

## *Submission Template*

# **The right to interpretation and translation and the right to information in criminal proceedings in the EU**

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Author(s): François DESPREZ

Reviewed by: Pascal Beauvais

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## Contents

Section A: The right to interpretation and translation in criminal proceedings	3
1. Right to interpretation	3
2. Right to translation of documents	14
3. Rights concerning both interpretation and translation	21
Section B: Right to information in criminal proceedings	31
1. Provision of information on the procedural rights	31
2. Letter of Rights	38
3. Right to information about the accusation	40
4. Right of Access to Case Materials	42
5. Cross-cutting issues: Languages, complaint mechanisms, recording & special measures	44

# QUESTIONS

As envisaged in the section on Research Methodology, please note that some questions require consultation with organisations and/or practitioners working in relevant fields covered by the research to cross-check findings from the desk research with respect to the way in which the examined rights are applied in practice (such as judges, lawyers, interpreters and translators or civil society organisations active in the field of legal assistance in criminal proceedings).

## Article I. SECTION A: The right to interpretation and translation in criminal proceedings

1.	RIGHT TO INTERPRETATION <sup>1</sup>	Brief Description
1.1		<p>Please provide answers to the following for each stage of proceedings as indicated below:</p> <p>a) Who has the responsibility for determining the need of interpretation at each stage of the proceedings?</p> <p>b) How it works in practice for the various stages of the proceedings to ascertain whether suspected or accused persons speak and understand the language of the proceedings?</p> <p>c) Who bears the cost of interpretation at each stage?</p> <p>d) What is the timeframe (deadline) for providing interpretation at each stage of the proceedings?</p> <p><b>.Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.</b></p>
	<ul style="list-style-type: none"> <li>• police questioning;</li> </ul>	<p>a)  <b>The preliminary article of the Code of criminal procedure (CCP) <sup>2</sup>was modified by law No. 2013-711 of 5 August 2013<sup>3</sup> so as to transpose into French law Article 4 of Directive No. 201/64/UE of the European Parliament and the Council of 20 October 2010</b></p>

<sup>1</sup> See in particular Articles 2 and 4 and related recitals of Directive 2010/64/EU.

<sup>2</sup> France, Code of criminal procedure (*Code de procédure pénale*), 2 March 1959, available at : [\[www.legifrance.gouv.fr/affichCode.do;jsessionid=6A0ED6D1E9A6A07591E802F7A27DFF65.tpdl15v\\_1?idSectionTA=LEGISCTA000006098229&cidTexte=LEGITEXT000006071154&dateTexte=20150621\]](http://www.legifrance.gouv.fr/affichCode.do;jsessionid=6A0ED6D1E9A6A07591E802F7A27DFF65.tpdl15v_1?idSectionTA=LEGISCTA000006098229&cidTexte=LEGITEXT000006071154&dateTexte=20150621).

<sup>3</sup> France, Law adapting various provisions in the area of justice to the European Union law and international commitments of France (*Loi portant diverses dispositions d'adaptation dans le domaine de la justice en application du droit de l'Union européenne et des engagements internationaux de la France*) n° 2013-711, 5 August 2013, available at : [\[www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000027805521&categorieLien=id\]](http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000027805521&categorieLien=id).

1.1.1	<p>Relative to the right to interpretation and translation within the framework of criminal procedures. Henceforth, according to the preliminary article: <i>'If the suspect or the accused person does not understand the French language, they have the right, until the end of the procedure, to the assistance of an interpreter in a language which they understand, including for meetings with their lawyer which have a direct link with any questioning or interview, and, except when the person concerned clearly and expressly rejects the option, the right to the translation of documents which are essential to their defence and the guarantee of a fair trial, which must, for this reason, be provided or indicated to them pursuant to the present code'</i>.</p> <p>Within the framework of the police phase, it is important to distinguish between the type of questioning so as to determine who has the responsibility for interpretation. There exist three methods of questioning:</p> <ul style="list-style-type: none"> <li>• Police custody</li> </ul> <p>According to Article 63-1 of the CCP, a person placed in police custody is immediately informed by a judicial police officer or, under their instruction, by an agent of the judicial police, of the duration of the measure, of the evidence, of the reasons for their placement in police custody, and of the rights that they have.</p> <p>If a person held in custody suffers from deafness and can neither read nor write, they must be assisted by an interpreter in sign language or by a person who is able to employ a method to communicate with accused. If a person held in custody does not speak French, it is necessary to use an interpreter.</p> <p>This information is provided in a language that is understood and if necessary with the assistance of a form in accordance with Article 803-6 of the CCP.</p> <p>According to Article 803-6 of the CCP, resulting from law No. 2014-535 of 27 May 2014<sup>4</sup> (pursuant to Directive 2012/13/UE of the European Parliament and the Council of 22 May 2012 Relating to the right to information within the framework of the criminal proceedings): <i>'Any suspect or accused person who is subject to a measure involving deprivation of liberty pursuant to a provision of this code shall, at the time of the notification of this measure, be provided with a <b>document</b> stating in <b>simple and accessible terms and in a language which they understand, the following rights they have during the procedure pursuant to the present code:</b></i></p> <ol style="list-style-type: none"> <li>1 <i>The right to be informed of the nature, the date, and the place of the alleged offence;</i></li> <li>2 <i>The right during interviews or questioning to make statements, to answer the questions which are asked, or to remain silent;</i></li> <li>3 <i>The right to access a lawyer;</i></li> <li>4 <i>The <b>right to interpretation and translation;</b></i></li> <li>5<sup>o</sup> <i>The right to access the case file;</i></li> <li>6 <i>The right that at least one third-party and, if necessary, the consular authorities of their country of origin, are</i></li> </ol>
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<sup>4</sup> France, Law pursuant to Directive 2012/13/UE of the European Parliament and the Council of 22 May 2012, relating to the right to information within the framework of criminal proceedings (*Loi portant transposition de la directive 2012/13/UE du Parlement européen et du Conseil, du 22 mai 2012, relative au droit à l'information dans le cadre des procédures pénales*) no. 2014-535, 27 May 2014, available at: [www.legifrance.gouv.fr/eli/loi/2014/5/27/2014-535/jo/texte].

*informed of the measure of deprivation of liberty;*

*7 The right to be examined by a doctor;*

*8 The right to be informed of the maximum number of hours or days for which they may be held before appearing before a legal authority;*

*9 The right to know the means of disputing of the legality of the arrest, to obtain a re-examination of their deprivation of liberty or to ask to be released.*

*The person is authorized to keep this document throughout their detention.*

*If the document is not available in a language understood by the person, this person is verbally informed of their rights provided for in the present article in a language which they understand. Information given is mentioned in an official report. A version of the document in a language which they understand is then given to the person without delay '.*

**The interpreter assists the person at the time of the questioning and exchanges with their lawyer** (Article D.594-3 of the CCP).

**If the police force is responsible for this obligation of interpretation, it is important to stress that the lawyer of the person being held may also play a role in this.** According to Article 63-3-1 of the CCP, from the beginning of police custody, the accused may ask to be assisted by a lawyer. This lawyer carries out a preliminary interview with the client, consults certain documents and attends the questioning. In particular, at the end of the questioning, the lawyer may make observations which may be concern a failing or insufficiency of interpretation. In general, whether the lawyer is present or not, **if the questioning proceeded without an interpreter, the person questioned may request that this be mentioned in the official report (PV)** (Article D.594-2 of the CCP).

- The Free Hearing

According to Article 61-1 of the CCP, a person with regard to whom there are plausible reasons to suspect that they have committed or have attempted to commit an offence may be questioned freely on these allegations.

Notification of the person's rights is given (including the right to an interpreter).

**In addition to assistance with comprehension at the time of the questioning,**

**the interpreter will be able to assist the person within the framework of their exchanges with their lawyer**

(article D.594-3 of the CCP). The decision to use an interpreter for a person who does not speak sufficient

French is taken by the judicial police officer. The interpreter assists this person during interviews, but

also with their exchanges with the lawyer.

Article D.594-2 of the CCP also applies in this case.

- Hearing of a witness

According to article 62 of the CCP, within the framework of the police investigation, the witness is a person for whom there is no plausible reason to suspect that they have committed or have attempted to commit an offence. They are questioned without constraint for the time strictly necessary for the interview, for a maximum duration of four hours.

Although the witness does not benefit from the right to an interpreter as mentioned in the preliminary article of the CCP (which targets only the suspect or accused person), the reliability of testimony requires an interpreter when the person speaks no or little

French. In order to satisfy the obligation to appear and bear witness (article 62 of the CCP), the decision to use an interpreter for a witness who does not speak sufficient French is taken by the judicial police officer.

**In general, precise details are provided for by the Circular of 31 October 2013**, Relative to the presentation of the provisions of law No.2013-711 of 5 August 2013 and decree No.2013-958 of 25 October 2013<sup>5</sup> relating to the implementation of the right to interpretation and translation within the framework of criminal proceedings (NOR: JUSD1327250C).<sup>6</sup> Consequently, although the questioned person or their lawyer can ask for an interpreter, generally this interpreter will in any case be present.

b)

**Article 803-5 of the CCP ensures the implementation of the principle of the right to an interpreter stated within the preliminary article of the CCP.** Thus, in case of doubt about the capacity of the person questioned to speak French, the authority which carries out the interview, or before which the person appears, checks that the person speaks and understands French.

Article D.594-1 of the CCP provides that the authority which carries out the interview ensures by **all suitable means** that the person interviewed speaks and understands French. According to the Circular of 31 October 2013, the Public prosecutor must make sure that the means by which the investigators determine if the person understands French must be recorded in the official report.

In practice<sup>7</sup>, investigators initially question the person in French. These are simple questions: first name, surname, date and place of birth. This makes it possible to determine if the person includes/understands French or not. If the suspect is not able to answer these simple questions, an interpreter is called upon. A short test in reading and comprehension of the French language may also be carried out when the suspect includes/understands French without knowing how to read it or to write it. Moreover, it is possible to deduce from certain elements of procedure whether the person speaks French or not, and possibly what their native language is.

In general, in case of doubt over the ability to understand French, an interpreter is used.

According to article D.594-1 of the CCP, if an interpreter proves to be necessary, they must intervene **“without delay”**.

**According to article D.594-11 of the CCP, if an interpreter (or a translator) is necessary, they are selected from** a list of legal experts drawn up by the Office of the Court of Cassation or by each Court of appeal; or, failing this, from a list of interpreters provided for

<sup>5</sup> France, Decree implementing the provisions of the Preliminary Article and the Article 803-5 of the Code of criminal procedure on the right to interpretation and translation (*Décret portant application des dispositions de l'article préliminaire et de l'article 803-5 du code de procédure pénale relatives au droit à l'interprétation et à la traduction*), no.2013-958, 25 October 2013, available at : [www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000028115175&categorieLien=id].

<sup>6</sup> France, Circular relative to the presentation of the provisions of law No.2013-711 of 5 August 2013 and of decree No.2013-958 of 25 October 2013 relating to the implementation of the right to interpretation and translation within the framework of criminal proceedings (*Circulaire relative à la présentation des dispositions de la loi n° 2013-711 du 5 août 2013 et du décret n° 2013-958 du 25 octobre 2013 relatives à la mise en œuvre du droit à l'interprétation et à la traduction dans le cadre des procédures pénales*), NOR : JUSD1327250C, 31 October 2013, available at : [www.textes.justice.gouv.fr/art\_pix/JUSD1327250C.pdf].

<sup>7</sup> France, judicial police officer.

		<p>by article R.111-1 of the Code of the entry and stay of foreigners and the right to asylum; or, if necessary, an adult can be designated as an interpreter (or translator) as long as they are not selected from the police, magistrates, clerks charged with the file, parties or witnesses. If the interpreter does not appear on any list, they swear on oath to assist justice in honour and with conscience; this oath is given verbally.</p> <p>the D.594-11 article of the CCP specifies that the interpreters and translators are <b>required to respect the confidentiality</b> of translations and interpretations.</p> <p>c) The circular of 31 October 2013 specifies that the cost of the right to interpretation, like that of the right to the translation, is <b>met by the State</b>. The fees of interpreters and translators within the framework of the legal procedures constitute court expenses pursuant to articles R. 92 and R. 122 of the CCP.</p> <p>d) According to the D.594-1 article of the CCP, if an interpreter proves to be necessary, they must intervene <b>“without delay”</b>. In practice, a sworn in interpreter can proceed with a notification of rights by telephone. They then present themselves at the premises of the police force or gendarmerie, within thirty minutes to one hour. Equally, in order to ensure an interpreter's participation without delay, the police force which asks for the intervention of an interpreter takes into account their availability. Therefore, if the interpreter contacted is not available within a very short time, they will contact another interpreter.</p>
1.1.2	<ul style="list-style-type: none"> <li>• court hearings;</li> </ul>	<p>a) According to the D.594-1 article of the CCP, <b>the authority which proceeds with the interview hearing or the questioning</b> ensures by all necessary means that the person understands the French language. If such is not the case, an interpreter must be used without delay. <b>According to the Circular of 31 October 2013</b>, Relative to the presentation of the provisions of law No.2013-711 of 5 August 2013 and decree No. 2013-958 of 25 October 2013 relating to the implementation of the right to interpretation and translation within the framework of criminal proceedings (NOR: JUSD1327250C), although the person questioned or their lawyer can ask for an interpreter, generally the judge will routinely proceed with this.</p> <p>The Code of criminal procedure details these rules according to which court jurisdiction the accused person comes under:</p> <ul style="list-style-type: none"> <li>• Court of Assizes According to article 344 of the CCP, <i>'If the defendant, the civil party, the witnesses or one of these do not speak sufficient French, or if it is necessary to translate a court document the <b>president appoints an interpreter</b>, aged at least twenty one years old, and has them take an oath to assist justice in honour and with conscience. The public ministry, the defendant and the civil party, can contest the appointment of an interpreter by providing grounds for their challenge. The court comes to a conclusion about this challenge. Its decision is not open to any grounds for appeal'</i>.</li> </ul> <p>Article 345 of the CCP lays down a similar provision if the defendant is deaf, consequently making it possible for the President to</p>

appoint an interpreter in sign language.

- Criminal court

According to article 407 of the CCP, *'If the defendant, the civil party, or the witnesses do not speak sufficient French, or if it is necessary to translate a court document the **president appoints an interpreter**, aged at least twenty one years old, and has them take an oath to assist justice in honour and with conscience.*

*The public ministry, the defendant, and the civil party can contest the appointment of an interpreter by providing grounds for their challenge. The court comes to a conclusion about this challenge, and its decision is not open to any grounds for appeal''.*

Jurisprudence holds that the decision to appoint an interpreter arises from **the sole discretion of the courts dealing with the substance of a case**, who must thus determine if the defendant speaks sufficient French or not (Crim., 30 June 1981, *Bull. crim.* No.225).<sup>8</sup> Since lack of knowledge of the French language is not presupposed, in order to benefit from an interpreter it is necessary that defendant make a request for one or that elements of the procedure reveal this need.

Article 345 of the CCP lays down a similar provision if the defendant is deaf, consequently making it possible for the President to appoint an interpreter in sign language.

- Police court (Tribunal de police)

Before the police court, the rules concerning an interpreter are the same as those which apply for the Criminal Court. For this purpose, article 535 of the CCP refers to articles 407 and 408 of the CCP.

In practice<sup>9</sup>, in case of doubt, an interpreter is used. Indeed, even if the magistrates are convinced that an individual speaks French, in particular by taking into consideration elements collected at the time of the investigation, if this person claims not to understand French, and in case of doubt, the use of an interpreter is the preferred option. Additionally, for an individual who speaks sufficient French, the magistrates may use an interpreter for technical points of discussion.

b)

In accordance with the rules in article 803-5 of the CCP, in case of doubt about the capacity of the person questioned to speak French, **the authority which carries out the interview, or before which the person appears, checks that the person speaks and includes/understands French.**

Article D.594-1 of the CCP provides that the authority which carries out the interview **ensures by all suitable means** that the person interviewed speaks and understands French.

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<sup>8</sup> France, Court of cassation, Criminal chamber (*Cour de cassation, Chambre criminelle*), Decision, 30 June 1981, *Bull. crim.* No.225.

<sup>9</sup> France, magistrate.



