minor, was arrested in connection with a robbery and murder. He was questioned by the police without a lawyer and without the presence of his guardian, and made a confession. The Government argued that the authorities would have been willing to allow the applicant to exercise his right to obtain legal assistance at any time, if he so requested. The ECtHR held that there was a positive obligation to furnish the applicant with the necessary information enabling him to access legal representation, and that this passive approach violated Article 6.⁴⁰ The ECtHR held that authorities should have “actively ensured” that the applicant understood his right to legal assistance and legal aid and his right to remain silent.
46. The ECtHR also found violations of Article 6 in similar circumstances in *Padalov v Bulgaria*.⁴¹ In this case, the applicant was not a minor nor under any particular vulnerability. He was arrested for sexual offences and explained to the police that he could not afford a lawyer and did not think he was eligible for legal aid under the complex national legal aid regulations. The ECtHR held that the domestic authorities should have adopted a more active behavior to ensure that he had been advised of his right to legal aid, and that their decision to remain passive neglected their obligations and contributed to a breach of Article 6 of the ECHR.⁴²
47. The ECtHR has avoided specifying exactly which rights must be included in the notification, and has held that the form and manner of the notification may vary depending on the circumstance of the case. As a bare minimum, the authorities must provide a caution informing the accused of his right to silence.⁴³ However, the ECtHR has found that “additional safeguards are necessary when the accused asks for counsel because if an accused has no lawyer, he has less chance of being informed of his rights and, as a consequence, there is less chance that they will be respected”.⁴⁴
48. In addition, where the suspects are particularly vulnerable, due to their age or special characteristics, the ECtHR requires the authorities to take extra steps in explaining their rights, especially their right to a lawyer. These additional requirements mean that, for example, the ECtHR has refused to accept the reliability of a pre-printed declaration form signed by the applicant acknowledging that she had been reminded of her right to remain silent or to be assisted by a lawyer, because the applicant was an alcoholic and thus particularly vulnerable. The ECtHR held that the authorities should have taken this into account when apprising her of her right to be assisted by a lawyer.⁴⁵ In other cases, where the suspects have been minors, the ECtHR has held that the authorities are under a higher obligation to ensure that the suspect has “a broad understanding of the nature of the investigation, of what is at stake for him or her, including the significance of any penalty which may be imposed as well as of his rights of defence and, in particular, of his right to remain silent”.⁴⁶

Directive on the Right to Information in Criminal Proceedings

49. Under the new Directive of the European Parliament and of the Council on the Right to Information in Criminal Proceedings, every person who is arrested in any EU country must be notified of their relevant procedural rights in simple and accessible language at

⁴⁰ *Panovits v. Cyprus*, ECtHR, Judgment of 11 December 2008, para. 72.

⁴¹ *Padalov v Bulgaria*, ECtHR, Judgment of 10 August 2006. See also *Talat Tunc v Turkey*, ECtHR, Judgment of 27 March 2007.

⁴² *Padalov v Bulgaria*, ECtHR, Judgment of 10 August 2006, paras. 54-56.

⁴³ *Pishchalnikov v Russia*, ECtHR, Judgment of 24 September 2009, para. 78-79.

⁴⁴ *Ibid*, para. 78.

⁴⁵ *Plonka v Poland*, ECtHR, Judgment of 31 March 2009, para. 37-38.

⁴⁶ *Panovits v. Cyprus*, ECtHR, Judgment of 11 December 2008, para. 67; *S.C. v. the United Kingdom*, ECtHR, Judgment of XX, para. 29.

the earliest possible moment in the proceedings.⁴⁷ The Directive on the Right to Information will have significant impacts on the criminal justice procedure of many Member States as they are required to amend their laws and practice to ensure compliance.

50. Article 3 of the Directive, as explained above, requires that any person who is suspected or accused of a criminal offence – regardless of whether they have been arrested, detained, or formally charged – must be provided with basic information about their procedural rights. This includes the right to legal assistance, legal aid, information about the accusation, interpretation and translation, and the right to remain silent.

