



## Assessing the Risk of Isolation of Suspects and Accused



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### *Suspects and Accused in the EU*

Around nine million people are the subject of criminal justice proceedings every year in the EU. At the same time, a significant share of those suspected or accused of criminal offences are not found guilty and are never convicted. All these persons, including those who are convicted, are presumed innocent until proven guilty according to the law.

The presumption of innocence is a fundamental right, a key principle of criminal justice and a universally recognised human rights standard. At EU level, the presumption of innocence is explicitly proclaimed in the [Charter of Fundamental Rights of the European Union](#) (Article 48) and further elaborated upon in [Directive \(EU\) 2016/343](#) on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings.

Despite the obligation of criminal justice authorities to strictly observe the presumption of innocence, suspects and accused are always subject to certain restrictions during the criminal proceedings, most of which affect their personal and social sphere. All of these restrictions have their legitimate purposes. Some of them are aimed to facilitate the investigation of the crime, some should prevent absconding or re-offending, some are justified by the need to protect the victims of the crime. In addition, information about the criminal proceedings is often publicly released or shared with the media, which further affects the lives of suspects and accused.

These measures and restrictions can have certain negative consequences for suspects and accused: loss of job or income, additional expenses, loss of social benefits, worsened relations with family and community, etc. These consequences need to be taken into account and properly assessed by the criminal justice authorities together with the evaluation of other factors like the risk of absconding or re-offending.

#### **ARISA Project**

Against this background, a consortium of research institutes experienced in the field of prison reform and inmates' rights from four Member States ([Center for the Study of Democracy](#) – Bulgaria; The [Center for European Constitutional Law](#) - Greece; [Comunità Papa Giovanni XXIII](#) - Italy; and [Droit au Droit](#) (DAD) – Belgium) have launched this project, with the aim to enhance the observance of the presumption of innocence in criminal proceedings according to the provisions laid down in Directive (EU) 2016/343.

**Specific objectives** of the project consist in:

- identifying the factors affecting the social status of suspects and accused during the proceedings
- analysing and describing their impact, including the effects of disclosing information about the proceedings to other people or to the media
- providing judicial and law enforcement authorities with a methodology for assessing the risk of de-socialisation of suspects and accused, as well as with practical guidelines on how to address this risk at the earliest possible stage of proceedings without compromising the effective investigation.

[Read more](#)

## Presumption of Innocence in the EU



[Resolution of the Council of 30 November 2009](#) on a Roadmap for strengthening procedural rights of suspected or accused persons in criminal proceedings (OJ 2009 C 295, p.1).

[Directive 2010/64/EU of the European parliament and of the Council of 20 October 2010](#) on the right to interpretation and translation in criminal proceedings (OJ 2010 L 280, p. 1).

[Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012](#) on the right to information in criminal proceedings (OJ 2012 L 142, p. 1).

[Directive 2013/48/EU of the European Parliament and of the Council of 22 October 2013](#) on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty (OJ 2013 L 290, p. 1).

[Commission Staff Working Document Impact Assessment SWD/2013/0478 final](#) accompanying the document Proposal for measures on the strengthening of certain aspects of the presumption of innocence and of the right to be present at trial in criminal proceedings, 27 November 2013.

[Position of the European Parliament, adopted at first reading on 20 January 2016](#) with a view to the adoption of Directive of the European Parliament and of the Council on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings, available at:

[Directive \(EU\) 2016/343 of the European Parliament and of the Council of 9 March 2016](#) on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings, (OJ2016 L 65, p. 1).

[Directive \(EU\) 2016/800 of the European Parliament and of the Council of 11 May 2016](#) on procedural safeguards for children who are suspects or accused persons in criminal proceedings, (OJ 2016 L 132, p.1).

[Report on prison systems and conditions](#), European Parliament, Committee on Civil Liberties, Justice and Home Affairs, Rapporteur: Joëlle Bergeron, 6 July 2017, PE 601.203v02-00, A8-0251/2017, (2015/2062(INI)).



## **Not Convicted, but Presumed Guilty**

28 September 2017

*New EU Project Examines Portrayal of Suspects in the Media. How deeply anchored is the presumption of innocence in Europe? How are people accused of a crime portrayed in public, in the courtroom, and in the media? These are all questions at the heart of a new EU project on which communication scientist Katharine Sarikakis, head of the University of Vienna's Media Governance & Industries Research Lab, will be working. [Read more](#)*

## **Attorney general begins inquiry about social media impact on UK trials**

Owen Bowcott, legal affairs correspondent, The Guardian, Friday 15 September

*Jeremy Wright QC invites submissions about the effect publicly generated comments are having on criminal cases. [Read more](#)*

## **Détention préventive: 7 % des détenus portent un bracelet, voici leur nombre par prison (Tableau)**

La Libre Belgique, 11 septembre 2017

[Read more](#)

## **Acquitté après une détention préventive. Et puis ?**

Justice en Ligne, 19 juin 2017

*En mars 2016, Karim Ahalouch a été arrêté et placé en détention préventive. Il est soupçonné de participation aux activités d'un groupe terroriste. Le 10 décembre 2016, Karim Ahalouch a été acquitté. On peut donc dire qu'il a, injustement, passé neuf mois en prison puisqu'il était innocent. Il demande alors réparation du préjudice subi à l'État belge. [Read more](#)*

## **CPT urges European states to hold persons in remand detention only as a measure of last resort and in adequate conditions**

Council of Europe, 20 April 2017

*The European Committee for the Prevention of Torture (CPT) urges the 47 Council of Europe member states to use remand detention only as a measure of last resort and to provide remand prisoners with adequate detention conditions. During visits to prisons throughout Europe, the CPT has often found that remand prisoners are held under very poor conditions and an impoverished regime. [Read more](#)*

## Recommended Reading



[\*Presumption of Innocence in Peril. A Comparative Critical Perspective\*](#)

Anthony Gray, Rowman & Littlefield, November 2017

[\*The Presumption of Innocence in Europe: Developments in Substantive Criminal Law\*](#)

Mario Caterini (University of Calabria, Rende, Italy), Beijing Law Review, March 2017, 8, pp 100-140.

[\*The Presumption of Innocence is like a Golden Thread in the Criminal Justice System\*](#)

Chun Shuo Lum (Queen's University Belfast), QUB Student Law Journal, Issue Three, February 2017

[\*Materials on European Criminal Law\*](#)

André Klip (Maastricht University), Intersentia, 3rd edition, October 2017

*The third edition of Materials on European Criminal Law is a collection of legal instruments including all legal materials relevant for the practice of the Member States of the European Union in one concise volume. It incorporates the most recent directives in criminal law, yet to be implemented, such as Directive 2016/343 on Presumption of Innocence and of the Right to be Present and Directive 2016/1919 on Legal Aid for Suspects and Accused.*

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