		<p>According to the Circular of 31 October 2013, Relative to the presentation of the provisions of law No.2013-711 of 5 August 2013 and decree No. 2013-958 of 25 October 2013 relating to the implementation of the right to interpretation and translation within the framework of criminal proceedings (NOR: JUSD1327250C), specifies that the means of checks employed by the magistrate must appear in the <b>records of the hearing</b> held by the clerk.</p> <p>As within the framework of the other phases of the criminal procedure, by using simple questions or elements resulting from the casefile, it is possible to determine if the person speaks sufficient French or not and, if not, what their native language is. In practice, in case of doubt, an interpreter is used.</p> <p>c) The circular of 31 October 2013 specifies that the cost of the right to interpretation, like that of the right to the translation, is <b>met by the State</b>. The fees of interpreters and translators within the framework of the legal procedures constitute court expenses pursuant to articles R. 92 and R. 122 of the CCP.</p> <p>d) According to the D.594-1 article of the CCP, if an interpreter proves to be necessary, they must intervene <b>“without delay”</b>.</p>
1.1.3	<ul style="list-style-type: none"> <li>• any necessary interim hearings;</li> </ul>	<p>a) An interpreter may prove to be necessary within the framework of questioning occurring during a preparatory investigation. At the time of this phase of the criminal case, it is important to distinguish the status of the defendant: witness, assisted witness, accused.</p> <ul style="list-style-type: none"> <li>• Witness For the witness, article 102 of the CCP provides that the investigating judge may call upon an interpreter.</li> <li>• Assisted witness For the assisted witness, article 113-3 of the CCP provides for the right to interpretation.</li> <li>• Accused For the accused, article 121 of the CCP refers to the provisions of article 102.</li> </ul> <p>According to the D.594-1 article of the CCP, <b>the authority which proceeds with the interview hearing or the questioning</b> ensures by all necessary means that the person understands the French language. If such is not the case, an interpreter must be used <b>without delay</b>.</p> <p><b>According to the Circular of 31 October 2013</b>, Relative to the presentation of the provisions of law No.2013-711 of 5 August 2013 and decree No. 2013-958 of 25 October 2013 relating to the implementation of the right to interpretation and translation within the framework of criminal proceedings (NOR: JUSD1327250C), although the person questioned or their lawyer can ask for an interpreter, generally the examining judge will routinely proceed with this.</p>

		<p>In practice, in case of doubt, an interpreter is used. Indeed, even if the magistrates are convinced that an individual speaks French, in particular by taking into consideration elements collected at the time of the investigation, if this person claims not to understand French, and in case of doubt, the use of an interpreter is the preferred option. Additionally, for an individual who speaks sufficient French, the magistrates may use an interpreter for technical points of discussion.</p> <p>b) In accordance with the rules in article 803-5 of the CCP, in case of doubt about the capacity of the person questioned to speak French, <b>the authority which carries out the interview, or before which the person appears, checks that the person speaks and includes/understands French.</b> Article D.594-1 of the CCP provides that the authority which carries out the interview <b>ensures by all suitable means</b> that the person interviewed speaks and understands French. As within the framework of the other phases of the criminal procedure, by using simple questions or elements resulting from the casefile, it is possible to determine if the person speaks sufficient French or not and, if not, what their native language is. In practice, in case of doubt, an interpreter is used.</p> <p>c) The circular of 31 October 2013 specifies that the cost of the right to interpretation, like that of the right to the translation, is <b>met by the State</b>. The fees of interpreters and translators within the framework of the legal procedures constitute court expenses pursuant to articles R. 92 and R. 122 of the CCP.</p> <p>d) According to the D.594-1 article of the CCP, if an interpreter proves to be necessary, they must intervene <b>“without delay”</b>. In practice, to ensure intervention without delay, the availability of the interpreter is taken into account. Therefore, if the interpreter contacted is not available within a very short time, another interpreter will be contacted.</p>
1.1.4	<ul style="list-style-type: none"> <li>any communication between suspects and accused persons and their legal counsel in direct connection with any questioning or hearing during the proceedings?</li> </ul>	<p>a) According to the D.594-3 article of the CCP, <b>“ For the application of the preliminary article, the discussions with the lawyer having a direct link with any questioning or any hearing, and for which the person may ask to be assisted by an interpreter, are interviews which take place in the premises of the investigation services, the courts and the penal establishments, under conditions which safeguard the confidentiality of interview:</b></p> <ol style="list-style-type: none"> <li>1. During <b>police custody</b> or any measure of detention which is, in whole or part, defined by reference to the provisions of this Code on police custody;</li> <li>2. <b>Prior to a hearing by a magistrate</b> or an appearance before a court;</li> <li>3. <b>Prior to a possible appeal against a jurisdictional decision;</b></li> <li>4. <b>Prior to a possible application request to be released ”.</b></li> </ol> <p>Thus, the assistance of an interpreter within the framework of the exchanges with a lawyer having a direct link to the questioning and hearing is possible at various stages of the procedure. <b>The competent authority at the time of the phase of the criminal case determines the need for an interpreter.</b> This is the police officer in the police phase, the investigating judge when a judicial inquiry is opened, or the ruling judge at the time of the hearing.</p>

		<p>The Circular of 31 October 2013 specifies that apart from the situations mentioned in the D.594-3 article of the CCP <i>“it is the responsibility of the relevant magistrate receiving the request for the assistance of interpreter to check if this is actually justified for the needs to prepare the defence, and only if interpretation is necessary to safeguard the fairness of the procedure”</i>.</p> <p>The intervention of an interpreter must occur on the premises of the police, gendarmerie, justice, the prison authorities or any other law enforcement service allowing for discussions with a lawyer before a hearing. This interview must proceed under conditions which ensure confidentiality. In particular, before a hearing, the lawyer may ask the interpreter present to assist with exchanges with the client.</p> <p>The circular of 31 October 2013 specifies that the right to the assistance of an interpreter during discussions with a lawyer does not equate to <i>“the presence of the latter during hearings or the subsequent hearing being provided for by the law ”</i>.</p> <p>b) Article D.594-1 of the CCP provides that the authority which carries out the interview ensures by <b>all suitable means</b> that the person interviewed speaks and understands French.</p> <p>c) The circular of 31 October 2013 specifies that the cost of the right to interpretation, like that of the right to the translation, is <b>met by the State</b>. The fees of interpreters and translators within the framework of the legal procedures constitute court expenses pursuant to articles R. 92 and R. 122 of the CCP.</p> <p>d) According to the D.594-1 article of the CCP, if an interpreter proves to be necessary, they must intervene <b>“without delay”</b>.</p>
1.2	<p>How do authorities ensure interpretation into rare/lesser known languages where no certified interpreters exist? <b>Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.</b></p>	<p>In principle, the interpreter, when one is necessary, must intervene without delay. This requirement of rapid intervention is more difficult to respect when the language spoken by the accused person is rare.</p> <p>Firstly, article 803-6 of the CCP provides that a suspect or detained person be provided with a <b>printed</b> notice stating their rights in simple and accessible terms and in a language that is understood.</p> <p>In addition, the D.594-11 article of the CCP sets out the procedure for the designation of an interpreter (or of a translator). If an interpreter (or a translator) is required, they are selected from a <b>list of legal experts</b> drawn up by the Office of the Court of Cassation or by each Court of Appeal; or, failing this, from a <b>list of interpreters provided for in article R.111-1 of the Code of the entry and stay of foreigners and the right to asylum</b> ; or, if necessary, an <b>adult</b> can be designated as an interpreter (or translator) as long as they are not selected from the police, magistrates, clerks, parties or witnesses. If the interpreter is not from any list, they take an oath to assist justice</p>

		<p>with honour and conscience; this oath is given verbally.</p> <p>Such a provision makes it possible to deal with any rare languages spoken by accused persons. In practice<sup>10</sup>, with a person speaking a rare language, the first reaction is to use a language that is potentially common to the individual and the authority (police or legal): English. However, if the individual speaks only a rare language, a person not on the list will be used to carry out the translation. Thus, a magistrate can call upon the police to ask if, to their knowledge, they are able call anyone who can speak the rare language in question to act as interpreter. Similarly, the police have a large network of people able to intervene as interpreters with a very wide range of languages.</p> <p>The National union of professional translators states that the occurrence of designating a person as expert interpreter who is not on the pre-defined lists is most frequently found within the framework of the urgency of the police custody procedure. Moreover, if the appointed interpreter, is not an expert in the language concerned (because of its rarity), they must inform the person who carried out their designation.<sup>11</sup></p>
1.3	<p>Please describe procedures in place, if any, to ensure that suspects or accused persons have the right to challenge the decision that no interpretation is needed? <b>Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.</b></p>	<p>The D.594-2 article of the CCP provides that the suspect or accused person can <b>challenge the absence of an interpreter or the quality of interpretation</b>. For this purpose, they can make observations in the official report of the hearing, questioning or in the notes of the hearing if they are done immediately. If these observations are made later on, they are added to the casefile.</p> <p>The <b>Circular of 31 October 2013</b>, Relative to the presentation of the provisions of law No.2013-711 of 5 August 2013 and decree No. 2013-958 of 25 October 2013 relating to the implementation of the right to interpretation and translation within the framework of criminal proceedings (NOR: JUUSD1327250C), specifies the means to challenge the interpretation. Firstly, according to the circular, <b>this right to challenge the interpretation cannot be renounced</b>. And, <b>in the event of a challenge to the choice of the interpreter or the quality of interpretation, it is permissible for the authority in charge of the case to name another interpreter</b> and to put an end to the participation of the 1<sup>st</sup> interpreter. Finally, a <b>challenge to the interpreter by the Public prosecutor or the parties</b> may still be requested at the time of the judgement hearing: article 344 of the CCP for the Court of assizes, article 407 of the CCP for the Criminal Court, article 535 of the CCP for the Police court.</p> <p>Lastly, in the event of an absence of interpretation, it is possible to request the cancellation of the procedure. See, Crim., June 30, 1981, no. 80-94053, Crim., June 27, 2000, Bull. crim. no. 246, Crim., May 25, 2005, no. 05-81628.<sup>12</sup> Thus, the Court of cassation has affirmed that it draws from article 6§1 and §3 of the European Convention for the safeguard of human rights, “<i>according to which any defendant who does not understand or does not speak the language employed at the hearing is entitled to the free assistance of an interpreter, that this right must also apply to a person put under examination when they make their statements to the legal expert</i>”; thus, an investigation</p>

<sup>10</sup> France, magistrate; judicial police officer.

<sup>11</sup> France, Syndicat national des traducteurs professionnels, Frequently asked questions (*Foire aux questions*), available at : [[www.sft.fr/faq-experts-de-justice.html#.VNs12C7AqSo](http://www.sft.fr/faq-experts-de-justice.html#.VNs12C7AqSo)].

<sup>12</sup> France, Court of cassation, Criminal Chamber (*Cour de cassation, Chambre criminelle*), Decision no. 80-94053, 30 June 1981, available at : [[www.legifrance.gouv.fr/affichJuriJudi.do?oldAction=rechJuriJudi&idTexte=JURITEXT000007060907&fastReqId=1493236165&fastPos=9](http://www.legifrance.gouv.fr/affichJuriJudi.do?oldAction=rechJuriJudi&idTexte=JURITEXT000007060907&fastReqId=1493236165&fastPos=9)] ; France, Court of cassation, Criminal Chamber (*Cour de cassation, Chambre criminelle*), Decision, 27 June 2000, *Bull. crim.* N°246 ; France, Court of cassation, Criminal Chamber (*Cour de cassation, Chambre criminelle*), Decision no. 05-81628, 25 May 2005, available at : [[www.legifrance.gouv.fr/affichJuriJudi.do?oldAction=rechJuriJudi&idTexte=JURITEXT000007071638&fastReqId=1337374629&fastPos=1](http://www.legifrance.gouv.fr/affichJuriJudi.do?oldAction=rechJuriJudi&idTexte=JURITEXT000007071638&fastReqId=1337374629&fastPos=1)].

		chamber may not reject a request to drop the case without checking if the assistance of an interpreter was necessary for the legal stage when the accused had benefited from such assistance during police custody and questioning carried out by the investigating judge (Crim., March 21, 2007, n°06-89554).
1.4	With regard to remote interpretation via communication technologies :	
	a) Can communication technologies for the purpose of remote interpretation be used? If so, at what stage(s) of the proceedings?	Remote communication technologies can be employed within the framework of interpretation, at all stages of the procedure. According to the article D.594-4 of the CCP, the assistance of an interpreter can, if necessary, be carried out by <b>telecommunication</b> , in accordance with the last but one subparagraph of article 706-71 of the CCP. Article 706-71 of the CCP provides that ' <i>if required, and resulting from the impossibility for an interpreter to be physically present, the assistance of an interpreter during a hearing, questioning or a meeting can be also provided via means of telecommunication</i> '. <i></i>
	b) Which technologies are used, if any (videoconference, telephone, internet, etc.)	The technology employed is that of <b>videoconference</b> <sup>13</sup> .  The use of video-links meets with a problem of resources. Indeed, it is necessary that the court or the police station/gendarmerie brigade is equipped with such a device and that it is in working order. In the absence of such a device, it is necessary to proceed to a physical meeting between the accused and the interpreter.  However it is important to underline that the equipping of institutions with video-link systems is advancing. Because, in addition to the use which it can have for communication with an interpreter in a rare language, it has other uses such as that for the police to contact the Public Prosecutor for an extension of police custody, for example.
	c) Do competent authorities rely on the tools developed in the context of European e-Justice (e.g. information on courts with videoconferencing equipment provided on the European E-justice Portal)? <b>Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.</b>	No information is available concerning the European E-justice Portal. Moreover, the people questioned (judges, judicial police officers, interpreters) are not aware of or do not use the European E-justice Portal.

<sup>13</sup> France, members of the judiciary and in law enforcement.

	<b>TRAINING<sup>14</sup></b>	<b>Yes</b>	<b>No</b>	<b>Brief Description</b>
<b>1.5</b>	Are providers of judicial training requested to pay special attention to the particularities of communicating with the assistance of an interpreter so as to ensure efficient and effective communication? If yes, briefly provide details.			<p>The National School of Magistrates does not provide training specific to the questioning of a person assisted by an interpreter.</p> <p>For practising magistrates, continuous training is offered on questioning technique and on the Presidency of the hearing. It includes the possibility of assistance for the accused person from an interpreter.</p> <p>As is the case for the magistrates, the police authority does not benefit from particular training on questioning carried out with an interpreter.</p> <p>There exist local initiatives in order to train police officers on the questioning of a person assisted by an interpreter. As an illustration, since 2008, Ms Sandrine DESCHODT, a qualified translator/interpreter (specialized in sign language) at the Court of Appeal of Douai, has put in place a training module in partnership with the National Police School of Roubaix. This training aims at sensitizing the public on the role and the nature of a good interpreter. It proceeds in particular by setting up situations.<sup>15</sup></p>
<b>2.</b>	<b>RIGHT TO TRANSLATION OF DOCUMENTS<sup>16</sup></b>	<b>Brief Description</b>		
<b>2.1</b>	<p><b>Please provide answers to the following for each stage of proceedings as indicated below:</b></p> <p>a) Which documents (according to national law or established practice) are considered essential to translate in order to safeguard the fairness of the proceedings?</p> <p>b) Who bears the cost of translation at each stage?</p> <p>c) What is the timeframe (deadline) for the translation of documents at each stage of the proceedings?</p> <p><b>Please cross-check findings from the desk-research by consulting relevant organisations and/or practitioners.</b></p>			

<sup>14</sup> See in particular Article 6 and relevant recitals of Directive 2010/64/EU.

<sup>15</sup> France, Dautremepuis, F. (2012), Dissertation under the supervision of Annie Risler, The qualified legal translator/interpreter: Reflections on an ambiguous function, Master Interpreting French sign language - French, University of Lille 3 Charles of Gaulle, p .44, available at: [[http://stl.recherche.univ-lille3.fr/siteheberges/masterLSF/memoires/Liste\\_memoiresM2\\_en\\_ligne.html](http://stl.recherche.univ-lille3.fr/siteheberges/masterLSF/memoires/Liste_memoiresM2_en_ligne.html)].

<sup>16</sup> See in particular Articles 3 and 4 and relevant recitals of Directive 2010/64/EU.

2.1.1

- police questioning;

a)  
The Code of criminal procedure mentions the translation of the essential documents.  
Thus, according to the preliminary article of the CCP, the suspect or accused person has the right, except when they themselves clearly and expressly renounce this right, to the translation of the **essential documents** which must be given to them or notified to them pursuant to the Code of criminal procedure for the exercise of a defence and to safeguard the fairness of the procedure.  
Various provisions of the Code of criminal procedure ensure the implementation of this principle.  
Thus, article 803-5 of the CCP mentions the oral translation or an oral summary of the essential documents which must be given or notified to the accused person.  
More precisely, the D.594-6 article of the CCP mentions the translation of essential documents for the exercise of the right to a defence and the respect of the principle of a fair trial. This article draws up a list of the essential documents which must be translated; none of them relates to the police phase. However, this list does not prevent the public prosecutor (or the investigating judge, or the President of the hearing) from independently, or upon the request of the defence, ordering the translation of documents considered as essential. The Code of criminal procedure does not give further detail as to the documents considered as essential. The **application Circular dated 31 October 2013** stresses that the documents given or notified to the accused person which do not appear in the list of the D.594-6 article of the CCP can be the subject to a translation by a decision of the proper authority on its own initiative or at the request of defence.  
The article D.594-7 CCP specifies that this translation may relate only to one passage of the document. It is the Public prosecutor, at the investigation phase, who determines the relevant passages to translate.