51. Article 4 of the Directive provides an extra level of protection for those suspects or accused persons who are arrested or detained. It recognizes that those people who are deprived of their liberty require more detailed information about their rights, and that this information should be given by means of a written Letter of Rights:

“1. Member States shall ensure that suspects or accused persons who are arrested or detained are provided promptly with a written Letter of Rights. They shall be given an opportunity to read the Letter of Rights and be allowed to keep it in their possession throughout the time that they are deprived of liberty.

2. In addition to the information to be given under Article 3, the Letter of Rights referred to in paragraph 1 shall contain information about the following rights as they apply under national law:

(a) the right of access to the materials of the case;

(b) the right to have consular authorities and one person informed;

(c) the right of access to urgent medical assistance;

(d) the maximum number of hours or days suspects or accused persons may be deprived of liberty before being brought before a judicial authority.

3. The Letter of Rights shall also contain basic information about any possibility, under national law, of challenging the lawfulness of the arrest; obtaining a review of the detention; or making a request for provisional release.

52. To promote consistency across the EU, a template model of the Letter of Rights is annexed to the Directive and has been translated into all official languages of the EU. Member States must provide the Letter to the suspect or accused person in a language he understands. The model Letter of Rights contains a straightforward and simple explanation of the fundamental rights held by people who have been arrested, including:

“You have the following rights when you are arrested or detained ... You have the right to speak confidentially to a lawyer ... You have the right to know why you have been arrested or detained and what you are suspected or accused of having done ... If you do not speak or understand the language spoken by the police or other competent authorities, you have the right to be assisted by an interpreter, free of charge.

Other International and European Standards

53. A number of other international bodies have reaffirmed the fundamental importance of informing suspects of their basic rights without delay.

International Covenant on Civil and Political Rights

54. In contrast to the ECHR, the ICCPR expressly mentions the importance of information on defence rights, focusing on the right to a lawyer. Article 14(3)(d) of the ICCPR requires that everyone charged with a criminal offence “be informed, if he does not have legal assistance, of this right”. The *travaux préparatoires* of Article 14(3)(d) explain that the

⁴⁷ *Directive of the European Parliament and of the Council on the Right to Information in Criminal Proceedings*, 2010/0215(COD), COM(2010) 392/3. This Directive forms Measure B of the EU Roadmap.

right to be informed of the right to legal assistance is “self-evident”.⁴⁸ In *Barno Saidova v Tajikistan* and *Rolando v Philippines*, the UN Human Rights Committee found breaches of Article 14(3)(d) because the suspects was not informed of their right to legal assistance upon their arrest.⁴⁹

European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment

55. The CPT has emphasized that all persons taken into custody have been be “expressly informed without delay” of their right to have the fact of their detention notified to a third party, their right to a lawyer, and their right to a medical examination.⁵⁰ The CPT has identified these three rights as being the “fundamental safeguards against ill-treatment of detained persons”.⁵¹ The CPT has repeatedly stressed the importance of not only possessing these rights but of also being expressly informed of them without delay:

“the CPT considers that a form setting out those rights in a straightforward manner should be systematically given to persons detained by the police at the very outset of their custody. Further the persons concerned should be asked to sign a statement attesting that they have been informed of their rights”.⁵²

UN Convention against Torture

56. The Committee against Torture has, in its Country Reports, developed four basic rights of all people taken into police custody, and has stressed the importance of suspects being informed of these rights before interrogation. The four basic rights which suspects must be promptly informed of are:

- the right to consult a lawyer;
- the right to inform a second and third party of their detention;
- the right to medical examination; and
- the right to information as to his or her rights, both orally and in writing.⁵³

Basic Principles on the Role of Lawyers

57. The Basic Principles on the Role of Lawyers, adopted by the United Nations Congress on the Prevention of Crime and the Treatment of Offenders in 1990, contains special safeguards in criminal justice matters. Principle 5 states “Governments shall ensure that all persons are immediately informed by the competent authority of their right to be assisted by a lawyer of their own choice upon arrest or detention or when charged with a criminal offence”.

Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment

⁴⁸ Extract of Commission on Human Rights, 5th Session (1949), 6th Session (1950), 8th Session (1952), A/2929, Capt. VI, para. 84.

⁴⁹ *Barno Saidova v. Tajikistan*, UNHRC, Decision of 20 August 2004, UN Doc. CCPR/C/81/D/964/2001, para. 6.8. *Rolando v. Philippines*, UNHRC, Decision of 8 December 2004, UN Doc. CCPR/C/82/D/1110/2002, para. 5.6.

⁵⁰ The CPT Standards, ‘Substantive’ sections of the CPT’s General Reports’ Extract from the 2nd General Report [CPT/Inf (92) 30], para. 37.

⁵¹ The CPT Standards, ‘Substantive’ sections of the CPT’s General Reports’ Extract from the 2nd General Report [CPT/Inf (92) 30], para. 36.

⁵² The CPT Standards, ‘Substantive’ sections of the CPT’s General Reports’ Extract from the 6th General Report [CPT/Inf (96) 21], para. 16. See also Extract from the 12th General Report [CPT/Inf (2002) 15] para. 44; Extract from the 7th General Report [CPT/Inf (97) 10] para. 30; Extract from the 19th General Report [CPT/Inf (2009) 27] at para 84.

⁵³ CAT/C/SR.191, 14 November 1994, para. 46; CAT/C/SR.203, 22 November 1994, para. 37; CAT/C/SR.245, 11 June 1996, para. 20; CAT/C/SR.247, 29 May 1996, at para 37.

58. Principle 13 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment adopted by the UN General Assembly on 9 December 1988, specifies that “Any person shall, at the moment of arrest and at the commencement of detention or imprisonment, or promptly thereafter, be provided by the authority responsible for his arrest, detention or imprisonment, respectively, with information on and an explanation of his rights and how to avail himself of such rights”.⁵⁴

Conclusion

59. The ECtHR has stressed that authorities must take all reasonable steps to ensure that a suspect is fully aware of his rights of defence and how he can exercise those rights. The authorities must actively ensure that the accused understands his right to legal assistance and legal aid and his right to remain silent. The importance of providing information about defence rights, especially the right to a lawyer, has been repeatedly affirmed by other international and European bodies, including the UN Human Rights Committee, the European Committee for the Prevention of Torture, the Committee against Torture, and the United Nations. A number of other international bodies, including the Human Rights Committee, the CPT and CAT, and various organs of the United Nations have reaffirmed the fundamental importance of informing suspects of their basic rights without delay.
60. Furthermore, under the new Directive on Right to Information, every person who is arrested in any EU country must be notified of their procedural rights in simple and accessible language at the earliest possible moment in the proceedings. The EU Commission has provided a template Letter of Rights, outlining what rights should be communicated in a simple, clear form and manner.

III. THE RIGHT TO ACCESS EVIDENCE

61. Under the principle of equality of arms, suspects in the early stages of criminal proceedings have the right to access the evidence in the case-file that will allow them to challenge the lawfulness of their detention. This has been affirmed by the ECtHR and the Human Rights Committee. It is also expressly set out in the Directive on the Right to Information in Criminal Proceedings.

