



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 18 September 2009

13316/09

**DROIPEN 96
COPEN 169**

NOTE

from :	Presidency
to :	Delegations
No Prev. doc :	12116/09 DROIPEN 66 COPEN 139 12530/09 DROIPEN 77 COPEN 149
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

At the meeting on 9-10-11 September 2009, the Friends of the Presidency and the Working Party on Substantive Criminal Law continued their examination of the above mentioned proposal, on the basis of 12530/09 DROIPEN 77 COPEN 149.

In view of the valuable comments presented by delegations at the meeting, the Presidency revised the text of the draft Resolution. This revised text is set out in the [Annex](#).

All delegations have a general scrutiny reservation on the text.

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 persons suspected or accused of a criminal offence and for persons subject to proceedings for the execution of an European Arrest Warrant, who do not understand or speak the language of the proceedings, to be assisted by an interpreter and to receive translations of essential documents.

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 (...) set out in Framework Decision 2009/XXX/JHA on the right to interpretation and to translation in criminal proceedings.

- (2) For the purpose of this Resolution, "criminal proceedings" also comprise proceedings for the execution of a European Arrest Warrant under Council Framework Decision 2002/584/JHA of 13 June 2002 on the European Arrest Warrant and the surrender procedures between Member States¹.
- (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 promote actively the measures set out below.
- (4) The aim of the measures taken should be to develop suitable, effective (...) practice in the Member States for interpretation and translation in the course of criminal proceedings.

Measures

Representation of professionals

- (5) Representatives of interpreters and translators should be involved, where appropriate, in the process aimed at the implementation of the measures set out below, as well as in achieving the objectives of this Resolution.

Qualification (...)

- (6) Member States should strive for a high level of qualification for interpreters and translators employed in criminal proceedings for the purpose of having an adequate standard of interpretation and translation in order to ensure the fairness of the proceedings. In addition to general language skills, these translators and interpreters should have specialist knowledge in legal terminology. They should also have basic knowledge of criminal law and criminal procedure.

¹ OJ L 190, 18.7.2002, p. 1.

- (7) (...) The qualification of interpreters and translators employed in criminal proceedings should be verified by a formal degree or any similar proof of proficiency, such as accreditation or certification, in the language concerned.
- (8) Member States should strive for a high level of qualification for persons assisting suspected or accused persons with physical impairments, such as hearing impediments, affecting their ability to communicate effectively.
- (9) (...)

Registration

- (10) Member States should ensure that there is a register of (...) qualified interpreters and translators to be employed in criminal proceedings.
- (11) Member States should ensure that the register is kept up-to-date, and contains, inter alia, information on the interpreter's or translator's continuous training and professional development, so as to encourage interpreters and translators to maintain their professional skills (...).
- (12) (...)
- (13) Member States are encouraged to make their national registry easily 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 registered interpreters and translators

- (15) Member States should ensure that, insofar as possible, only registered interpreters and translators are employed in criminal proceedings. The services of a non-registered (...)

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

interpreter or translator (...) should be used only if it is not reasonably possible to employ a registered interpreter or translator (...). In such cases, the competent authorities should pay particular attention to the quality of the interpretation or translation.

(16) (...)

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) (...)

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.

Codes of Conduct and Guidelines on Best Practice

(20) The adoption of Codes of Conduct, as well as Guidelines on Best Practice, for interpreters and translators, should be encouraged. These should, in particular, include provisions on confidentiality.

(21) In order to ensure the continuous improvement of the quality in the service provided in criminal proceedings by interpreters and translators (...), Member States should regularly exchange information about experiences and practices in this field. The Commission is invited to organize on a regular basis consultations among Member States and representatives of the professional bodies engaged in interpretation and translation, in order to facilitate the exchange of experiences outlined above.

(22) (...)

(23) (...)