More specifically, concerning **police custody**, according to Article 63-1 of the CCP, a person placed in police custody is immediately informed by a judicial police officer or, under their instruction, by an agent of the judicial police, of the duration of the measure, of the evidence, of the reasons for their placement in police custody, and of the rights that they have.  
According to Article 803-6 of the CCP, resulting from law No. 2014-535 of 27 May 2014 (pursuant to Directive 2012/13/UE of the European Parliament and the Council of 22 May 2012 Relating to the right to information within the framework of the criminal proceedings): *'Any suspect or accused person who is subject to a measure involving deprivation of liberty pursuant to a provision of this code shall, at the time of the notification of this measure, be provided with a **document** stating in **simple and accessible terms and in a language which they understand, the following rights they have during the procedure pursuant to the present code:***

- 1 *The right to be informed of the nature, the date, and the place of the alleged offence;*
- 2 *The right during interviews or questioning to make statements, to answer the questions which are asked, or to remain silent;*
- 3 *The right to access a lawyer;*
- 4 *The **right to interpretation and translation;***
- 5<sup>o</sup> *The right to access the case file;*
- 6 *The right that at least one third-party and, if necessary, the consular authorities of their country of origin, are informed of the measure of deprivation of liberty;*
- 7 *The right to be examined by a doctor;*
- 8 *The right to be informed of the maximum number of hours or days for which they may be held before appearing before a*

		<p><i>legal authority;</i>  <i>9 The right to know the means of disputing of the legality of the arrest, to obtain a re-examination of their deprivation of liberty or to ask to be released.</i>  <i>The person is authorized to keep this document throughout their detention.</i>  <i>If the document is not available in a language understood by the person, this person is verbally informed of their rights provided for in the present article in a language which they understand. Information given is mentioned in an official report. A version of the document in a language which they understand is then given to the person without delay '.</i></p> <p>b)  The circular of 31 October 2013 specifies that the cost of the right to translation (like that of the right to the interpretation) is <b>met by the State</b>. The fees of interpreters and translators within the framework of the legal procedures constitute court expenses pursuant to articles R. 92 and R. 122 of the CCP.</p> <p>c)  According to the D.594-8 article of the CCP, <i>'the translation must be done in a <b>reasonable time</b> which allows for the exercise of the rights of defence and takes into account the number and the complexity of the documents to be translated, and of the language into which they must be translated'</i>.  The Circular of October 31, 2013 specifies <b>that an oral translation or an oral summary of the essential parts could be permitted when it proves more relevant and more efficient than a written translation</b>.  Concerning the 'reasonable time', the Circular of October 31, 2013 adds, that in practice, it is relevant only for the written translation because the oral translation is immediate, at the time of the notification of the document. The written translation does not have to be done at the same time as the handing-over or the notification of the copy of documents of the procedure, in particular when this handing-over is done within a short time.</p>
2.1.2	<ul style="list-style-type: none"> <li>• court hearings;</li> </ul>	<p>a)  The Code of criminal procedure mentions the <b>translation of essential documents</b>. See the preliminary articles and 803-5 of the CCP. Similarly, the D.594-6 article of the CCP mentions the translation of essential documents for the exercise of the right to a defence and the respect of the principle of a fair trial. This article draws up a <b>list of these essential documents</b> which must be translated; the documents considered as essential within the framework of the phase of the hearing are as follows:</p> <ul style="list-style-type: none"> <li>• Decisions of referral to the jurisdiction for judgement</li> <li>• Decisions ruling on the public action and bearing judgement, pronounced or approved by a jurisdiction.</li> </ul> <p><b>However, this list does not prevent the President of the court from independently, or upon the request of the defence, ordering the translation of part of the documents considered as essential.</b> See article 344 of the CCP for the Court of assizes, which specifies that if the President considers it necessary to translate all or part of a document, they may name an interpreter to this end. The same provision is provided for for the Criminal Court (article 407 of the CCP) and for the Police court (article 535 of the CCP).  Article D.594-7 CCP specifies that this <b>translation may relate only to one passage of the document</b>. It is the President of the court who determines the relevant passages to translate.</p>



		<p>b) The circular of 31 October 2013 specifies that the cost of the right to translation (like that of the right to the interpretation) is <b>met by the State</b>. The fees of interpreters and translators within the framework of the legal procedures constitute court expenses pursuant to articles R. 92 and R. 122 of the CCP.</p>
		<p>c) See the response to point 2.1.1. c). It is possible to add an additional element appearing within the Circular of October 31, 2013. In effect, this specifies that it is particularly important to respect a short response time for requests for translation for a hearing or a questioning so as to avoid unnecessary adjournments.</p>
2.1.3	<ul style="list-style-type: none"> <li>• any necessary interim hearings;</li> </ul>	<p>a) The Code of criminal procedure mentions the <b>translation of essential documents</b>. See the preliminary articles and 803-5 of the CCP. Similarly, the D.594-6 article of the CCP mentions the translation of essential documents for the exercise of the right to a defence and the respect of the principle of a fair trial. This article draws up a <b>list of these essential documents</b> which must be translated; the documents considered as essential within the framework of the phase of the hearing are as follows:</p> <ul style="list-style-type: none"> <li>• Decisions of placement in provisional detention, prolongation or maintenance of detention or rejection of a request for release, and orders of imprisonment pronounced within the framework of the execution of a European warrant for arrest.</li> <li>• The official report of the first appearance or suppletive charging, when a copy has been requested pursuant to article 114 of the CCP.</li> </ul> <p>However, <b>this list does not prevent the investigating judge from independently, or upon the request of the defence, ordering the translation of part of the documents considered as essential.</b></p> <p>Article D.594-7 CCP specifies that this <b>translation may relate only to one passage of the document</b>. It is the investigating judge who determines the relevant passages to translate.</p> <p>In practice, the investigating judge requests a verbatim translation of the referral order or committal for trial. The same applies to decisions of the Judge of freedoms and detention.</p> <p>b) The circular of 31 October 2013 specifies that the cost of the right to translation (like that of the right to the interpretation) is <b>met by the State</b>. The fees of interpreters and translators within the framework of the legal procedures constitute court expenses pursuant to articles R. 92 and R. 122 of the CCP.</p> <p>c) According to the D.594-8 article of the CCP, <i>'the translation must be done in a <b>reasonable time</b> which allows for the exercise of the rights of defence and takes into account the number and the complexity of the documents to be translated, and of the language into which they must be translated'</i>.</p>

		<p>the Circular of October 31, 2013 specifies <b>that an oral translation or an oral summary of the essential parts could be permitted when it proves more relevant and more efficient than a written translation.</b></p> <p>Concerning the 'reasonable time', the Circular of October 31, 2013 adds, that in practice, it is relevant only for the written translation because the oral translation is immediate, at the time of the notification of the document. The written translation does not have to be done at the same time as the handing-over or the notification of the copy of documents of the procedure, in particular when this handing-over is done within a short time.</p>
2.1.4	<ul style="list-style-type: none"> <li>any communication between suspects and accused persons and their legal counsel in direct connection with any questioning or hearing during the proceedings?</li> </ul>	<p>a) Communication between the suspect and their lawyer in connection with the preparation of questioning or a hearing with interpreters. See response to point 1.1.4. a). The Code of criminal procedure does not provide for a similar provision as regards translation. On the other hand, the accused person may use a translator within the framework of their exchanges with their lawyer. If the accused receives legal aid, the expenses related to the translation will be, as well as those relating to their defence, met by the State (articles 40 and following of the law No.91-647 of July 10, 1991, Relative to the legal aid).</p>
		<p>b) No specific provisions on this point.</p>
		<p>c) No specific provisions on this point.</p>
2.2	<p>How do the competent authorities ascertain whether oral translation or oral summary of essential documents may be provided instead of a written translation? <b>Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.</b></p>	<p>Certain essential documents must be translated; these documents are listed in the D.594-6 article of the CCP. For other documents, the Public prosecutor, the investigating judge or the judgement jurisdiction may independently, or at the request of the accused person, order the translation of a document considered as essential to the exercise of the rights of defence and the safeguard of the principle of a fair trial.</p> <p>According to the D.594-7 article, the documents considered to be essential may be only partly translated. Depending on the stage of the procedure, it is the Public prosecutor, or the investigating judge or the judgement jurisdiction who determine the relevant passages.</p> <p><b>The Circular of October 31, 2013 gives indications as to the determination of the relevant passages.</b> They may be, for example, about the measure or the reasons for a referral or a judgement, or, for a prosecution notice, about the evidence put forward, the nature of the offence, and date and place of the hearing.</p> <p><b>Article 803-5 of the CCP, provides, on a derogatory basis, that an oral translation or that an oral summary of the essential parts which must be given or notified may be the preferred option.</b> Thus, an oral translation could be preferred if it proves more relevant or effective. If such is the case, this must be mentioned in the official report or in the notes of the hearing (article D.594-9 of the CCP).</p>

		<p>In practice<sup>17</sup>, it can be difficult to determine which is the most relevant between a written translation or an oral translation/summary. So as to avoid any dispute, the preferred choice is to translate the essential parts of the procedure in writing (in the investigation phase as well as the judicial phase). Mention is made of this in the official report, the signature of the interpreter is necessary. The same applies in particular for committal to trial notices or referrals to the investigating judge or certain decisions of the judge of freedoms and detention. In certain cases, the judge may ask the accused what their preference is. Thus, the investigating judge may ask the accused if they prefer a written translation or an oral translation/summary of the referral to the Criminal Court. In the same way, within the framework of the preparatory questioning for the assizes hearing carried out by the President of the Court of assizes (articles 272 and following CCP), the President can ask the accused if they prefer a written translation or an oral translation/summary of the prosecution notice.</p> <p>Moreover, the question of the cost of the translation may influence the choice of the judge. A written verbatim translation is more expensive. Thus, it may be encouraged that the judges choose an oral translation or an oral summary, so as to limit the costs to the justice system. Note that however, an oral translation or an oral summary can also be expensive since it is necessary to call in the translator/interpreter and to bring in the accused (bring them from their cell and provide an escort). Such a situation highlights the utility and the relevance of the processes of remote communication, particularly that of the video-conference.</p>
2.3	<p>Please describe procedures in place, if any, to ensure that suspects or accused persons have the right to challenge the decision that no translation is needed? <b>Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.</b></p>	<p>According to the Circular of October 31, 2013, the right to translation (as with the right to interpretation) may be the subject of requests and challenges. The request for translation and the challenge of the decision taken will be treated <b>as requests for documents or additional information</b>.</p> <p>There is no procedure for appeal if a request for translation is not granted or if the relevant authority does not answer such a request.<sup>18</sup></p> <p>Thus, there is no specific procedure for a request for translation or to contest a translation. If the accused and/or their lawyer believes that a translation is necessary, they must ask the magistrate. Or if a preparatory investigation is opened, this request for documentation is made to the investigating judge (article 82-1 of the Code of criminal procedure). If the investigating judge refuses, s/he must provide the legal grounds for the decision within one month of the request. Pursuant to Article 186-1 of the Code of Criminal Procedure, the decision of the investigating judge (especially in cases of a refusal) may be appealed before the Investigating Chamber.</p> <p>Before the court, additional information may be requested (article 283 of the Code of criminal procedure for the Court of assizes, article 463 of the Code of criminal procedure for the Criminal court, article 538 of the Code of criminal procedure for the Police court); if the court believes the request for translation or a complaint is justified, it asks for it to be proceeded with.</p> <p>Moreover, the Circular of October 31, 2013 specifies that it is necessary to consider that the lack of translation does not constitute in itself a reason to drop the case, since the translation can always be carried out in order to guarantee the exercise of the rights of the defence.</p>

<sup>17</sup> France, magistrate.

<sup>18</sup> France, Gueryn C. (2013), "De la disparition du: "Toi rester au trou", et de certaines des conséquences procédurales en découlant", AJ penal 2013, p. 656.

		Yes	No	Brief Description
2.4	Do all documents that the suspected or accused person has to sign during the proceedings have to be translated?			<p>Except for the documents which must be translated and which are listed in the D.594-6 article of the CCP, the translation of other documents, in whole or part, is decided upon, according to the stage of the procedure, by the Public prosecutor, the investigating judge, or jurisdiction of judgement. Moreover, an oral translation or summary will be preferred if it proves more relevant and effective. Consequently certain documents, in particular the official reports, may be signed by a person who has only heard an oral translation.</p> <p>In practice<sup>19</sup>, and in principle, the documents which must be signed by the accused are translated. If an interpreter is present, they also sign the document, thus attesting that it was transcribed in a language understood by the accused person who signs the document. On occasions, in the absence of interpreter, the lawyer present reads the document for the client; it is then specified on the document, above the signature, that it was read to the individual. Finally, even when the interpreter is present, the magistrate can leave the choice to the accused, between a translation of the document by the interpreter or a second reading of the document by lawyer.</p> <p>In practice, certain investigation offices may with each question carry out a second reading and a simultaneous interpretation of the answers given to make sure that the transcription corresponds to the remarks made.</p>
2.5	Is it possible to waive the right to translation of documents and if so, what form can it have and under which conditions can it be accepted?	Yes		<p><b>The preliminary article of the CCP provides for the possibility of giving up the right to translation.</b> The Circular of application of October 31, 2013, article II c <sup>20</sup> specifies that such a renunciation is valid only if the person has been <b>legally advised beforehand or fully informed of the consequences</b> of this renunciation. This renunciation must be <b>made expressly and voluntarily</b>. This preliminary information will have to be included with the official report or in the notes of the hearing. The renunciation of the translation can be carried out at all the stages of the procedure.</p> <p>Renunciation is not provided for with respect to interpretation.</p>

<sup>19</sup> France, magistrate.

<sup>20</sup> France, Circular relative to the presentation of the provisions of law No.2013-711 of 5 August 2013 and decree No.2013-958 of 25 October 2013 relating to the implementation of the right to interpretation and translation within the framework of criminal proceedings (*Circulaire relative à la présentation des dispositions de la loi n° 2013-711 du 5 août 2013 et du décret n° 2013-958 du 25 octobre 2013 relatives à la mise en œuvre du droit à l'interprétation et à la traduction dans le cadre des procédures pénales*), NOR : JUSD1327250C, 31 October 2013, II c, available at : [www.textes.justice.gouv.fr/art\_pix/JUSD1327250C.pdf].

3.	RIGHTS CONCERNING BOTH INTERPRETATION AND TRANSLATION <sup>21</sup>			
3.1	With regard to use of registers of interpreters and translators in EU Member States:	Yes	No	Brief Description
	a) Do national databases or registers exist for legal translators and interpreters?	Yes		<p>The D.594-11 article of the CCP determines how an interpreter or a translator is designated. The interpreter or the translator is selected:</p> <p><i>1. From the national list of legal experts drawn up by the office of the Court of Cassation, or the list of the legal experts drawn up by each Court of Appeal ;</i></p> <p><i>2. Failing this, from the list of the interpreters translators provided for by article R.111-1 of the code of the entry and stay of foreigners and the right to asylum ;</i></p> <p><i>3. If necessary, an adult who is not on one of these lists may be selected, as long as the interpreter or the translator is not selected from among the investigators, the magistrates or the clerks charged with the file, the parties or the witnesses.</i></p> <p><i>Interpreters or translators not on the lists mentioned in 1 or 2 take an oath to assist justice on their honour and with conscience each time they are used. Their oath is taken verbally.</i></p> <p><i>Interpreters and translators are required to respect the confidentiality of the interpretation and translations provided'.</i></p> <p>It should be noted that in practice, an interpreter/translator from a list of an adjacent Court of Appeal may be used.</p>
	b) Do translators and interpreters have to be listed in databases/registers for their services to be used? In other words, is membership/registration mandatory?	Yes		<p>Although the D.594-11 article of the CCP provides that if necessary, an adult who is not on the list may be used, to safeguard the interpretation or the translation, the interpreter or translator must be registered on a list beforehand in order to be called.</p>
	c) Who has access to these databases?			<p><b>Brief Description:</b></p> <p>The <b>public authorities (police force, justice)</b> may call the interpreters/translators on the lists.</p> <p>The list of interpreters/translators is <b>public</b>. The internet site of the Supreme court lists these according to Courts of Appeal and specialization. The interpreters and translators are listed.<sup>22</sup></p>

<sup>21</sup> See in particular Article 5 and relevant recitals of Directive 2010/64/EU.

