

Presume innocence for all, until proven guilty – it is a right

Presumption of innocence is a core right in criminal justice. Yet, prejudice, bias and practices like presenting defendants in handcuffs undermine this right in many European countries, finds the latest report of the EU Agency for Fundamental Rights (FRA). FRA calls on EU countries to respect the rights of all defendants, regardless of their background.

"All defendants have the right to be presumed innocent until an independent court finds them guilty. But our in-built biases, and what we see or read, can affect our perception of guilt," says FRA Director [Michael O'Flaherty](#). *"EU countries need effective measures to safeguard the rights of all defendants to a fair trial and equal access to justice."*

FRA's report '[Presumption of innocence and related rights – Professional perspectives](#)' looks at how EU countries in practice apply the rights to be presumed innocent, to remain silent and to be present at trial. FRA identifies problems in safeguarding these rights and calls on EU countries to:

- **Treat all defendants equally** – ensure that the presumption of innocence applies to all defendants. It should apply regardless of their ethnic background, status or gender. Clear rules and training are needed to prevent bias and prejudice among police officers, jurors and judges. Countries should encourage diversity among justice professionals.
- **Use restraints only when needed** – do not publicly present defendants under restraint, such as handcuffs or glass boxes in court, unless justified. Media should be able to photograph unrestrained defendants.
- **Balance powers** – prosecuting authorities often have wider powers to search for evidence than the defence. The defence should thus be able to request authorities to investigate specific circumstances and search for crucial evidence on its behalf.
- **Inform suspects about their rights** – ensure that police officers inform suspects about their right to remain silent and to not incriminate themselves before questioning. Any testimonies collected outside of this should not be treated as evidence.
- **Respect the right to be present at trial** – make more effort to ensure that defendants can be present at their trial.

The report looks at practices in nine EU Member States with different legal traditions: Austria, Belgium, Bulgaria, Cyprus, Germany, Italy, Lithuania, Poland and Portugal.

The findings are based on interviews with 123 defence lawyers, judges, prosecutors, police officers and journalists in those countries.

Today, the European Commission also publishes its [implementation report on Directive 2016/343](#) on the presumption of innocence and the right to be present at the trial in criminal proceedings.

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