



## Arrest Rights Toolkit

[osf.to/arrestrightstoolkit](http://osf.to/arrestrightstoolkit)

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It is my great pleasure to launch the Arrest Rights Toolkit at the European Criminal Bar Association Spring Conference, in Istanbul.

As criminal practitioners and lawyers, we all know that the first few hours after arrest are crucial. If suspects don't have access to the essential components of effective criminal defense, they're left in a vulnerable position—without legal assistance, without information about the case against them, and without the ability to apply for pretrial release. The impact of a person's life can be catastrophic.

The Open Society Justice Initiative is concerned that many countries are falling short of the minimum standards of arrest rights in daily practice. Recent developments in European Court jurisprudence and EU Directives provide an opportunity for lawyers to advocate or engage in strategic litigation to promote access to legal assistance, access to legal aid, and other arrest rights.

**To assist lawyers to conduct national advocacy and litigation, the Justice Initiative has developed an Arrest Rights Toolkit—a package of resources providing template arguments, explanations of existing minimum standards and comprehensive case summaries on key defence rights.**

This toolkit is available in hard copy to all participants of the ECBA Spring Conference in Istanbul, and in addition, electronic versions of all documents and translations into French, German, Italian, Turkish, Spanish, Dutch, Russian, and Hungarian can be found online at [osf.to/arrestrightstoolkit](http://osf.to/arrestrightstoolkit)

If you have any questions or feedback about the toolkit, please send us your comments. And if you would like to keep the Justice Initiative informed about cases in your country that deal with access to legal assistance, we want to hear from you.

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The Arrest Rights Toolkit includes the following documents.

## **1. Template Brief on the Right to Legal Assistance**

In most European countries, criminal suspects do not enjoy full and unrestricted access to legal assistance during the initial stages of a criminal investigation. In some countries, there are clear legislative limitations on the timing of access, duration of the consultation with the lawyer and the activities that a lawyer can undertake. Equally concerning are those countries where suspects technically have a right to legal assistance, but it is not implemented in practice.

This template brief provides the current European and international legal standards, and we encourage lawyers to use the research and arguments in this brief to support domestic litigation and advocacy.

## **2. Template Brief on the Right to Information**

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.

This template brief provides the current regional and international legal standards on the rights of suspects to obtain information during criminal proceedings, including the right to be informed of the reasons for arrest and the nature and cause of any accusation or charge; the right to be informed of defense rights; and the right to have access to the evidence on which the accusations are based.

## **3. Template Brief on the Right to Legal Aid**

The right to a fair trial is not reserved for the wealthy. Every person charged with, or accused of, a crime has the right to be treated fairly and equally and defend themselves, regardless of their financial circumstances. One of the most important safeguards for the fairness of criminal proceedings is the right to legal aid. But despite the crucial significance of legal aid, many countries across Europe fail to provide a fair and accessible system to ensure that people can access effective legal representation when they cannot afford to pay for it themselves. There is huge variation across countries in the structure, funding, conditions and effectiveness of legal aid systems, and many countries fall short of the minimum regional and international standards for the provision of legal aid.

This template brief provides the current regional and international legal standards on the right to free, timely, and quality legal aid, which underpins equality of arms between the defense and prosecution, and is a foundation for other essential fair trial rights.

## **4. Digest of Case Law from the European Court of Human Rights**

This digest provides summaries of all the key jurisprudence from the European Court of Human Rights on core procedural rights that underpin access to justice and a fair trial: the right to information; the right to self-representation or legal assistance; the right to have adequate time and facilities to prepare a defense; the right to legal aid; the right to be presumed innocent and the right to silence; the right to be released from custody pending trial; the right to participate in your trial, to be tried without undue delay, and to call witnesses; the rights to free interpretation and translation; and the right to appeal.

#### **5. Digest of Case Law from the Human Rights Committee**

This digest provides summaries of all the key jurisprudence from the Human Rights Committee on core procedural rights, along with relevant extracts of the ICCPR, and General Comments interpreting the ICCPR. It covers: the right to information; the right to self-representation or legal assistance; the right to have adequate time and facilities to prepare a defense; the right to legal aid; the right to be presumed innocent and the right to silence; the right to be released from custody pending trial; the right to participate in your trial, to be tried without undue delay, and to call witnesses; the rights to free interpretation and translation; and the right to appeal.