	<p>d) Which professional qualifications are needed by:</p> <ul style="list-style-type: none"> <li>• translators and</li> <li>• interpreters</li> </ul> <p>in order to be registered in the database?</p>	<p><b>Brief Description:</b></p> <p>Article 2 of <b>decree No.2004-1463 of December 23, 2004</b>, Relative to legal experts details the conditions for persons to be registered on a list of experts:</p> <p><i>'1. Not to have been the perpetrator of offences against honour, integrity or morals;</i>  <i>2. Not to have been the perpetrator of offences giving rise to a disciplinary or administrative dismissal, striking off, revocation, or withdrawal of approval or authorization;</i>  <i>3. Not to have been personally bankrupt or another sanction pursuant to title II of book VI of the commercial law;</i>  <i>4. To have worked in an occupation or an activity in connection with their speciality for a sufficient time;</i>  <i>4. To have worked in this occupation or activity under conditions which confer adequate qualifications;</i>  <i>6. Not to perform any activity incompatible with the independence necessary for the work of a legal expert;</i>  <i>7. Subject to the provisions of article 18, be less than seventy years old;</i>  <i>8. For candidates for registration on a list drawn up by a Court of Appeal, in a section other than translation, to practise their main profession in the jurisdiction of this court or, for those who no longer work, to reside in this area'.<sup>23</sup></i></p> <p>Article 3 of the decree provides a similar provision for legal entities.</p> <p>In connection with translators or interpreters, the <b>training requirements are a little different from the other categories of experts</b>. In an article entitled 'Une professionnalisation problématique: les experts judiciaires interprètes-traducteurs'<sup>24</sup> confirms that registration on a list of legal experts necessitates, in addition to age conditions, no criminal record, the legal jurisdiction area, and 'numerus clausus', established experience and a profession connected to the expertise. <i>'However, this is different for interpreters and translators. There is nothing systematic for these to be either interpreters and/or translators, and the main occupation of an interpreter/translator does not have to have a connection with the linguistic field'</i>. <b>No certification is demanded to be a candidate to be registered on a list of interpreters/translators.</b></p> <p>In practice, although no qualification is necessary to work as an interpreter within the framework of a criminal case, the interpreters registered on the lists of the Court of Appeal or of the Court of Cassation frequently have qualifications in law and/or languages.</p>		
	<p>e) Are there any requirements in place to ensure the</p>	<p>Yes</p>		<p>Two things make it possible to ensure the independence of the interpreter: the oath and rules relating to the discipline.</p>

<sup>22</sup> France, Court of cassation (*Cour de cassation*), List of interpreters/translators, available at:

[\[www.courdecassation.fr/informations\\_services\\_6/experts\\_judiciaires\\_8700.html#experts\]](http://www.courdecassation.fr/informations_services_6/experts_judiciaires_8700.html#experts).

<sup>23</sup> France, Decree No.2004-1463 Relative to legal experts, 23 December 2004, article 2, available at:

[\[www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000628809&fastPos=16&fastReqId=81416671&categorieLien=cid&navigator=navigatortexte&modifier=DECRET&fastPos=16&fastReqId=81416671&oldAction=rechTexte\]](http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000628809&fastPos=16&fastReqId=81416671&categorieLien=cid&navigator=navigatortexte&modifier=DECRET&fastPos=16&fastReqId=81416671&oldAction=rechTexte).

<sup>24</sup> France, Larchet, K., Pelissie, J. (2009), 'Une professionnalisation problématique: les experts judiciaires interprètes-traducteurs', Octobre-décembre 2009, available at : [\[http://formationemploi.revues.org/2051\]](http://formationemploi.revues.org/2051).

<p>independence of interpreters and translators? If yes, provide a brief overview (for both translators and interpreters).</p>			<p>Initially, the importance of the work of the interpreter is ensured by the oath. According to <b>the D.594-11 article of the CCP</b>, an interpreter (or a translator) may be selected from a <b>list</b> of legal experts drawn up by the Office of the Court of Cassation or by each Court of Appeal; or, failing this, from a list of interpreters provided for in the R.111-1 article of the Code of the entry and stay from abroad and right of asylum. Registration on a list of legal experts presupposes the taking of an <b>oath</b>. Thus, according to article 6 of law No.71-468 of June 29, 1971, relating to legal experts, <i>“at the time of their initial registration on a list drawn up by a Court of Appeal, the experts take an oath before the Court of Appeal of the place where they reside, to fulfil their role, to submit their report, and to give advice in honour and conscience”</i>. More specifically, according to the R.111-12 article of the Code of the entry and the stay from abroad and the right of asylum, 'At the time of their initial registration on the list or of their re-registration, the interpreters/translators registered pursuant to articles R. 111-3 and R. 111-4 take an <i>oath</i> before the High court of the place of registration , with the following wording: I swear to fulfil my role with honour and conscience and to reveal or use nothing of what will be brought to my attention on this occasion'. Finally, at the hearing, the interpreter takes an oath to assist justice with honour and conscience (article 344 of the CCP for the Court of assizes, article 407 of the CCP for the Criminal Court, article 535 of the CCP for the Police court).</p> <p>If necessary, an adult person can be indicated as interpreters (or translator) since it is not selected among the police officers, magistrates, clerks charged with the file, parts or witnesses. <b>If the interpreter does not appear on any list, they swear an oath</b> to assist justice with honour and with conscience; this oath is given verbally.</p> <p>Secondly, the legal texts contain certain provisions which ensure the quality of the role of the interpreter/translator, in particular their independence.</p> <p>First of all, law No.71-498, of June 29, 1971, relative to the legal experts<sup>25</sup> provides for certain rules aiming at framing the activity of expert. As such, article 6-2 of the law provides that <i>'any infringement of the laws and regulations relative to the profession or role of expert, any lack of probity or honour, even referring to information not connected with the role which is entrusted to them, will lead to <b>disciplinary sanctions</b> '.</i></p> <p>In addition, decree No.2004-1463 of December 23, 2004, relating to legal experts, includes Title III which deals with <b>discipline</b>. In particular it is provided for that governance of the experts is exercised by the First President and the Prosecutor General of the Court of Appeal or the First President and the Prosecutor General of the Supreme court (article 24). The Prosecutor General of the Court of Appeal or the Prosecutor General of the Supreme court receive</p>
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<sup>25</sup> France, Law No.71-498 relative to the legal experts, 29 June 1971, available at: [www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT00000874942&fastPos=1&fastReqId=408246542&categorieLien=cid&oldAction=rechTexte](http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT00000874942&fastPos=1&fastReqId=408246542&categorieLien=cid&oldAction=rechTexte)].

			<p>complaints and proceed with the investigations necessary to check if the expert fulfils their obligations and performs them in a timely manner. If it appears that a registered expert has contravened the laws and regulations of the profession or their role as expert, or has not acted with probity or honour, the President hears evidence; and if necessary, proceeds with legal action (article 25).</p> <p>More specifically, <b>the requirement of independence</b> is mentioned in articles 2-6 (for an individual) and 3-3 (for a legal entity) of decree No. 2004-1463 of December 23, 2004, detailing the conditions for a person to be registered on a list of experts.</p> <p>Finally, the D.594-11 article of the CCP provides that if necessary, it is possible to choose a translator/interpreter who is not on the established lists. This translator/interpreter <b>cannot be an investigator, a magistrate or a clerk</b> involved with the case file. In such a case, the independence of the translator/interpreter would be compromised.</p> <p>Monique ROUZET LELIEVRE, in an article entitled “Ethics of legal translation and interpretation”<sup>26</sup> offers certain thoughts/recommendations to guarantee the independence of the interpreter/translator. Thus, to act fully independently, the interpreter/translator <b>should not have overly strong ties with the authorities which call upon them</b>. This is why the legislator provides that the role of interpreter/translator may be only an additional and not a principal activity. In the same sense, the interpreter/translator should <b>not be too closely connected to the accused</b> and use the exchanges to provide documents, letters or items to the accused. Equally, the interpreter/translator <b>should not intervene in a case involving allegations against one of their private clients</b>.</p>
	f) Is access to existing databases provided through the <a href="#">European e-Justice portal</a> ? <sup>27</sup> How is this register available to legal counsel and relevant authorities?		No information is available concerning the European E-justice Portal. Moreover, the people questioned (judges, judicial police officers, interpreters) are not aware of or do not use the European E-justice Portal.
	g) Are criminal justice institutions required to use interpreters and translators listed in these registers?		Article D.594-11 of the CPP determines how an interpreter or a translator is designated. The interpreter or translator is chosen: <i>'1. From the national list of legal experts drawn up by the office of the Court of Cassation, or from the list of court experts drawn up by each court of appeal;</i>

<sup>26</sup> France, Rouzet Lelièvre, M. (2004), 'Ethics of legal translation and interpretation', available at: [[www.eulita.eu/fr/deontologie-de-la-traduction-et-de-linterpretation-en-milieu-judiciaire](http://www.eulita.eu/fr/deontologie-de-la-traduction-et-de-linterpretation-en-milieu-judiciaire)].

<sup>27</sup> <https://e-justice.europa.eu/home.do?plang=en&action=home>



				<p>2. Otherwise, from the list of translators and interpreters provided for by Article R.111-1 of the Code of Entry and Stay of Foreigners and Asylum;</p> <p>3. If necessary, an adult who is not on any of these lists can be designated, as long as the interpreter or translator is not selected from the investigators, judges or clerks responsible for the file, parties or witnesses.</p> <p>Interpreters or translators not on any of the lists mentioned in 1 or 2 swear on oath to assist to justice with honour and conscience. Their oath is then recorded in the official report.</p> <p>Interpreters and translators are required to respect confidentiality regarding the interpretation and translation provided.'</p> <p>Thus, this law provides that, in principle, a translator is chosen from the national list of expert translators established by the Office of the Court of Cassation or compiled by each Court of Appeal. Nevertheless, the text specifies that in cases of need (e.g. insufficient number of translators for a language or a rare language) a translator who is not on the list can be used as long as they are not involved in the proceedings. In the latter case, an oath must be taken by the translator/interpreter.</p>
3.2	With regard to other mechanisms/procedures:	Yes	No	<b>Brief Description</b>
	a) Are there other mechanisms or procedures in place to ensure the quality and independence of interpretation and translation during the course of the proceedings? Are there any quality checks? Who is responsible for carrying them out?	Yes		<p>Two things make it possible to ensure the independence of the interpreter: the oath and rules relating to the discipline.</p> <p>Initially, the importance of the work of the interpreter in terms of quality and independence is ensured by the oath. According to <b>the D.594-11 article of the CCP</b>, an interpreter (or a translator) may be selected from a <b>list</b> of legal experts drawn up by the Office of the Court of Cassation or by each Court of Appeal; or, failing this, from a list of interpreters provided for in the R.111-1 article of the Code of the entry and stay from abroad and right of asylum. Registration on a list of legal experts presupposes the taking of an <b>oath</b>.</p> <p>Thus, according to article 6 of law No.71-468 of June 29, 1971, relating to legal experts, <i>“at the time of their initial registration on a list drawn up by a Court of Appeal, the experts take an oath before the Court of Appeal of the place where they reside, to fulfil their role, to submit their report, and to give advice in honour and conscience’</i>.</p> <p>More specifically, according to the R.111-12 article of the Code of the entry and the stay from abroad and the right of asylum, <i>‘At the time of their initial registration on the list or of their re-registration, the interpreters/translators registered pursuant to articles R. 111-3 and R. 111-4 take an oath before the High court of the place of registration, with the following wording: ‘I swear to fulfil my role with honour and conscience and to reveal or use nothing of what will be brought to my attention on this occasion’</i>.</p> <p>Finally, at the hearing, the interpreter takes an oath to assist justice with honour and conscience (article 344 of the CCP for the Court of assizes, article 407 of the CCP for the Criminal Court, and article 535 of the CCP for the Police court).</p> <p>If necessary, an adult person can be indicated as interpreter (or translator) as long as they are not selected from among the police officers, magistrates, clerks charged with the file, parties, or witnesses. <b>If the interpreter does not appear on any list, they swear an oath</b> to assist justice with honour and with conscience; this oath is given verbally.</p>

			<p>Secondly, the legal texts contain certain provisions which ensure the quality of the role of the interpreter/translator, in particular their independence.</p> <p>First of all, law No.71-498, of June 29, 1971, relative to the legal experts<sup>28</sup> provides for certain rules aiming at framing the activity of expert. As such, article 6-2 of the law provides that '<i>any infringement of the laws and regulations relative to the profession or role of expert, any lack of probity or honour, even referring to information not connected with the role which is entrusted to them, will lead to <b>disciplinary sanctions</b></i>'.</p> <p>In addition, decree No.2004-1463 of December 23, 2004, relating to legal experts, includes Title III which deals with <b>discipline</b>. In particular it is provided for that governance of the experts is exercised by the First President and the Prosecutor General of the Court of Appeal or the First President and the Prosecutor General of the Supreme court (article 24). The Prosecutor General of the Court of Appeal or the Prosecutor General of the Supreme court receive complaints and proceeds with the investigations necessary to check if the expert fulfils their obligations and performs them in a timely manner. If it appears that a registered expert has contravened the laws and regulations of the profession or their role as expert, or has not acted with probity or honour, the President hears evidence; and if necessary, proceeds with legal action (article 25). More specifically, <b>the requirement of independence</b> is mentioned in articles 2-6 (for an individual) and 3-3 (for a legal entity) of decree No. 2004-1463 of December 23, 2004, detailing the conditions for a person to be registered on a list of experts.</p> <p>Finally, the D.594-11 article of the CCP provides that if necessary, it is possible to choose a translator/interpreter who is not on the established lists. This translator/interpreter <b>cannot be an investigator, a magistrate or a clerk</b> involved with the case file. In such a case, the independence of the translator/interpreter would be compromised.</p> <p>Monique ROUZET LELIEVRE, in an article entitled "Ethics of legal translation and interpretation"<sup>29</sup> offers certain thoughts/recommendations to guarantee the independence of the interpreter/translator. Thus, to act fully independently, the interpreter/translator <b>should not have overly strong ties with the authorities which call upon them</b>. This is why the legislator provides that the role of interpreter/translator may be only an additional and not a principal activity. In the same sense, the interpreter/translator should <b>not be too closely connected to the accused</b> and use the exchanges to</p>
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<sup>28</sup> France, Law no.71-498 relative to the legal experts, 29 June 1971, available at: [www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT00000874942&fastPos=1&fastReqId=408246542&categorieLien=cid&oldAction=rechTexte].

<sup>29</sup> France, Rouzet Lelièvre, M. (2004), 'Ethics of legal translation and interpretation', available at: [www.eulita.eu/fr/deontologie-de-la-traduction-et-de-linterpretation-en-milieu-judiciaire].

