

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

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# 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> <ul style="list-style-type: none"><li>a) Who has the responsibility for determining the need of interpretation at each stage of the proceedings?</li><li>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?</li><li>c) Who bears the cost of interpretation at each stage?</li><li>d) What is the timeframe (deadline) for providing interpretation at each stage of the proceedings?</li></ul> <p><b>.Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.</b></p>

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

1.1.1	<ul style="list-style-type: none"> <li>• police questioning;</li> </ul>	<p>a) In accordance with the Criminal Investigation Act (<i>esitutkintalaki/förundersökningslag</i>, 805/2011)<sup>2</sup>, Chapter 4, Section 12, persons other than those speaking Finnish, Swedish or Sami have the right in the criminal investigation to use a language that they understand and speak sufficiently. <b>The criminal investigation authority shall ascertain whether or not the party needs interpretation.</b> The criminal authority shall ensure that the party receives the interpretation that he or she needs.</p> <p>According to The National Police Board's binding instructions<sup>3</sup> <i>on the interpretation and translation of foreign languages in criminal investigation and when applying coercive measures</i>, targeting the police, <b>the officer in charge of the investigation decides the issues related to interpretation and translation.</b> Moreover, the interpretation and translation in criminal investigation are included in the criminal investigation cooperation between the criminal investigation authority and the public prosecutor (in accordance with the Criminal Investigation Act<sup>4</sup>). Therefore, according to the instructions, it is appropriate that <b>the prosecutor</b> is aware of problematic issues related</p>
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<sup>2</sup> Finland, the Criminal Investigation Act (*esitutkintalaki/förundersökningslag*, 805/2011), unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf](http://www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf).

<sup>3</sup> Finland, the National Police Board (*Poliisihallitus/Polisstyrelsen*) (2013): *Vieraskielinen tulkkkaus ja kääntäminen esitutkinnassa ja pakkokeinoja käytettäessä*, 2020/2013/4104 (määräys), 28.11.2013. In summary: The criminal investigation authority shall notify the public prosecutor of the conducting of a criminal investigation and of circumstances connected with criminal investigation measures and otherwise of progress in the investigation. Moreover, on the request of the public prosecutor, the criminal investigation authority shall perform a criminal investigation measure. Furthermore, the public prosecutor shall participate to the extent necessary in the criminal investigation in order to ensure that the matter is clarified in the manner referred to in Chapter 1, section 2. (Unofficial translation available at: [www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf](http://www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf)).

<sup>4</sup> Finland, the Criminal Investigation Act (*esitutkintalaki/förundersökningslag*, 805/2011), Chapter 5: *Cooperation between the criminal investigation authority and the public prosecutor*. Section 1: Notification to the prosecutor: [...] In addition, the public prosecutor shall be notified of an offence that has come under investigation, and the criminal investigation and the prosecutorial authorities have jointly decided on the basis of their competence that notice shall be given of such offences, or the public prosecutor has requested that notice be given of such offences.

Section 2 – The competence of the public prosecutor in the criminal investigation:

(1) On the request of the public prosecutor, the criminal investigation authority shall conduct a criminal investigation or perform a criminal investigation measure. Also otherwise the criminal investigation authority shall comply with orders given by the public prosecutor intended to ensure clarification of the matter in the manner referred to in Chapter 1, section 2.

Section 3: Obligation to cooperate

(1) The criminal investigation authority shall, in the manner required by the nature or scope of the matter, notify the public prosecutor of the conducting of a criminal investigation and of circumstances connected with criminal investigation measures and otherwise of progress in the investigation. If the criminal investigation authority has notified the public prosecutor of the opening of an investigation in an offence, the head investigator shall, before concluding the criminal investigation, hear the