European Convention on Human Rights

62. All people who have been deprived of their liberty by arrest or detention have the right to sufficient information and evidence in order to challenge the lawfulness of their detention. The right of an accused or suspected person to access evidence on the case-file during the pretrial stage of criminal justice proceedings has been implied into the Convention by the Court, derived from a combination of Articles 5(4) and 6(3)(b) of the ECHR, the fundamental principle of equality of arms, and the jurisprudence of the ECtHR.
63. Article 5(4) states that “Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful”. Article 6(3)(b) guarantees adequate time and facilities to the defendant for the preparation of his defence.
64. In *Shishkov v Bulgaria*, a person in pretrial detention had challenged a restriction on his right to access the case-file during the preliminary investigation, and the ECtHR set out the rule that certain information must be provided to suspects in custody. The ECtHR emphasized that criminal proceedings “must always ensure equality of arms between the

⁵⁴ *Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*, UNGA, U.N. Doc A/RES/43/173.

parties, the prosecutor and the detained person”,⁵⁵ and in finding a breach of Article 5(4) explained that:

“Equality of arms is not ensured if counsel is denied access to those documents in the investigation file which are essential in order effectively to challenge the lawfulness, in the sense of the Convention, of his client’s detention. The concept of lawfulness of detention is not limited to compliance with the procedural requirements set out in domestic law but also concerns the reasonableness of the suspicion grounding the arrest, the legitimacy of the purpose pursued by the arrest and the justification of the ensuing detention”.⁵⁶

65. *Sufficiency of Information.* The ECtHR has stated that although there is no rule that the entire case-file be made available to the suspect or their legal representative, “they must nonetheless receive sufficient information so as to be able to apply to a court for the review” of the lawfulness of their detention under Article 5(4).⁵⁷ In *Garcia Alva v Germany* the ECtHR explained that the right for suspected or accused persons to access evidence on the case-file was drawn from the right to an adversarial trial as laid down in Article 6 of the ECHR, and stated that “both the prosecution and the defence must be given the opportunity to have knowledge of and comment on the observations filed and the evidence adduced by the other party”.⁵⁸ The authorities must disclose more than merely the basic documents such as the arrest warrant, the applicant’s statements, and the records of any searches conducted.⁵⁹ The suspect should be given the opportunity to acquaint himself with the results of investigations carried out throughout the proceedings,⁶⁰ for example, through the disclosure of key witness statements that may impact on the decision of pretrial detention.⁶¹ It can be acceptable to only provide access to the lawyer, but not the suspect personally.⁶² However, where a suspect has no lawyer or is self-represented, he or she must personally be provided with access to the case-file.⁶³
66. *Summaries may be insufficient.* The ECtHR has also set down rules about the practicalities of providing access to evidence. In *Mooren v Germany* the ECtHR held that a four-page summary of the case-file did not satisfy the prosecution’s disclosure obligations, as it unfairly restricted the applicant’s ability to challenge his detention. Similarly, an oral account of facts and evidence in the case-file failed to comply with the requirements of equality of arms.⁶⁴ The fact that the domestic court later acknowledged that the applicant’s procedural rights had been curtailed by the lack of access to the case-file and allowed his counsel to inspect the file at a later date did not remedy the procedural shortcomings that had occurred in the earlier stages of the proceedings.⁶⁵ The ECtHR has held that the

⁵⁵ *Shishkov v Bulgaria*, ECtHR, Judgment of 9 January 2003, para. 77. See also *Lietzow v. Germany*, ECtHR, Decision of 13 February 2001 para. 44; *Schöps v Germany*, ECtHR, Judgment of 13 February 2001, para. 44.

⁵⁶ *Shishkov v Bulgaria*, ECtHR, Judgment of 9 January 2003, para. 77.

⁵⁷ *Shamayev and Others v. Georgia and Russia*, ECtHR, Judgment of 12 April 2005 para. 413; *Čonka v. Belgium*, ECtHR, Judgment of 5 February 2002, para. 50.

⁵⁸ *Garcia Alva v Germany*, ECtHR, Judgment of 13 February 2001, para. 39.

⁵⁹ *Garcia Alva v Germany*, ECtHR, Judgment of 13 February 2001, paras. 40-43.

⁶⁰ *Natunen v Finland*, ECtHR, Judgment of 31 March 2009, para. 42; *Galstyan v Armenia*, ECtHR, Judgment of 15 November 2007, para. 84.