			<p>provide documents, letters or items to the accused. Equally, the interpreter/translator <b>should not intervene in a case involving allegations against one of their private clients.</b></p> <p>Added to these two elements which ensure the professionalism of the interpreter/translator is <b>the possibility of criminal sanctions.</b> According to article 434-18 of the Penal code, <i>“any interpreter, on any matter, who distorts the substance of the words or documents translated may be sentenced, according to the distinctions of <a href="#">articles 434-13 and 434-14</a>, to five years imprisonment and €75,000 fine or seven years imprisonment and €100,000 fine”</i>. Thus, for a “simple” distortion by the interpreter of the remarks made the penalty is 5 years imprisonment and a €75,000 fine. For a distortion by the interpreter of the remarks made which give rise to the handing-over of a gift or a reward, or if the interpretation concerns a person accused of criminal offences, the penalty is 7 years imprisonment and a €100,000 fine.</p> <p>Ultimately, in practice, when the interpreter/translator does not satisfy the requirements of independence or quality, the magistrates no longer call upon their services.</p>
	<p>b) Is there any procedure in place to ensure that suspects or accused persons have the possibility, when interpretation and translation has been provided, to complain about the quality and independence of the interpretation and translation?</p>	<p>No</p>	<p>According to the Circular of October 31, 2013, the right to translation (as with the right to interpretation) may be the subject of requests and challenges. The request for translation and the challenge of the decision taken will be treated <b>as requests for documents or additional information.</b> Beyond these, the Code of criminal procedure does provide for a procedure for the accused to challenge the quality of the translation or the independence of the person who provided it.</p> <p>Thus, there is no specific procedure to contest an interpretation or translation (in particular the quality of the translation or the independence of the interpreter/translator). If the accused and/or their lawyer believes that a translation is inadequate or that the interpreter/translator is not independent, they must make a request to the judge. Or a preparatory investigation is opened, in which case this request for documentation is made to the investigating judge (article 82-1 of the Code of criminal procedure). If the investigating judge refuses, s/he must provide the legal grounds for the decision within one month of the request. <b>on.</b> Pursuant to Article 186-1 of the Code of Criminal Procedure, the decision of the investigating judge (especially in cases of a refusal) may be appealed before the Investigating Chamber. Before the court, additional information may be requested, consisting of a better quality interpretation/translation or one that is provided by an independent translator/interpreter (article 283 of the Code of criminal procedure for the Court of assizes, article 463 of the Code of criminal procedure for the criminal court, article 538 of the Code of criminal procedure for the Police court); if the court believes the request for translation or a complaint is justified, it asks for it to be proceeded with.</p> <p>In practice, the police can proceed with a notification through an interpreter by telephone. Once the police are sure that the accused understands the rights notified and, thus, the interpreter; they can then call upon that interpreter to act as</p>

			<p>interpreter within the framework of the questioning.</p> <p>It should be noted that in practice, when the accused disputes the quality of the interpretation provided, the relevant authority (police force, magistrate) can ask for another interpreter to be called. Since an inadequate interpretation may lead to the dropping of the procedure, it is important to ensure the quality of interpretation.</p> <p>Equally, a challenge to the quality of interpretation takes place later (i.e. not at the time of interpretation). Thus, during the investigation or the judgement, a accused can challenge the interpretation done during police custody; in this case, the interpreter who is challenged may be called in a capacity of witness to clarify the disagreement of the interpretation; the accused being assisted by another interpreter.</p>
	<p>c) Are there any mechanisms in place that allow for the replacement of the appointed interpreter or a new translation when the quality of the interpretation or the independence of the interpreter is considered insufficient? If yes, briefly provide information.</p>	Yes	<p>According to the Circular of October 31, 2013, the right to translation (as with the right to interpretation) may be the subject of requests and challenges. The request for translation and the challenge of the decision taken will be treated <b>as requests for documents or additional information</b>.</p> <p>Consequently, if the accused challenged the quality of translation or the independence of the translator, they may request the investigating judge or the President of the jurisdiction of judgement to the designate a new translator in order to carry out a new translation of the documents.</p> <p>Within the framework of an <b>investigation</b>, the possibility for the parties to request legal documents appears in article 81 of the CCP. This request is the subject of a declaration to the clerk of the investigating judge. If the investigating judge does not intend to honour the request, they respond with the decision stating the grounds within one month. In the absence of a response in one month, the parties may directly approach the President of the Investigation Chamber.</p> <p>Within the framework of a <b>judgement before the Criminal Court</b>, article 459 of the CCP provides that the parties may make concluding remarks at hearings. They are made through the President and the clerk. The Court is held to answer only concluding remarks made in compliance with the regulations.</p> <p>This provision is applicable to the judgement of the offences according to article 536 of the CCP.</p> <p>Any interpreter who distorts the substance of the words or documents translated also incurs penal sanctions (article 434-18 of the Penal code).</p> <p>In practice, if an interpreter or a translator fulfils their role in an unsatisfactory way, the judges will no longer use them.</p>
3.3	<p>Are there special procedures designed to take into account the special needs of vulnerable suspects or vulnerable accused</p>		

	<p>persons which affect their ability to communicate effectively?<sup>30</sup> If yes, briefly provide information on those mechanisms considering the following vulnerable groups:</p>			
	<p>a) suspect or accused persons with physical impairment or disability;</p>	<p>Yes</p>		<p>The Code of criminal procedure contains various provisions so as to take into account the disability of the accused.</p> <p>In general, according to the D.594-5 article of the CCP, <i>“the right of the suspect or accused to benefit from <b>the assistance of an interpreter</b> pursuant to the provisions of this code also applies to people with <b>speech or hearing difficulties</b>”.</i></p> <p>More specifically, there exist <b>particular provisions</b> according to the stages of the criminal case:</p> <ul style="list-style-type: none"> <li>- Firstly, within the framework of the <b>police phase, for the notification of the rights of police custody, and the allegations, as well as their legal classification</b> which the detainee is accused of, article 63-1 of the CCP provides that if the person suffers from <b>deafness and can neither read nor write</b>, they must be assisted by an <b>interpreter of sign language. Any means making it possible to communicate</b> may also be employed.</li> <li>- Subsequently, at the time of the <b>investigation</b> phase, according to article 121 of the CCP, <i>“if the accused suffers from <b>deafness</b>, the investigating judge names a <b>sign language interpreter</b> or any qualified person able to communicate in a language or a method making it possible to communicate with deaf persons [...] <b>Any technical means making it possible to communicate with the accused may also be employed.</b> If the accused can read and write, the investigating judge can also communicate with them <b>in writing</b>”.</i></li> <li>- Lastly, at the time of the <b>judgement</b>, before the <b>Court of assizes</b>, article 345 of the CCP, provides that if the person suffers <b>deafness</b>, the President names a <b>sign language interpreter</b>. The President can also decide to use <b>any means which allow for communication with this person</b>. If the accused can read and write, it is possible to communicate with them in <b>writing</b>. Article 408 of the CCP provides for the same provision before the <b>criminal court</b>. According to article 535 of the CCP, article 408 of the same code is applicable before the courts for <b>offences</b>.</li> </ul>
	<p>b) suspect or accused persons with intellectual impairment or disability;</p>		<p>No</p>	<p><b>Adults who are protected are those under care, guardianship, or court protection measures; other than these statuses, there are no particular provisions with regard to adults with mental health conditions.</b></p> <p>For <b>guardianship</b>, article 468 of the Civil code provides that the assistance of a guardian is necessary in order to take legal action and to defend oneself.</p> <p>For <b>care</b>, article 475 of the Civil code provides that the person under supervision shall be represented in justice by the carer.</p>

<sup>30</sup> See in particular recital 27 of Directive 2010/64/EU.

				<p>Articles 706-112 and following lay down provisions specific to adults under supervision or guardianship. Thus, it should be underlined that the carer or the guardian may have access to the documents of the procedure, and is advised of decisions of dropping a case, acquittal, diminished responsibility due to a mental disorder, or of a judgment, and they are advised of the date of the hearing, and when they are present at the hearing they may make representations (article 706-113 of the CCP); the protected adult may undergo a medical examination to evaluate their criminal responsibility at the time of the alleged offences (article 706-115 of the CCP).</p> <p>If the adult the subject of a <b>court protection measure</b>, article 706-117 of the CCP provides that the Public prosecutor or the investigating judge informs the judge for supervision orders of the allegations concerning this person. The judge for supervision orders can then designate an agent who during the proceedings disposes of the same rights as those entrusted to the carer or to the guardian, in accordance with articles 706-112 and following of the CCP.</p>
	c) i) children who are suspects/defendants, and/or ii) holders of parental responsibility (please distinguish between the two).		No	<p>According to <b>the Order of 2 February 1945</b>, relating to juvenile offenders, juveniles must be assisted by a legal representative within the framework of a criminal case.</p> <p>Consequently if the minor and/or the legal representative do not understand French, an interpreter or a translator may be used.</p>
3.4	Is there any recording procedure to note that interpretation and translation have occurred and in which form? <sup>31</sup> If yes, briefly provide information on how this procedure is organised in practice.	Yes		<p>The use of an interpreter or a translator must be <b>mentioned within the official report or in the notes of hearing</b>.<sup>32</sup></p> <p>More specifically, article D.594-9 of the CCP provides that when an <b>oral translation</b> of parts of the procedure is provided (in full or in summary), this is recorded in the official report or the notes of hearing. This record may, if necessary, appear in the document itself, in particular in the official report for a summons, or in the official report of the preliminary hearing for a placement in provisional detention or an extension of provisional detention.</p>

<sup>31</sup> See in particular Article 7 and relevant recitals of Directive 2010/64/EU.

<sup>32</sup> France, Circular relative to the presentation of the provisions of law No.2013-711 of 5 August 2013 and decree No.2013-958 of 25 October 2013 relating to the implementation of the right to interpretation and translation within the framework of criminal proceedings (*Circulaire relative à la présentation des dispositions de la loi n° 2013-711 du 5 août 2013 et du décret n° 2013-958 du 25 octobre 2013 relatives à la mise en œuvre du droit à l'interprétation et à la traduction dans le cadre des procédures pénales*), NOR : JUSD1327250C, 31 October 2013, available at : [www.textes.justice.gouv.fr/art\_pix/JUSD1327250C.pdf].

## SECTION B: RIGHT TO INFORMATION IN CRIMINAL PROCEEDINGS

1.	PROVISION OF INFORMATION ON THE PROCEDURAL RIGHTS <sup>33</sup>	Brief Description
1.1		<p><b>Please provide answers to the following for each stage of proceedings as indicated below:</b></p> <p>a) What information is provided?</p> <p>b) How is it provided (e.g. orally or in writing)?</p> <p>c) What is the timeframe (deadline) for providing information at each stage of the proceedings?</p> <p><b>Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.</b></p>
	<ul style="list-style-type: none"> <li>• police questioning;</li> </ul>	<p>a)</p> <p>Within the framework of the police phase, it is important to distinguish between the type of questioning so as to determine the information which is communicated to the person:</p> <ul style="list-style-type: none"> <li>• Police custody</li> </ul> <p>According to article 63-1 of the CP, a person placed in police custody is immediately informed by a judicial police officer, or an agent of the judicial police under their control:</p> <ul style="list-style-type: none"> <li>- Of their placement in police custody and the duration of the measure,</li> <li>- Of the legal classification of the evidence, of the date and place of the alleged offence, and the grounds for the placement in police custody</li> <li>- The rights available to the individual: to inform a close relation and their employer, as well as the consular authorities of the State from which the person originates if they are foreign; to be examined by a doctor; to be assisted by a lawyer; to be assisted by an interpreter; to consult certain documents (official report of notification of rights, medical certificate, official reports of hearings); right to present observations to the Public prosecutor or the Judge of freedoms and detention who would decide on a possible prolongation of measurement; right at the</li> </ul>

<sup>33</sup> See in particular Article 3 and relevant recitals of Directive 2012/13/EU.

time of the hearings to make statements, to answer the questions or to keep silent.

If the detainee suffers from deafness and can neither read or to write, they must be assisted of an interpreter in sign language or by a person able to employ a method to communicate with the accused. If a person held in custody does not speak French, it is necessary to use an interpreter.

This information is provided in a language that is understood and if necessary with the assistance of a form in accordance with Article 803-6 of the CCP.

According to Article 803-6 of the CCP, resulting from law No. 2014-535 of 27 May 2014 (pursuant to Directive 2012/13/UE of the European Parliament and the Council of 22 May 2012 Relating to the right to information within the framework of the criminal proceedings): 'Any suspect or accused person who is subject to a measure involving deprivation of liberty pursuant to a provision of this code shall, at the time of the notification of this measure, be provided with a document stating in simple and accessible terms and in a language which they understand, the following rights they have during the procedure pursuant to the present code:

1. The right to be informed of the nature, the date, and the place of the alleged offence;
2. The right during interviews or questioning to make statements, to answer the questions which are asked, or to remain silent;
3. The right to access a lawyer;
4. The right to interpretation and translation;
5. The right to access the case file;
6. The right that at least one third-party and, if necessary, the consular authorities of their country of origin, are informed of the measure of deprivation of liberty;
7. The right to be examined by a doctor;
8. The right to be informed of the maximum number of hours or days for which they may be held before appearing before a legal authority;
9. The right to know the means of disputing of the legality of the arrest, to obtain a re-examination of their deprivation of liberty or to ask to be released.

The person is authorized to keep this document throughout their detention.

If the document is not available in a language understood by the person, this person is verbally informed of their rights provided for in the present article in a language which they understand. Information given is mentioned in an official report. A version of the document in a language which they understand is then



given to the person without delay '.

- The Free Hearing

According to Article 61-1 of the CCP, a person with regard to whom there are plausible reasons to suspect that they have committed or have attempted to commit an offence may be questioned freely on these allegations. Information which must be notified to them is as follows:

- The classification, the date and the alleged place of the offence
- The right to be assisted by an interpreter
- The right to make statements, to answer questions or to remain silent
- The right to be assisted by a lawyer if the offence is a crime or an offence carrying a prison sentence
- The right to legal counsel in an organisation for access to rights.

- Hearing of a witness

According to article 62 of the CCP, within the framework of the police investigation, the witness is a person for whom there is no plausible reason to suspect that they have committed or have attempted to commit an offence. They are questioned without constraint for the time strictly necessary for the interview, for a maximum duration of four hours.

b)

The detainee, according to article 63-1 of the CCP, is orally informed of their rights in a language that is understood and, if necessary, with the assistance of a written document as provided for by article 803-6 of the CCP. This document states, in simple and accessible terms and in a language which is understood, the rights of the detainee. Information relating to rights is mentioned in the official report.

Article 63-1 of the CCP states that the document stating the rights of the detainee (appearing in article 803-6 of the CCP) can 'if necessary' be used to help with the verbal statement of rights from which the accused benefits. However, article 803-6 of the CCP states that the document where these rights appear is necessarily communicated to the

	<p>detainee (whether or not they speak French). The people questioned for this report (police officers) state that in practice, since the reform of 27 May 2014 which established article 803-6 of the CCP, the document is systematically given <sup>34</sup> to any person placed in police custody.</p> <p>Within the framework of the free hearing, according to article 61-1 of the Code of criminal procedure, information relating to rights, communicated to the suspected person, is carried out orally. It is mentioned in the official report</p> <p>c) For the detainee, according to article 63-1 of the CCP, the notification of rights to the detainee in a language that is understood must be carried out immediately, therefore at the time they are detained by the police.</p> <p>Within the framework of the free hearing, according to article 61-1 of the Code of criminal procedure, information relating to rights, communicated to the suspected person, must be carried out before they are interviewed.</p>
<ul style="list-style-type: none"> <li>• court hearings;</li> </ul>	<p>a) Within the framework of the judgement, it is necessary to distinguish between the relevant courts:</p> <ul style="list-style-type: none"> <li>• Court of Assizes</li> </ul> <p>The committal to trial notification from the investigation judge contains the legal classification of the evidence against the defendant (article 183 of the CP). According to article 273, in its drafting resulting from law No.2014-535 of 27 May 2014, the President of the Court of assizes, before proceeding with the questioning of the defendant, informs them, if necessary, of their right to be assisted by an interpreter. According to article 274 of the Code of criminal procedure, the defendant is invited to appoint a lawyer to assist them. Lastly, according to article 328 of the Code of criminal procedure, the President of the Court of assizes can question the defendant only after having informed them of their right to answer the questions, to make statements or to remain silent.</p>

<sup>34</sup> As mentioned just above, the delivery of the document is accompanied by a verbal notification, if necessary with the help of a translator (Article 63-1 of the CCP).

		<ul style="list-style-type: none"> <li>• Criminal court</li> </ul> <p>The alleged offence and the right to lawyer are recorded in the summons notification of the accused.</p> <p>According to article 406 of the CP, in its drafting resulting from the law no. 2014-535 of May 27, 2014, the President of the Criminal Court or one of the assessors informs, if necessary, the accused of their right to be assisted by an interpreter and of their right at the time of the hearings to make statements, to answer the questions or to remain silent.</p> <ul style="list-style-type: none"> <li>• Police court (Tribunal de police)</li> </ul> <p>According to article 535 of the CCP, article 406 of the same code is applicable before the Police court.</p> <p>During the announcement of the decision, the accused is informed of their right of appeal.</p>
		<p>b)</p> <p>This is an oral notification mentioned in the official report. Within the framework of the interview, the notification is made verbally. However certain rights could have been notified in writing in the court referral notice.</p> <p>Thus, the investigating judge's decision must mention the allegations and their legal classification.</p> <p>Similarly, a referral to the criminal court or the police by the Public Prosecutor is carried out in rem, that is to say on the allegations (even if the court is able to re-classify the alleged offence), and thus the allegations and their legal classification must be stated. More specifically:</p> <ul style="list-style-type: none"> <li>• For a direct summons, article 551 of the CCP lays out that the summons must identify the allegations and the law which outlaws them.</li> <li>• For a convocation by official report (procès-verbal), article 390-1 of the CCP lays out that it must contain the allegations and the law which outlaws them, and state the right to a lawyer, and the right to legal advice.</li> <li>• For a warning delivered by the Public Prosecutor, article 389 of the CCP lays out that it must contain the alleged offence and the law which provides for this.</li> </ul>
		<p>c)</p> <p>The notification of rights is carried out at the beginning of the preparation for the hearing, before the questioning of the accused begins.</p> <p>For the Court of assizes, information on rights proceeds within the framework of the</p>

preparatory procedure for assizes; according to article 277 of the Code of criminal procedure, the hearing cannot open less than 5 days after questioning by the President (and thus the informing of rights) of the defendant.

a)

Within the framework of the investigation, it is important to distinguish according to the status of the suspect:

- For the **accused**

According to article 114 of the CP, the questioning of the first appearance can be carried out only in the presence of a lawyer, unless the accused renounces this right.

Article 116 of the CCP provides that, 'after having informed the accused, if necessary, of their right to be assisted by an interpreter, the investigating judge states the identity of the person and expressly informs them, by specifying the legal nature, of each allegation of which they are charged and which the investigation concerns'.

The following sub-paragraph relates to informing of the right to translation of the essential documents of the procedure.

Article 116 sub-paragraph 4 of the CCP mentions that the person is informed of their right to make statements, to answer the questions or to remain silent.