<p>to linguistic rights that might arise during the criminal investigation and when possible take part in solving these matters. Thus the prosecutor takes part in guaranteeing the fair trial requirements and can later on respond to possible accusations about the endangering of legal protection.</p> <p>According to The National Police Board instructions<sup>5</sup> <i>on the interpretation and translation of foreign languages in criminal investigation and when applying coercive measures</i>, <b>the officer in charge of the investigation</b> makes a "the criminal investigation" "criminal investigation decision" (esitutkintapäätös) on the language skills, level of language skills and the translation. It is advisable for the officer in charge to contact the prosecutor before making the decision (this is a recommendation). (Usually, when both parties are satisfied or do not complain about the way that the criminal investigation is carried out, there is no need to make a written decision on the criminal investigation. )</p>
<p>b)</p> <p>In accordance with The Government Bill (HE 63/2013) on the amendment of the Criminal Procedure Act and other acts<sup>6</sup>, the party has to have sufficient knowledge of the language, so that the hearing in that language does not endanger his/her legal protection. When assessing the language skills, attention can be paid (not obligatory) <b>to the nature of the case, for example whether it's a matter of summary penal fine or a summary penal judgement</b><sup>7</sup>. Taking into account the conditions laid down in the first paragraph of the Chapter 4, Section 12 Subsection 4, of the Criminal Investigation Act, i.e. whether persons other than those speaking Finnish, Swedish or Sami have the right in the criminal investigation to use a language that they understand and speak sufficiently, the criminal investigation authority can select the language so that the arranging of the interpretation does not cause <b>unreasonable practical difficulties or costs</b>.</p>

public prosecutor on whether the matter has been clarified sufficiently in the manner referred to in Chapter 1, section 2, if the nature or scope of the matter require that the public prosecutor be heard, or if the intention is to conclude the criminal investigation without submitting the matter to the prosecutor.

(2) The public prosecutor shall participate to the extent necessary in the criminal investigation in order to ensure that the matter is clarified in the manner referred to in Chapter 1, section 2.

(3) The criminal investigation authority and the public prosecutor shall discuss questions relating to the arrangement of cooperation in the criminal investigation.

<sup>5</sup> Finland, the National Police Board (*Poliisihallitus/Polisstyrelsen*) (2013): *Vieraskielinen tulkkkaus ja kääntäminen esitutkinnassa ja pakkokeinoja käytettäessä*, 2020/2013/4104 (määräys), 28.11.2013.

<sup>6</sup> Finland, Government proposal 63/2013 (*Hallituksen esitys eduskunnalle oikeudenkäynnistä rikosasioissa annetun lain ja eräiden muiden lakien muuttamisesta/ Regeringens proposition till riksdagen med förslag till lagar om ändring av lagen om rättegång i brottmål och av vissa andra laga*, HE 63/2013), available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/esitykset/he/2013/20130063](http://www.finlex.fi/fi/esitykset/he/2013/20130063). See page 29.

<sup>7</sup> In accordance with The Government Bill (HE 63/2013) on the amendment of the Criminal Procedure Act and other acts these matters are outside of the scope of application of the directive Directive 2010/64/EU.

According to The National Police Board instructions<sup>8</sup> the assessment of the language skills of the person that is to be heard starts in connection with the verifying and recording personal details. **It is possible to make observations of the person's nationality, "home state" (kotivaltio) and the language skills.** If the person does not understand or speak a national language, one must find out which languages s/he understands sufficiently and can **speak to some extent** in addition to his/her mother tongues.

According to The National Police Board instructions,<sup>9</sup> when the person is "summoned" (in connection with the criminal investigation), information about **his/her language skills is retrieved from the National Population Register<sup>10</sup>** and such and **the matter can also be found out by asking about it via telephone.** The registers include for example information about the native language of a person. However, the register entries are not decisive if the person is known in connection with prior criminal investigation or other factors, to know well the national languages (Finnish, Swedish, Sami). If it is probable that the person to be "summoned" does not know these languages, the documents (to summon the person) must be translated into a language that the person is assumed to know sufficiently. Often English can be used. Special attention must be paid on summons that can have effect on the party's rights and possibility to defend (him/herself).

According to The National Police Board instructions,<sup>11</sup> sufficient language skills are defined as such that the person's right to defend him/herself is not endangered in the hearing. **The best way to assess a person's language skills is to get answers to open questions. The assessment is made case-specifically taking into account the person's level of education and language skills. Moreover, the nature of the criminal case and information about the crime can have effect on the language used in criminal investigation.**

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<sup>8</sup> Finland, the National Police Board (*Poliisihallitus/Polisstyrelsen*) (2013): *Vieraskielinen tulkkkaus ja kääntäminen esitutkinnassa ja pakkokeinoja käytettäessä*, 2020/2013/4104 (määräys), 28.11.2013.

<sup>9</sup> Finland, the National Police Board (*Poliisihallitus/Polisstyrelsen*) (2013): *Vieraskielinen tulkkkaus ja kääntäminen esitutkinnassa ja pakkokeinoja käytettäessä*, 2020/2013/4104 (määräys), 28.11.2013.

<sup>10</sup> For more information about the Population Register Centre, see [www.vaestorekisterikeskus.fi/default.aspx?site=4](http://www.vaestorekisterikeskus.fi/default.aspx?site=4). The police has access to the register.