⁶¹ *Lietzow v Germany*, ECtHR, Judgment of 13 February 2001, paras. 45-48; *Garcia Alva v Germany*, ECtHR, Judgment of 13 February 2001, paras. 40-43.

⁶² *Kamasinski v Austria*, ECtHR, Judgment of 19 December 1989, para. 88; *Kremzow v. Austria*, ECtHR, Judgment of 21 September 1993, para. 52.

⁶³ *Foucher v France*, ECtHR, Judgment of 18 March 1997, paras. 35-36.

⁶⁴ *Mooren v Germany*, ECtHR, Judgment of 9 July 2009, paras. 121-125.

⁶⁵ *Mooren v Germany*, ECtHR, Judgment of 9 July 2009, para. 121.

authorities must organize their procedure to facilitate the consultation of the case-file by the defence without undue delay and should not be overly-formalistic in doing so.⁶⁶

67. *Narrowly construed restrictions.* Any restrictions on the right to access evidence on the case-file must be strictly necessary, narrowly construed, and balanced by other measures to ensure the equality of arms. The ECtHR has acknowledged the need for criminal investigations to be conducted efficiently, which may imply that part of the information collected during them is to be kept secret in order to prevent suspects from tampering with evidence, interfering with witnesses or undermining the course of justice.⁶⁷ However, the ECtHR has stated that “this legitimate goal cannot be pursued at the expense of substantial restrictions on the rights of the defence”.⁶⁸ The ECtHR has held that information which is essential for the assessment of the lawfulness of a detention must be made available in an appropriate manner to the suspect’s lawyer, even in cases where the national authorities have submitted that they were concerned about collusion and interference with evidence,⁶⁹ or the risk of compromising the success of the on-going investigations.⁷⁰ Any restriction must be strictly necessary and any difficulties caused to the defence by a limitation on its rights must be remedied in the subsequent proceedings.
68. In the case of *Moiseyev v Russia*, the government submitted that access to the case-file was restricted on the basis of national security concerns. The ECtHR held that restrictions on access must still be limited in scope, appropriate, and justified by law:

“The Court accepts that national security considerations may, in certain circumstances, call for procedural restrictions to be imposed in the cases involving State secrets. Nevertheless, even where national security is at stake, the concepts of lawfulness and the rule of law in a democratic society require that measures affecting fundamental human rights, such as the right to a fair trial, should have a lawful basis and should be appropriate to achieve their protective function”.⁷¹

Directive on the Right to Information in Criminal Proceedings

69. The Directive of the European Parliament and of the Council on the Right to Information in Criminal Proceedings gives high importance to full, unrestricted, and free access to the case-file. Article 7(1) of the Directive states:
- “1. Where a suspected or accused person is arrested at any stage of the criminal proceedings, Member States shall ensure that documents related to the specific case in the possession of the competent authorities which are essential to challenging effectively, in accordance with national law, the lawfulness of the arrest or detention, are made available to arrested persons or to their lawyers.
2. Member States shall ensure that access is granted at least to all material evidence in the possession of the competent authorities, whether for or against suspects or accused persons to those persons or their lawyers in order to safeguard the fairness of the proceedings and prepare the defence.
70. Article 7(3) and Recital 30 of the Directive also specifies the timing of access to the case-file. It should be provided in in due time to allow the effective exercise of the rights of the defence, and at the latest before a court is called to decide upon the lawfulness of the arrest

⁶⁶ *Schöps v Germany*, ECtHR, Judgment of 13 February 2001, paras. 47-55.

⁶⁷ *Lietzow v Germany*, ECtHR, Judgment of 13 February 2001, para. 47; *Jasper v the United Kingdom*, ECtHR, Judgment of 16 February 2000, para. 43; *Dowsett v the United Kingdom*, ECtHR, Judgment of 24 June 2003, para. 42.

⁶⁸ *Shishkov v Bulgaria*, ECtHR, Judgment of 9 January 2003, para. 77.

⁶⁹ *Lietzow v Germany*, ECtHR, Judgment of 13 February 2001, paras. 45, 47.