Moreover, it is possible to specify that in the event of recourse to **provisional detention**, article 803-6 of the CCP must be applied. According to this article any suspect or accused person who is subject to a measure involving deprivation of liberty shall, at the time of the notification of this measure, be provided with a document stating in simple and accessible terms and in a language which they

- any necessary interim hearings;

		<p>understand, the rights that they have. Among these rights is the right to an interpreter or a translator. The person is authorized to keep this document throughout their detention. If such a document does not exist in the language of the suspect or accused, the notification is given orally (information given is recorded in the official report). A document in a language that is understood is given to them at later point.</p> <ul style="list-style-type: none"> <li>• For the <b>assisted witness</b> Article 113-4 of the CCP specifies that, <b>during the first hearing</b> of the assisted witness, the investigating judge informs them of the introductory indictment, the complaint or the accusation, informs them of their right to silence as well as the rights mentioned in article 113-3 of the CCP (that is to say, the right to lawyer, the right to interpretation and translation, and the right to ask for a witness confrontation. The investigating judge may, by sending a registered letter, inform a person that they will be heard in the capacity of assisted witness; this letter includes information on the rights previously stated.</li> </ul>
		<p>b) This is an oral notification.</p>
		<p>c) The notification of the right to an interpreter and a translator is carried out at the beginning of the questioning by the investigating judge.</p>
	<ul style="list-style-type: none"> <li>• any communication between suspects and accused persons and their legal counsel in direct connection with any questioning or hearing during the proceedings?</li> </ul>	<p>a) It is the official authorities of the police and justice which must proceed with the notification of the procedural rights of the accused. Additionally, the assistance which the lawyer provides to the client requires that the client be reminded of these rights, or some of them, according to the stages of the procedure. Nevertheless, provision of such information is not subject to any particular regulation.</p>
		<p>b) See response to point 1.1. a)</p>
		<p>c) See response to point 1.1. a)</p>

1.2	Do authorities provide information about any other procedural rights (apart from those established in Article 3 of the Directive)? If yes, briefly provide information.	YES Information on the right to access the case file. <sup>35</sup>
2.	<b>LETTER OF RIGHTS<sup>36</sup></b>	<b>Brief Description</b>
2.1	What rights does the letter of rights provide information about? What information is included in the letter of rights when children are arrested or detained?	<p>Article 803-6 of the CCP includes the contents of article 4 (Declaration of rights during arrest) of Directive 2012/13UE of the European Parliament and the Council of 22 May 2012.</p> <p>According to article 803-6 of the CCP, resulting from law No. 2014-535 of 27 May 2014: <i>'Any suspect or accused person who is subject to a measure involving deprivation of liberty pursuant to a provision of this code shall, at the time of the notification of this measure, be provided with a document stating in simple and accessible terms and in a language which they understand, the following rights they have during the procedure pursuant to the present code:</i></p> <ol style="list-style-type: none"> <li><i>1 The right to be <b>informed of the nature, the date, and the place of the alleged offence</b> ;</i></li> <li><i>2 The right during interviews or questioning <b>to make statements, to answer the questions which are asked, or to remain silent</b> ;</i></li> <li><i>3. The right to <b>access a lawyer</b>;</i></li> <li><i>4 The <b>right to interpretation and translation</b>;</i></li> <li><i>5 The right to <b>access the case file</b> ;</i></li> <li><i>6. The right that at least one <b>third-party</b> and, if necessary, the <b>consular authorities</b> of their country of origin, are informed of the measure of deprivation of liberty;</i></li> <li><i>7 The right to be examined by a <b>doctor</b> ;</i></li> <li><i>8 The <b>right to be informed of the maximum number of hours or days for which they may be held before appearing before a legal authority</b>;</i></li> <li><i>9 The right to <b>know the means of disputing of the legality of the arrest, to obtain a re-examination of their deprivation of liberty or to ask to be released.</b></i></li> </ol> <p><i>The person is authorized to keep this document throughout their detention.</i></p> <p><i>If the document is not available in a language understood by the person, this person is verbally informed of their rights provided for in the present article in a language which they understand. Information given is mentioned in an official report. A version of the document in a language which they understand is then given to the person without delay '.</i></p>

<sup>35</sup> France, Code of criminal proceedings (Code de procédure pénale), article 803-6, available at: [www.legifrance.gouv.fr/affichCode.do;jsessionid=C373E11C5EE2566E3EB2C16E67D26203.tpdila08v\_2?idSectionTA=LEGISCTA000006151952&cidTexte=LEGITEXT000006071154&dateTexte=20150628].

<sup>36</sup> See in particular Article 4 and relevant recitals of Directive 2012/13/EU.

		<p>If the accused is a <b>minor</b>, article 4 of the Order of 2 February 1945,<sup>37</sup> relative to juvenile offenders refers to article 803-6 of the CCP. Consequently, although the notification provided for in article 803-6 of the CCP is the same, due to the age of the suspect, the implementation of their rights differs. For example, a doctor must obligatorily be seen (for a 16 year old minor), and the legal representatives must be informed of the measure of police custody.</p>
<p><b>2.2</b></p>	<p>At what stage of the proceedings is the letter of rights provided? <b>Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.</b></p>	<p>Article 803-6 of the Code of criminal procedure provides that the document stating the rights of the accused must be given to the suspect or the accused who is subject to a measure of deprivation of liberty provided for by the Code of criminal procedure. The targeted phases are therefore the police phase (more particularly police custody) and that of the investigation (more particularly the challenge to provisional detention).</p> <p>The people questioned for this report (police officers) state that in practice, since the reform of 27 May 2014 which established article 803-6 of the CCP, the document is systematically given <sup>(38)</sup> to any person placed in police custody.</p> <p>Certain precisions are provided by the <b>Circular of 23 May 2014</b>,<sup>39</sup> on the presentation of the provisions for criminal proceedings applicable on 2 June 2014 for the law transposing Directive 2012/13/UE of the European Parliament and the Council of 22 May 2012 relating to the right to information within the framework of criminal proceedings, NOR: JUSD1412016C. This general provision applies to persons:</p> <ul style="list-style-type: none"> <li>• Placed in police custody; or in the case of the detention of a minor aged 10 to 13 years (article 4 of the Order of 2 February 1945); or for detention by the customs services (article 323-6 of the Code of customs);</li> <li>• Placed in provisional detention during an investigation (the declaration must be given at the end of the hearing before the judge for freedoms and detention);</li> <li>• Placed in provisional detention after being stopped on a warrant for arrest after the referral order before the jurisdiction of judgement;</li> <li>• Placed in provisional detention by the Criminal Court referred to in accordance with the procedure for immediate appearance when the case is adjourned to a later hearing with the person being held in detention (the declaration must be given by the clerk's office and be recorded in the notes of hearing);</li> <li>• Detained by the magistrate delegated by the first President following a European warrant for arrest.</li> </ul>

<sup>37</sup> France, Order relative to juvenile offenders (*Ordonnance relative à l'enfance délinquante*), 2 February 1945, available at: [www.legifrance.gouv.fr/affichTexte.do?cidTexte=LEGITEXT000006069158].

<sup>38</sup> As mentioned just above, the delivery of the document is accompanied by a verbal notification, if necessary with the help of a translator (Article 63-1 of the CCP).

<sup>39</sup> France, Circular on the presentation of the provisions for criminal proceedings applicable on 2 June 2014 for the law transposing Directive 2012/13/UE of the European Parliament and the Council of 22 May 2012 relating to the right to information within the framework of criminal proceedings (*Circulaire de présentation des dispositions de procédure pénale applicables le 2 juin 2014 de la loi portant transposition de la directive 2012/13/UE du Parlement européen et du Conseil, du 22 mai 2012 relative au droit à l'information dans le cadre des procédures pénales*), NOR: JUSD1412016C, 23 May 2014, available at: [www.textes.justice.gouv.fr/art\_pix/JUSD1412016C.pdf].

<p><b>2.3</b></p>	<p>Is the letter of rights drafted in simple and accessible language? How do competent authorities verify whether the language is simple and accessible enough for the suspects or accused persons and/or that the suspects or accused persons understand the language? <b>Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.</b></p>	<p>Article 803-6 of the CCP states that <i>'Any suspect or accused person who is subject to a measure involving deprivation of liberty pursuant to a provision of this code shall, at the time of the notification of this measure, be provided with a document stating in <b>simple and accessible terms and in a language which they understand</b>, the rights [...] they have during the procedure'</i></p> <p>A verification of the correct understanding of the document by the person deprived of liberty by the competent authorities is not provided for by the Code of Criminal Procedure. In general, when the document given is in the language spoken by the individual, comprehension problems do not come under the remit of authority which provides the document. It is the services of the Ministry who must make sure that the document is accessible. According to police officers met, as soon as they have determined the language spoken by the accused, they give them a document in this language. If the document is written in terms that are difficult to understand, this is not the responsibility of the police; if such a case were to arise, it is the services of the Ministry for Justice who are responsible for amending the document for better comprehension.</p> <p>Nevertheless, although this document is designed so as to be understood easily by the average individual, it may be that some people do not understand the document.</p> <p>Thus, in practice, the case of the person not understanding the document properly is similar to that of the person for whom the document is not written in their language. In this case, the proper authority must use an interpreter for an oral notification. Such a process could be employed in the case of the person not understanding the document which is given to them.</p> <p>Effectively, when the interpreter is present, the police ensure, through the interpreter, that the document stating the rights, given at the time of the loss of liberty, is understood.</p> <p>In addition to the interpreter, the lawyer of the accused, the Judicial police officer or the judge for freedoms and detention can explain to the accused the rights that are printed in the document.</p> <p>Lastly, it is important to stress that the rights printed in the document have already been notified in a language that is understood (this is particularly true for provisional detention), they are likely to be known by the accused.</p>
<p><b>3.</b></p>	<p><b>RIGHT TO INFORMATION ABOUT THE ACCUSATION<sup>40</sup></b></p>	<p><b>Brief Description</b></p>
<p><b>3.1</b></p>	<p>What information is provided to the suspects or accused persons regarding what they have been accused of and how is it provided (e.g. orally or in writing)</p>	<p>Information provided on the alleged offence depends on the stage of the proceedings.</p> <ul style="list-style-type: none"> <li>• <b>Police phase</b> According to article 61-1 of the CCP, a person being the subject of a <b>free hearing</b> is, before being heard, informed of their rights. Among the information communicated appears the following related to the offence: <i>"the legal classification, the date and the alleged place of the offence that they are suspected of having committed or attempted to commit"</i>. According to article 63-1, a person placed in <b>custody</b> is immediately informed of certain rights. Among these rights appears information on the offence: <i>"the legal classification, the date and the alleged place of the offence that they are suspected of having committed or attempted to commit"</i>. This is an oral notification which may be accompanied by a written form (if the person does not sufficiently understand French).</li> </ul>

<sup>40</sup> See in particular Article 6 and relevant recitals of Directive 2012/13/EU.



		<ul style="list-style-type: none"> <li>• Phase of investigation According to article 116 sub-paragraph 2 of the CCP, at the beginning of questioning, after having checked the identity of the person, the investigating judge “<i>informs the suspect, by specifying their legal classification, each allegation of which they are accused and for which an <b>investigation</b> is planned</i>”.</li> <li>For the <b>assisted witness</b>, article 113-4 of the CCP provides that during the first hearing and after having stated their identity, the investigating judge informs them of the introductory indictment, the complaint or the accusation (thus providing information on the evidence) These notifications are given orally.</li> <li>• Phase of judgement Within the framework of the phase of judgement, the President of the <b>Court of assizes</b> presents in a concise way the offences alleged of the accused as stated in the referral decision. At the end of this presentation, the President reads out the legal classification of the alleged offences (article 327 of the CCP). Before the <b>Criminal Court</b>, the President or one of the assessors informs the accused of the prosecution notice referral to the Court, including the alleged offences and their legal classification (article 406 of the CCP). Before the <b>Police court</b>, the rules of article 406 of the CCP for criminal proceedings are applicable (article 535 of the CCP). This notification is given orally.</li> </ul>
3.2	At which stage of the proceedings is the information provided? <b>Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.</b>	Information on the alleged offences and their legal classification is provided at each stage of the criminal proceedings. See the response to point 3.1.
3.3	How are suspects or accused persons informed when, in the course of the criminal proceedings, the details of the accusation change?	<p>The principle is that if the legal classification of the evidence changes, it is necessary to proceed with a new notification. This new notification is carried out according to the same means as for the initial classification according to the stage of the criminal proceedings that the accused is part of.</p> <p>Thus, in framework of phase police, article 65 of CCP provides that, if during <b>police custody</b>, the person is interviewed for another offence and that there are plausible reasons to suspect them, they must be the subject of a new notification of rights, particularly the information mentioned in article 61-1-1 of the CCP, namely the classification of the evidence, the date, and the supposed place of the offence.</p>

		<p>Equally, at the time of the phase of investigation, it may be that following being <b>charged</b>, the legal classification of the evidence is modified. It is possible to distinguish two cases: the modifying charge, and the suppletive charge.<sup>41</sup> A <b>put in examination modifying</b> consists in modifying the legal classification initially retained without adding new evidence. According to article 118 of the CCP in the event of passage of a criminal classification to a criminal classification, the investigating judge must proceed to a new notification of the classification (from now on retained) with the person. Beyond this assumption, and although that is not specified in the law, it falls to the judge to proceed to a new notification within the framework of the questioning of put in examination (articles 114 and following of the CCP).</p> <p>The <b>put in examination suppletive</b> is an act of the investigating judge which extends the setting in examination to new evidence (for which it would have been seized by an indictment back-up troop). According to jurisprudence, the investigating judge must proceed to the notification of the additional classification (Crim., 2 February 1928, <i>Bull. crim.</i> No. 45; Crim., 27 July 1970, <i>Bull. crim.</i> No. 249; Crim., 24 June 1980, <i>Bull. crim.</i> No. 204).<sup>42</sup> However the investigating judge does not have to repeat all the formalities of article 116 of the CCP: identity check, notification of rights etc.</p>
4.	<b>RIGHT OF ACCESS TO CASE MATERIALS<sup>43</sup></b>	<b>Brief Description</b>
4.1	What material evidence can be accessed by suspected or accused persons (e.g. documents, photographs, audio, video, summaries...)?	<p><b>The parts of the case file for the proceedings that the accused has access to depend on the stages of the criminal proceedings.</b></p> <ul style="list-style-type: none"> <li>• <b>Police phase</b> According to article 63-4-1 of the CCP, the detained person and their lawyer can consult certain documents: the <b>official report of notification of rights</b> during the placement in police custody, the <b>medical certificate</b>, and the <b>official reports of hearings</b> of the person. The documents that the lawyer has the right to consult according to article 63-4-1 of the CCP are placed at their disposal. If ever these documents are not placed at their disposal, the lawyer simply has to ask for them from the judicial police officer who provides them immediately. This latter eventuality arose in particular a short time after the introduction of the law of April 14, 2011, since the presentation of these documents had not yet become common practice by members of the police force.</li> <li>• <b>Phase of investigation</b> According to article 114 of the CCP, the <b>case file for the proceedings is placed at the disposal of lawyers four working days at the latest before each questioning</b> of the accused person or each hearing of the civil party. <b>The file is also placed at the disposal of lawyers during working days</b> subject to the normal working conditions of the cabinet of investigation. After the first questioning or the first hearing, the parties may request a <b>copy of all or part of the documents and notifications in</b></li> </ul>

<sup>41</sup> For a detailed analysis of these modifying and suppletive charges, see: France, Desportes, F, Lazerges-Cousquer, L. (2013), *Treatise on criminal proceedings*, Economica, coll. Corpus Droit privé, 3rd ED., No. 1767 and following, p.1165 and following.

<sup>42</sup> France, Court of cassation, Criminal Chamber (*Cour de cassation, Chambre criminelle*), Decision, 2 February 1928, *Bull. crim.* no. 45; France, Court of cassation, Criminal Chamber (*Cour de cassation, Chambre criminelle*), Decision, 27 July 1970, *Bull. crim.* no. 249; France, Court of cassation, Criminal Chamber (*Cour de cassation, Chambre criminelle*), Decision, 24 June 1980, *Bull. crim.* no. 204.

<sup>43</sup> See in particular Article 7 and relevant recitals of Directive 2012/13/EU.

		<p><b>the file.</b> The handing-over of this copy must occur within a month of the request. If the file has been computerised, the copy is given in computerised form.</p> <p>The file given to lawyer must contain all the parts of the procedure existing to date (Crim., August 4, 1998, <i>Bull. crim.</i> No.222; Crim., January 29, 2003, <i>Bull. crim.</i> No.22).</p> <p>The file must be communicated to the lawyer.</p> <p>The provision of the first copy of each document or notification in the file is free.</p> <ul style="list-style-type: none"> <li>• Phase of judgement</li> </ul> <p>The principle of the <b>adversarial hearing</b> supposes that the <b>parties at the hearing must be informed beforehand of the other party's evidence</b> (Crim., January 15, 1979, <i>JCCP G 1979, IV, 100</i>).<sup>44</sup> Thus, according to article R.155 of the CCP, for criminal or police cases, documents from proceedings may be provided. The provision of these documents is carried out on the request of the parties and for certain documents it is further necessary to acquire the authorization of the Prosecutor General or Public Prosecutor (R.155 article of the CCP). If the file has been computerised, this copy is given in computerised form. The first copy of the documents of the procedure is given free (R.165 article of the CCP).</p> <p>More precisely, for the <b>Court of assizes</b>, according to article 279 of the CCP (in its drafting resulting from law No. 2014-535 of 27 May 2014), <i>"each of the accused and civil parties are provided with copies of documents from the procedure"</i>.</p> <p>For the <b>Criminal Court</b>, article 388-4 of the CCP (resulting from law No. 2014-535 of 27 May 2014) provides that in the event of prosecution by direct committal or summons by the Judicial police, the lawyers for the parties can consult the file of the procedure at the clerk's office of the High Court (Tribunal de grande instance) at the time of the direct committal or at the latest two months after the notification of the summons. The application Circular dated 23 May 2014 specifies the right of direct consultation by the parties themselves was not provided for because that would have required the provision of monitoring at the time of the consultation, due to the risk of an individual who is not part of the justice system, unlike lawyers, destroying or concealing documents from the procedure.</p> <p>For the Police court, article 533 of the CCP provides that article 388-4 of the same code is applicable for criminal proceedings.</p>
4.2	<p>At what stage of the proceedings is access to case materials granted? <b>Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.</b></p>	<p><b>Access to parts of the file is authorized at all the stages of the procedure. However, this access is greater when the procedure is advanced.</b><sup>45</sup></p> <p>See the response to point 4.1.</p>

<sup>44</sup> France, Court of cassation, Criminal Chamber (*Cour de cassation, Chambre criminelle*), Decision, 15 January 1979, *JCCP G 1979, IV, 100*.

<sup>45</sup> France, law enforcement officers; magistrates.

4.3	Under what circumstances is access to material refused? Who takes the decision of refusal?	<p><b>The event of a refusal to grant access to the file is provided for in the case of the preparatory investigation.</b> At the time of this phase of the criminal case, according to article 114 of the CCP, the investigating judge has five working days as from the reception of the request to oppose to the handing-over of all or part of the copies requested or their reproductions to the parties.</p> <p>The investigating judge proceeds by a specifically grounded ruling with regard to the risks of pressure on the victims, the accused, their lawyers, the witnesses, the investigators, the experts or any other person contributing to the procedure.</p> <p>This decision is notified to the parties who have two days to submit the decision of the investigating judge to the President of the chamber of investigation. This is not an actual appeal but a power of the President of the chamber of investigation who the party can address directly in the event of a refusal by the investigating judge.</p> <p>A Circular dated 3 August 2001 provides that such opposition by the investigating judge to the inspection of files is an exceptional case.</p>
5.	<b>CROSS-CUTTING ISSUES: LANGUAGES, COMPLAINT MECHANISMS, RECORDING &amp; SPECIAL MEASURES<sup>46</sup></b>	<b>Brief Description</b>
5.1	In which languages can information be provided for the following?	
	a) information on procedural rights	In a language understood by the accused.
	b) letter of rights	<p>In a language understood by the accused.</p> <p>Currently the document is translated into the following languages: Albanian-German -English -Arabic -Armenian -Bosnian -Bulgarian - Cantonese -Spanish - Georgian - Hungarian -Italian -Mandarin -Mongolian - Dutch -Urdu - Peul (Fula/Fulani) -Polish - Portuguese -Romani - Romanian -Russian -Serbo-Croatian - Sinhalese - Slovak -Tamil - Czech - Turkish - Ukrainian.</p> <p>It should be noted that this list is fluid, the Ministry for Justice has added to it since the reform of May 27, 2014 and that sometimes, according to the procedures, some of these languages may not be available.</p>

<sup>46</sup> See in particular Articles 3 - 8 and relevant recitals of Directive 2012/13/EU.

	c) information about the accusation	In a language understood by the accused.		
	d) case materials	Possibility of obtaining translation of all or part of the documents from the file.		
		<b>Yes</b>	<b>No</b>	<b>Brief Description</b>
<b>5.2</b>	Is there any procedure to ensure that suspects or accused persons have the right to challenge the failure or refusal to provide information on the following? <b>If yes, briefly describe the procedure where relevant.</b>			
	a) information on procedural rights	Yes		<p><b>It is important to distinguish between the stages of the procedure</b></p> <ul style="list-style-type: none"> <li>• The police phase According to article 63-1 of the CCP, the <b>person placed in police custody is immediately informed</b> in a language that is understood (using a written form if needed) of the charge against them and the rights that they have.</li> </ul> <p>According to jurisprudence of the Court of Cassation, any delay in the meeting of this obligation, not justified by insurmountable circumstances, necessarily breaches the rights of defence and leads to the <b>termination</b> of the police custody, particularly the questioning carried out during this (Crim., December 6, 2000, <i>Bull. crim.</i> No.367; Crim., May 31, 2007, <i>Bull. crim.</i> No.146; Crim., June 24, 2009, <i>Bull. crim.</i> No.136).<sup>47</sup> In practice, and in accordance with article 63-1 of the CCP, mention of this notification of rights is made in the official report during police custody; the person placed in police custody initials this document (in the event of refusal to initial the document, mention is made of this in the official report). This document includes in particular the time of the placement in police custody and the time of notification of rights. Consequently, it is possible to establish any delay in the notification of rights. An unavoidable event which justifies</p>

<sup>47</sup> France, Court of cassation, Criminal Chamber (*Cour de cassation, Chambre criminelle*), Decision, 6 December 2000, *Bull. crim.* No.367; France, Court of cassation, Criminal Chamber (*Cour de cassation, Chambre criminelle*), Decision, 31 May 2007, *Bull. crim.* No.146; France, Court of cassation, Criminal Chamber (*Cour de cassation, Chambre criminelle*), Decision, 24 June 24 2009, *Bull. crim.* No.136.

			<p>later notification is permissible under rigorous jurisprudence; thus such as when the police station is besieged by demonstrators (Crim., April 10, 1996, <i>Gaz. Pal.</i> 1996, 2, 136)<sup>48</sup> or when the health of the accused justifies a transfer to hospital (Crim., November 27, 2007, <i>Criminal Law</i> 2008, Com. No.40).<sup>49</sup></p> <ul style="list-style-type: none"> <li>• The investigation</li> </ul> <p>A <b>failing in the provision of information</b> on procedural rights or those concerning the charge against the suspect (alleged offence and legal classification) may lead to <b>the cancellation of hearing</b>; (Crim., 30 December 1927, <i>DP</i> 1929, I, 55 ; Crim., 15 March 1973, <i>Bull. crim.</i> n°134, <i>D.</i> 1973, p.338, note P.F. Crim., December 12, 2001, <i>Bull. crim.</i> No.267 ; Crim., February 27, 2002, No.01-84.833).<sup>50</sup> Thus, if, within the official record of the interview hearing, no mention is made about with this information on the rights of the accused, the lawyer of the accused can go to the Investigation Chamber and request the case to be dropped.</p> <p>This cancellation relates to the committal itself and the subsequent procedure when the related parts originate from the cancelled committal.</p> <ul style="list-style-type: none"> <li>• The judgement</li> </ul> <p>Within the framework of the procedure <b>of assizes</b>, with representation by a lawyer being obligatory, the procedural rights relate to the right to an interpreter from article 273 of the CCP (in its drafting resulting from law No. 2014-535 of 27 May 2014) and the right to silence, stated in article 328 of the CCP (in its drafting resulting from law No. 2014-535 of 27 May 2014). Although because of the recent nature of the reform the Court of cassation has not expressed itself on this point, taking into consideration other procedural methods applicable to the hearing of assizes, such information must be provided otherwise the case may be dropped. It must thus be mentioned in the official record of the interview that this information was provided.</p> <p>In the framework of the criminal <b>procedure</b>, information from the President on the procedural rights of the accused appear in articles 406 of the CCP (right to silence, right to an interpreter) and 417 of the CCP (right to a lawyer). In practice, although a failing in this notification may open the right to have the case dropped, due to the advanced state of</p>
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<sup>48</sup> France, Court of cassation, Criminal Chamber (*Cour de cassation, Chambre criminelle*), Decision, 10 April 1996, *Gaz. Pal.* 1996, 2, 136.

<sup>49</sup> France, Court of cassation, Criminal Chamber (*Cour de cassation, Chambre criminelle*), Decision, 27 November 2007, *Criminal Law* 2008, Com. No.40

<sup>50</sup> France, Court of cassation, Criminal Chamber (*Cour de cassation, Chambre criminelle*), Decision, 30 December 1927, *DP* 1929, I, 55 ; France, Court of cassation, Criminal Chamber (*Cour de cassation, Chambre criminelle*), Decision 15 March 1973, *Bull. crim.* n°134, *D.* 1973, p.338; France, Court of cassation, Criminal Chamber (*Cour de cassation, Chambre criminelle*), Decision 12 December 2001, *Bull. crim.* No.267 ; France, Court of cassation, Criminal Chamber (*Cour de cassation, Chambre criminelle*), Decision 27 February 2002, No.01-84.833.

				<p>the procedure, demonstrating a grievance, which is necessary according to article 803 of the CCP, will be difficult to establish.</p> <p>Within the framework of the procedure as regards <b>offences</b>, article 535 of the CCP refers to article 406 of the same code. The situations concerning information in connection with this right are thus the same.</p>
	b) letter of rights	Yes		<p>The law of 27 May 2014 establishing article 803-6 of the CCP does not expressly provide for the consequences of a failure to provide this document as a written notification of the rights that a suspect who is deprived of liberty has, it is necessary to await the position of the Court of cassation on this point. Nevertheless, in the light of the position of jurisprudence in connection with the late notification of rights<sup>51</sup>, in the event that this document is not provided to a suspect not speaking French, it is possible that the case may be dropped.</p>
	c) information about the accusation	Yes		<p>It is important to distinguish between the stages of the procedure</p> <ul style="list-style-type: none"> <li>• The police phase</li> </ul> <p>According to article 63-1 of the CCP, the <b>person placed in police custody is immediately informed</b> in a language that is understood (using a written form if needed) of the charge against them and the rights that they have.</p> <p>According to jurisprudence of the Court of Cassation, any delay in the meeting of this obligation, not justified by insurmountable circumstances, necessarily breaches the rights of defence and leads to the <b>termination</b> of the police custody, particularly the questioning carried out during this (Crim., December 6, 2000, <i>Bull. crim.</i> No.367; Crim., May 31, 2007, <i>Bull. crim.</i> No.146; Crim., June 24, 2009, <i>Bull. crim.</i> No.136).<sup>52</sup>In practice, and in accordance with article 63-1 of the CCP, mention of this notification of the charge is made in the official record during police custody; the person placed in police custody initials this document (in the event of refusal to initial the document, this is recorded in the official record). This document includes in particular the time of the placement in police custody and the time of notification of the charge. Consequently, it is possible to establish any delay in the notification of rights. An unavoidable event which justifies later notification of the charge is permissible under rigorous jurisprudence; thus such as when the police station</p>

<sup>51</sup>France, Court of cassation, Criminal Chamber (*Cour de cassation, Chambre criminelle*), Decision, 30 April 1996, *Bull. crim.* No.18; France, Court of cassation, Criminal Chamber (*Cour de cassation, Chambre criminelle*), Decision, 3 December 1996, *Bull. crim.* No. 443; France, Court of cassation, Criminal Chamber (*Cour de cassation, Chambre criminelle*), Decision, 18 June 1998, *Bull. crim.* No.200; France, Court of cassation, Criminal Chamber (*Cour de cassation, Chambre criminelle*), Decision, 10 May 2000, *Bull. crim.* No.182; France, Court of cassation, Criminal Chamber (*Cour de cassation, Chambre criminelle*), Decision, 11 October 2000, *Bull. crim.* No.296; France, Court of cassation, Criminal Chamber (*Cour de cassation, Chambre criminelle*), Decision 6 December 2000, *Bull. crim.* No.367; France, Court of cassation, Criminal Chamber (*Cour de cassation, Chambre criminelle*), Decision, 2 May 2002, appeal No.01-88453; France, Court of cassation, Criminal Chamber (*Cour de cassation, Chambre criminelle*), Decision, 24 June 2009, *Bull. crim.* No.136).

<sup>52</sup> France, Court of cassation, Criminal Chamber (*Cour de cassation, Chambre criminelle*), Decision, 6 December 2000, *Bull. crim.* No.367; France, Court of cassation, Criminal Chamber (*Cour de cassation, Chambre criminelle*), Decision, 31 May 2007, *Bull. crim.* No.146; France, Court of cassation, Criminal Chamber (*Cour de cassation, Chambre criminelle*), Decision, 24 June 2009, *Bull. crim.* No.136.

			<p>is besieged by demonstrators (Crim., April 10, 1996, <i>Gaz. Pal.</i> 1996, 2, 136) or when the health of the accused justifies a transfer to hospital (Crim., November 27, 2007, <i>Criminal Law</i> 2008, Com. No. 40).<sup>53</sup></p> <ul style="list-style-type: none"> <li>• The investigation</li> </ul> <p>A <b>failing in the provision of information</b> on procedural rights or those concerning the charge against the suspect (alleged offence and legal classification) may lead to <b>the cancellation of hearing</b>; (Crim., 30 December 1927, <i>DP</i> 1929, I, 55 ; Crim., 15 March 1973, <i>Bull. crim.</i> n°134, <i>D.</i> 1973, p.338, note P.F. Crim., December 12, 2001, <i>Bull. crim.</i> No.267 ; Crim., February 27, 2002, No.01-84.833).<sup>54</sup> Thus, if within the official record of the interview, no mention is made about this information on the charge against the accused, the lawyer of the accused can go to the Investigation Chamber and request the case to be dropped.</p> <p>This cancellation relates to the committal itself and the subsequent procedure when the related parts originate from the cancelled committal.</p> <ul style="list-style-type: none"> <li>• The Judgement</li> </ul> <p>Within the framework of the phase of judgement, the President of the <b>Court of assizes</b> presents in a concise way the alleged offences as they result from the committal decision (article 327 of the CCP in its drafting resulting from law No. 2011-939 of August 10, 2011). The omission of such a formality leads to the dropping of the case (Crim., January 31, 1973, <i>Bull. crim.</i> No. 57; Crim., January 6, 1982, <i>Bull. crim.</i> No.8). When it is noted within the official report that the formalities of article 327 of the CCP have been respected, the absence of a contentious incident or request to give notice supposes the absence of any irregularity likely to breach the rights of defence (Crim., June 26, 2013, <i>D.</i> 2013, p.1778, obs. Laurent; Crim., June 26, 2013, No.12-85.300).</p> <p>Before the <b>Criminal Court</b>, the President or one of the assessors informs the accused of the prosecution notice referral to the Court, including the alleged offences and their legal classification (article 406 of the CCP). According to jurisprudence, it is the enforcement judges who shall establish the exact legal classification of the evidence which they are presented, however, when this happens, the accused must have been able to defend themselves against the new proposed classification. The Court of Appeal ignores this principle when it declares the accused guilty of complicity to obstruct checks and controls by auditors when he had been charged and convicted by the first judges as the main perpetrator of this offence, without having invited the aforementioned accused to defend himself against the new legal classification (Crim., September 12, 2001, No.00-86.493). The respect of the requirement to provide detailed information</p>
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<sup>53</sup> France, Court of cassation, Criminal Chamber (*Cour de cassation, Chambre criminelle*), Decision, 27 November 2007, *Criminal Law* 2008, Com. No. 40.

<sup>54</sup> France, Court of cassation, Criminal Chamber (*Cour de cassation, Chambre criminelle*), Decision, 30 December 1927, *DP* 1929, I, 55 ; France, Court of cassation, Criminal Chamber (*Cour de cassation, Chambre criminelle*), Decision, 15 March 1973, *Bull. crim.* n°134, *D.* 1973, p.338, note P.F. ; France, Court of cassation, Criminal Chamber (*Cour de cassation, Chambre criminelle*), Decision, 12 December 2001, *Bull. crim.* No.267 ; France, Court of cassation, Criminal Chamber (*Cour de cassation, Chambre criminelle*), Decision, 27 February 27, 2002, No.01-84.833.