⁷⁰ *Garcia Alva v Germany*, ECtHR, Judgment of 13 February 2001, para. 42

⁷¹ *Moiseyev v Russia*, ECtHR, Judgment of 9 October 2008, paras. 215-217. See also *Matyjek v. Poland*, ECtHR, Judgment of 24 September 2007, para. 59.

or detention in accordance with Article 5(4) of the ECHR. Recital 34 requires access to be provided free of charge.

71. Recital 32 reiterates the importance of full access to the case-file, specifying that a restriction on the right to access material evidence in the possession of the competent authorities can only be justified if there is “a serious threat to the life or fundamental rights of another person or where refusal of such access is strictly necessary to safeguard an important public interest.” This Recital states that any refusal of access must be weighed against the rights of the defence and will be interpreted strictly in accordance with the right to a fair trial under the ECHR.

Other International Standards

International Covenant on Civil and Political Rights

72. The right of an accused or suspected person to access evidence has been developed through the application of Article 14(3)(b) of the ICCPR, which guarantees the rights of suspects in criminal proceedings to “have adequate time and facilities for the preparation of his defence”. In General Comment 32, the Human Rights Committee emphasized that “adequate facilities must include access to documents and to other evidence; this access must include all materials that the prosecution plans to offer in court against the accused or that exculpatory. Exculpatory material should be understood as including not only material establishing innocence but also other evidence that could assist the defence (e.g. indications that a confession was not voluntary)”.⁷²

Conclusion

73. In order to uphold the principle of the equality of arms, the ECtHR has held that suspects in the early stages of criminal proceedings have the right to access that evidence in the case-file that will allow them to challenge the lawfulness of their detention. This includes the results of investigations carried out throughout the proceedings, as well as evidence relating to the reasonableness of the suspicion grounding the arrest, the legitimacy of the arrest, and the justification of the detention. This evidence must be provided without undue delay, and any restrictions on the right to access the case-file must be strictly necessary, narrowly construed and counterbalanced by other protections of the equality of arms. The Human Rights Committee has upheld the general principle that suspects must have access to documents and evidence on the case-file and has emphasized that this includes exculpatory material.
74. The standards of the ECHR and the ICCPR are now reflected in the Directive on the Right to Information, which creates binding obligations on all EU Member States to ensure that an accused or his lawyer can access all those documents contained in the case-file which are relevant for the determination of the lawfulness of the arrest or detention. The Directive also specifies that access must be free of charge and provided in good time to allow the accused to prepare his defence or challenge pretrial decisions. Member States who do not yet fully uphold the principles in the Directive will need to amend their national justice systems to do so.

CONCLUSION ON THE RIGHT TO INFORMATION

75. The ECHR and the ICCPR set down detailed rules about what information must be provided to people accused or suspected of criminal offences during the earliest stages of the criminal process. This information includes the reasons they have been arrested, the material facts alleged against him that are at the basis of the accusation against them and the legal qualification of those facts. All suspects must also be informed of what their defence rights are, and the ECtHR has emphasized that judicial authorities must take all

⁷² UNHRC, General Comment No. 32, *Right to equality before the courts and tribunals and to a fair trial*, UN Doc. CCPR/C/GC/32, 23 August 2007, para. 33.

reasonable steps to ensure suspects are fully aware of their rights from the earliest point of the criminal justice proceedings. Finally, suspects have the right to access evidence in the case-file that will allow them to challenge the lawfulness of their detention.

76. The Council of the European Union has identified the right to information as a key component of the EU Roadmap, which aims to ensure full implementation and respect for minimum standards across the EU on the rights of accused persons and suspects.⁷³ Now that the Directive on the Right to Information in Criminal Proceedings has been adopted by the EU Council and Parliament, every Member States will need to ensure that their criminal justice systems conform with the minimum standards it contains.

⁷³ Resolution of the Council of 30 November 1999, (2009/C 295/01).