			<p>on the alleged offence implies that the accused be enabled to defend themselves, not only on the points of accusation but also on the aggravating circumstances for which he may be charged (Crim., May 4, 1965, <i>Bull. crim.</i> No.127; Crim., December 5, 1978, <i>Bull. crim.</i> No.346; Crim., June 22, 1983, <i>Bull. crim.</i> No.193).</p> <p>Before the <b>Police court</b>, the rules of article 406 of the CCP for criminal proceedings are applicable (article 535 of the CCP).</p>
	d) access to case materials		<p>It is important to distinguish between the stages of the procedure:</p> <ul style="list-style-type: none"> <li>• <b>Police phase</b> Within the framework of police custody, a refusal to communicate the parts of the file listed in article 63-4-1 of the CCP is not provided for.</li> <li>• <b>Investigation</b> Within the framework of the investigation, it is possible to challenge the refusal by the investigating judge to hand over all or part of the copies of the documents of the procedure requested (to this end, to see response to point 4.3). Failure to perform the formalities of article 114 of the CCP is sanctioned by the case being dropped (Crim., March 15, 1973, <i>Bull. crim.</i> No.134, <i>D.</i> 1973, p.338, note P.F.).<sup>55</sup> According to article 114 of the CCP, the investigating judge has 5 days to inform the parties of a refusal to provide copies of parts of the case-file. This refusal must be carried out by an order on specific legal grounds taking into consideration the risk of pressure on victims, the accused, lawyers, witnesses, investigators, experts or any other person contributing to the procedure. In the absence of such an order or for an insufficiently legally grounded order, the lawyer can request the case to be dropped.</li> <li>• <b>Judgement</b> Within the framework of the judgement, the principle of the adversarial hearing means that a person cannot be prohibited from accessing the part of procedure being discussed. For this purpose, <b>article R.155 of the CCP</b> states that for criminal and police cases, when proceedings are instituted, the parties, in particular the accused or the defendant, may be provided with a copy of the documents of the procedure. The handing-over of a first copy is free according to article R.165 of the CCP. For the procedure Before the <b>Court of assizes</b>, article 279 of the CCP points out this principle and mentions that the free handing-over of a copy of the file is not, according to jurisprudence, a provision that leads to the case being dropped if not met (Crim., April 14, 1892, <i>Bull. crim.</i> No.109; Crim., March 21, 1912, <i>Bull. crim.</i> No.164; Crim., June 20, 1912, <i>Bull. crim.</i> No.325; Crim., November 28, 1963, <i>Bull. crim.</i> No.341; Crim., October 20, 1982, <i>Bull. crim.</i> No.228; Crim., 1<sup>er</sup> June 1988, <i>Bull. crim.</i> No.242). A delay in handing-over the documents may lead to an adjournment of the hearings; but if such an adjournment has not been requested before or during the hearings it cannot be used as grounds</li> </ul>

<sup>55</sup> France, Court of cassation, Criminal Chamber (*Cour de cassation, Chambre criminelle*), Decision, 15 March 1973, *Bull. crim.* No.134, *D.* 1973, p.338, note P.F.

				to ask for the case to be dropped (Crim., April 12, 1888, <i>Bull. crim.</i> No.138).
5.3	Is any official record kept to note the provision of information about the following? <b>If yes, briefly describe where relevant.</b>			
	a) information on procedural rights	Yes		<p>It is important to distinguish between the stages of the procedure:</p> <ul style="list-style-type: none"> <li> <p><b>Police phase</b> Within the framework of <b>police custody</b>, article 63-1 of the CCP provides that the immediate notification of the alleged offence and rights in a language that is understood is recorded in the official report. Article 63-1 of the CCP specifies that mention of this information is made in the official report from police custody and is initialled by the detainee (in the event of refusal to initial the document, this is recorded in the official record)</p> </li> <li> <p><b>Phase of investigation</b> Within the framework of the preparatory investigation, informing the suspect of their procedural rights is done either by registered letter with acknowledgement of delivery summoning the person for their first appearance (article 80-2 of the CCP) or (if the suspect is not the subject of such a summons) by a record made in the official report of the first appearance (article 116 of the CCP). The official report is signed by the accused. In practice, provision of such information is carried out and recorded in the official report at the time of the questioning of the first appearance, but not for questioning that follows.</p> </li> <li> <p><b>Phase of judgement</b> Within the framework of the procedure <b>of assizes</b>, with representation by a lawyer being obligatory, the procedural rights relate to the right to an interpreter from article 273 of the CCP (in its drafting resulting from law No. 2014-535 of 27 May 2014) and the right to silence, stated in article 328 of the CCP (in its drafting resulting from law No. 2014-535 of 27 May 2014). Although because of the recent nature of the reform the Court of cassation has not expressed itself on this point, taking into consideration other procedural methods applicable to the hearing of assizes, such information must be recorded in the official report. In the framework of the criminal <b>procedure</b>, information from the President on the procedural rights of the accused appear in articles 406 of the CCP (right to silence, right to an interpreter) and 417 of the CCP (right to a lawyer). The notes of hearing do not mention this information beyond a general reference to the articles making it obligation to inform on the procedural rights. Within the framework of the procedure as regards <b>offences</b>, article 535 of the CCP refers to article 406 of the same</p> </li> </ul>

				code. The situations concerning information in connection with this right are thus the same.
	b) letter of rights	Yes		<p>It arises only indirectly from article 63-1 of the CCP that as regards <b>police custody</b>, the use of a form stating the rights in a language that is understood is recorded with the official report. For this purpose, the application Circular dated 23 May 2014 specifies that “<i>even if the law does not require it, it is desirable that the provision of the declaration of the rights to the person is recorded in the official report of notification of rights</i>”. The Circular of 23 May 2014 states that if the detainee sight refuses the document, it is necessary to record such a refusal within the procedure. If thereafter they wishes to have this document, it is necessary to provide and record that the document has been given.</p> <p>Article 803-6 of the CCP provides that the document stating rights can also be given in the event of <b>provisional detention</b>. Within the framework of such detention ordered by the judge of freedoms and detention, the application Circular dated May 23, 2014 states that the declaration must be given at the end of the hearing before the judge of freedoms and detention. Although is not specified in the legislation, for the police custody, it is advisable that the handing-over of this document be recorded in the decision for placement in provisional detention.</p>
	c) information about the accusation	Yes		<p>It is important to distinguish between the stages of the procedure:</p> <ul style="list-style-type: none"> <li>• <b>Police phase</b> Within the framework of <b>police custody</b>, article 63-1 of the CCP provides that the immediate notification of the alleged offence in a language that is understood is recorded in the official report.</li> <li>• <b>Phase of investigation</b> Within the framework of <b>the investigation</b>, according to article 116 sub-paragraph 2 of the CCP, the notification of the alleged offences and of their legal classification done by the investigating judge is recorded in the official report.</li> <li>• <b>Phase of judgement</b> Within the framework of the phase of judgement, the President of the <b>Court of assizes</b> presents in a concise way the alleged offences as they result from the committal decision (article 327 of the CCP). It must be mentioned within the official report that the President conformed to the regulations of article 327 of the CCP (Crim., June 26, 2013, D. 2013, p.1778, obs. Laurent; Crim., June 26, 2013, No.12-85.300).<sup>56</sup> Indeed, according to the Criminal Chamber, a ruling may be overturned if it is given after hearings whose official report does not state that the President read out the legal classification of the alleged offences of the charge (Crim., October 23, 2013, No.12-87.321). Before the <b>Criminal Court</b>, the President or one of the assessors informs the accused of the prosecution notice referral to the Court, including the alleged offences and their legal classification (article 406 of the CCP). This information on the alleged offences and the legal classification selected must be recorded. In this sense, according to the Court of</li> </ul>

<sup>56</sup> France, Court of cassation, Criminal Chamber (*Cour de cassation, Chambre criminelle*), Decision, 26 June 2013, D. 2013, p.1778, obs. Laurent; France, Court of cassation, Criminal Chamber (*Cour de cassation, Chambre criminelle*), Decision, 26 June 2013, No.12-85.300.

				<p>Cassation, an aggravating circumstance, which is not mentioned in the committal, may be raised provided that the statement of the judgement or the ruling establishes that the accused was informed of this modifying element of the charge and was specifically able to defend themselves on this point (Crim., February 11, 1981, <i>Bull. crim.</i> No.56; Crim., Apr 3 1996, <i>Bull. crim.</i> , No.154; Crim., March 4, 1998, <i>Bull. crim.</i> No.85).</p> <p>Before the <b>Police court</b>, the rules of article 406 of the CCP for criminal proceedings are applicable (article 535 of the CCP).</p>
	d) access to case materials			<p>It is important to distinguish between the stages of the procedure:</p> <ul style="list-style-type: none"> <li>• Police phase Within the framework of police <b>custody</b>, it is not provided for that the consultation of the documents of the procedure appearing in article 63-4-1 of the CCP is recorded in the official report.</li> <li>• Investigation Within the framework of <b>the investigation</b>, according to article 114 of the CCP, if the copy was given directly to the party, this party must attest in writing that they are aware that only the expert assessments may be communicated to third parties. The same applies when the lawyer of the party has asked for documents and that wishes to give them to the client. In addition, when the copy of the documents is requested by the lawyer, the lawyer must inform the investigating judge of the documents which they intend to give to the client.</li> <li>• Judgement Article R.155 of the CCP provides for the handing-over of the case file to the parties; the first copy being free (R.165 article of the CCP). A circular of August 3, 2001 specifies that the clerk records in the criminal case file any sharing of the file.</li> </ul>
5.4	Are there special procedures designed to take into account the special needs of vulnerable suspects or vulnerable accused persons (e.g. because of any physical impairments which affect their ability to communicate effectively (persons with hearing, sight or speech			

<p>impediments), intellectual disabilities or in case of children and the holder of parental responsibility) in relation to:</p> <p>a) suspect or accused persons with physical impairment or disability;</p> <p>b) suspect or accused persons intellectual impairment or disability;</p> <p>c) suspect or accused children who are suspects/defendants and/or the holder of parental responsibility.</p> <p><b>If yes, briefly provide information on those mechanisms in relation to each of the listed vulnerable groups. Is this information in simple and accessible language?</b></p>			
<ul style="list-style-type: none"> <li>information on procedural rights</li> </ul>	a)	Yes	<p>It is important to distinguish between the stages of the procedure:</p> <ul style="list-style-type: none"> <li><b>Police phase</b> Within the framework <b>of the notification of the rights of police custody, and the allegations, as well as their legal classification</b> which the detainee is accused of, article 63-1 of the CP provides that if the person suffers from deafness and can neither read nor write, they must be assisted by an interpreter of sign language. Any means making it possible to communicate may also be employed.</li> <li><b>Investigation</b> According to article 121 of the CP, <i>'if the accused suffers from deafness, the investigating judge names a sign language interpreter or any qualified person able to communicate in a language or a method making it possible to communicate</i></li> </ul>

			<p><i>with deaf persons [...] Any technical means making it possible to communicate with the accused may also be employed. If the accused can read and write, the investigating judge can also communicate with them in writing". Such a provision consequently makes it possible for the investigating judge to inform the accused person of these procedural rights.</i></p> <ul style="list-style-type: none"> <li>• Judgement</li> </ul> <p>Before the <b>Court of assizes</b>, article 345 of the CP, provides that if the person suffers deafness, the President names a sign language interpreter. The President can also decide to use any means which allow for communication with this person. If the accused can read and write, it is possible to communicate with them in writing. As such, provision of information on procedural rights is assured.</p> <p>Article 408 of the CP provides for the same provision before the <b>criminal court</b>.</p> <p>According to article 535 of the CCP, article 408 of the same code is applicable before the courts for offences,</p>
	b)	Yes	<p>According to article 706-113 of the CCP, <b>the carer or the guardian is informed of the date of the hearing</b>. If they are present, they are heard by the court in the capacity of witness.</p> <p>According to article 706-116 of the CCP, the accused who is under supervision or guardianship <b>must be assisted by a lawyer</b>. If the accused, the carer, or the guardian do not appoint a lawyer, the Public prosecutor or the investigating judge shall assign one.</p> <p>These provisions are applicable to a person placed under court protection, if the court protection judge, informed by the public prosecutor, names a special representative.</p>
	c)	Yes	<p>It is important to distinguish between the stages of the procedure</p> <ul style="list-style-type: none"> <li>• Police phase</li> </ul> <p><b>In the event of placement in police custody</b>, the legal representatives of a minor must be informed, at the same time as the placement in police custody, that they can ask for the minor be assisted by a lawyer (article 4 IV of the Order of 2 February 1945 relating to juvenile offenders).</p> <p>According to article 4-1 of the Order of 1945, the accused minor must be assisted by a lawyer. If neither the minor, nor their legal representatives do not appoint a lawyer, the public prosecutor, the judge for children or the investigating judge assigns an officially appointed lawyer through the President of the Bar.</p> <ul style="list-style-type: none"> <li>• Investigation</li> </ul> <p>According to article 10 of the Order of 1945, a minor who is the subject of an investigation <b>must be assisted by a lawyer</b>. If neither the minor, nor their legal representatives appoint a lawyer, the judge for children or the investigating judge assigns a lawyer through the President of the Bar.</p> <p>Whatever the hearing procedures, <b>the minor and the legal representatives are summonsed together</b> to be heard by the judge. They are <b>kept informed of the procedure</b>.</p> <p>Article 10-1 specifies that if the legal representative does attend court, the police may be used.</p> <ul style="list-style-type: none"> <li>• Judgement</li> </ul>

				According to article 10-1 of the order of 1945, <b>if the legal representative does not appear after a summons</b> before the jurisdiction of judgement, the police may be used. The judging of a minor supposes the presence of their legal representative. As such, if the legal representative does not comply with the summons, the courts can resort to the police so that the legal representative is brought before the judge and is interviewed. Moreover, if the parents or the legal representative do not comply with the summons, they risk a fine of €3750 (article 10-1 para. 2 of the Order of 1945).
• letter of rights	a)		No	
	b)		No	
	c)		No	Article 4 of the Order of 2 February 1945 relating to juvenile offenders makes a reference, in the event of <b>police custody</b> of a minor of 13 years old or a detainee of 10 years old, to <b>article 803-6 of the CCP</b> relating to the written document containing the rights of a suspect who is deprived of liberty.
• information about the accusation	a)			<p>It is important to distinguish between the stages of the criminal procedure:</p> <ul style="list-style-type: none"> <li>• <b>Police phase</b> Within the framework of the notification of the rights of police custody, and the allegations, as well as their legal classification which the detainee is accused of, article 63-1 of the CP provides that if the person suffers from deafness and can neither read nor write, they must be assisted by an <b>interpreter of sign language</b>. <b>Any means making it possible to communicate</b> may also be employed.</li> <li>• <b>Investigation</b> According to article 121 of the CP, <i>"if the accused suffers from deafness, the examining magistrate names a <b>sign language interpreter</b> or any qualified person able to communicate in a language or a method making it possible to communicate with deaf persons [...] Any technical means making it possible to communicate with the accused may also be employed. <b>If the accused can read and write, the examining magistrate can also communicate with them in writing</b>".</i> Such a provision makes it possible in particular for the investigating judge inform the accused of the alleged offences and the legal classification.</li> <li>• <b>Judgement</b> Before <b>the Court of assizes</b>, article 345 of the CP, provides that if the person suffers deafness, the President names a <b>sign language</b> interpreter. The President can also decide to use any means which allow for communication with this person. <b>If the accused can read and write, it is possible to communicate with them in writing</b>. As such, provision of information on the alleged offences and their legal classification is assured. Article 408 of the CP provides for the same provision before the <b>criminal court</b>.</li> </ul>

				According to article 535 of the CCP, article 408 of the same code is applicable before the courts for <b>offences</b>
		b)	Yes	According to article 706-113 of the CCP, the curator or the tutor is <b>advised by the public prosecutor or the investigating judge of the continuations whose person is the object</b> . The same applies if this person been the subject of an alternative to prosecution. This provision is applicable to a person placed under court protection, if the court protection judge, informed by the public prosecutor, names a special representative.
		c)	Yes	According to article 10 of the Order of 2 February 1945 relating to juvenile offenders, the investigating judge or the judge for children <b>informs the legal representative of the minor of the accusations that the minor faces</b> . This information is done verbally with a record in the case file or by registered letter. The judge records the alleged offences of the minor and their legal classification.
	<ul style="list-style-type: none"> <li>access to case materials</li> </ul>	a)		No
		b)	Yes	According to article 706-113, the carer or the guardian <b>may access documents of the file under the same conditions as the accused person</b> . This provision is applicable to a person placed under court protection, if the court protection judge, informed by the public prosecutor, names a special representative.
		c)	Yes	According to article 5-2 of the Order of 1945 relating to juvenile offenders, it consists of a <b>single personalised file</b> composed of elements relating to the minor collected during investigations of which they were the subject; this file also includes the investigations relating to the personality and the social and family environment of the minor. This single personalised file is placed under the control of the Public prosecutor or the judge for children. This file is accessible by a lawyer for the minor and their legal representatives.