<sup>11</sup> Finland, the National Police Board (*Poliisihallitus/Polisstyrelsen*) (2013): *Vieraskielinen tulkkkaus ja kääntäminen esitutkinnassa ja pakkokeinoja käytettäessä*, 2020/2013/4104 (määräys), 28.11.2013.

According to The National Police Board instructions<sup>12</sup> in those exceptional circumstances when the party's language skills cannot be found out due to language problems or "total withdrawing" (the person does not give much or any information), **information can be gathered from travel documents and other available information on the person's education, work history and place of residence.** The Ministry for Foreign Affairs has country information that can be used in defining the language. In addition, some police units have access to The Finnish Immigration Service's *country information service*. **The police has made an agreement about the use of language analysis service** (kielianalyysipalvelu) that can be used in some exceptional and unclear cases to find out the language skills of the party.

According to The National Police Board instructions,<sup>13</sup> the right to interpretation in a language that the person understands and speaks sufficiently is absolute. The police must find out whether the party has sufficient understanding regardless of his/her own conception. (The language to be used does not have to be the mother tongue of the party.) **Language skills of a person are defined as a rule by making questions, through discussion and by going through the person's background information.**

According to The National Police Board instructions,<sup>14</sup> the records on the process of defining a person's language skills must be made with enough accuracy, especially concerning the language in which the process has been carried out, and the results of this examination.

According to The Office of the Prosecutor General, if the investigator has doubt about the sufficient language skills of the suspected person before or during the questioning, the questioning is interrupted and an interpreter is acquired for the suspected person. The same procedure applies if the person to be heard (or his/her counsel) brings out that s/he does not understand or cannot express him/herself sufficiently.<sup>15</sup>

According to The Finnish Association of Translators and Interpreters<sup>16</sup>, if an interpreter of the mother tongue of the suspect/accused person is not available, another interpreter is acquired. The suspected/accused person must agree to the language of the interpretation. Nevertheless, the language skills of the suspected/accused person might be such that the communication between the interpreter and the suspect/accused is very difficult. Moreover, the suspected/accused person might in some cases ask specifically for interpretation to

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<sup>12</sup> Finland, the National Police Board (*Poliisihallitus/Polisstyrelsen*) (2013): *Vieraskielinen tulkkaus ja kääntäminen esitutkinnassa ja pakkokeinoja käytettäessä*, 2020/2013/4104 (määräys), 28.11.2013.

<sup>13</sup> Finland, the National Police Board (*Poliisihallitus/Polisstyrelsen*) (2013): *Vieraskielinen tulkkaus ja kääntäminen esitutkinnassa ja pakkokeinoja käytettäessä*, 2020/2013/4104 (määräys), 28.11.2013..

<sup>14</sup> Finland, the National Police Board (*Poliisihallitus/Polisstyrelsen*) (2013): *Vieraskielinen tulkkaus ja kääntäminen esitutkinnassa ja pakkokeinoja käytettäessä*, 2020/2013/4104 (määräys), 28.11.2013.

<sup>15</sup> Finland, representative of the Office of the Prosecutor General.

<sup>16</sup> Finland, representative of the Finnish Association of Translators and Interpreters.

		<p>another language than his/her mother tongue if the suspected/accused person doesn't want to talk about sensitive issues in court in a language known to the his/her community that might cause him/her problems in the community.</p>
		<p>c) In accordance with the Criminal Investigation Act (<i>esitutkintalaki/förundersökningslag</i>, 805/2011)<sup>17</sup>, the criminal investigation authority shall ensure that the party receives the interpretation that he or she needs. According to The National Police Board instructions<sup>18</sup> <i>on the interpretation and translation of foreign languages in criminal investigation and when applying coercive measures</i>, the costs that arise from the Criminal Investigation Act or the Coercive Measures Act are covered by the police unit's expenses.</p>
		<p>d)  In accordance with The Government Bill (HE 63/2013) on the amendment of the Criminal Procedure Act and other acts<sup>19</sup>, the Criminal Investigation Act, Chapter 4, Section 12, obliges the criminal investigation authority to ensure that the party receives interpretation if the suspected person does not understand or speak the language used in the criminal investigation. Therefore, the suspected person cannot be questioned without interpretation. According to the Government Bill this is the reason why a time frame (without delay) is not proposed to be included in the legislation.  According to The Office of the Prosecutor General, the interpretation is in practice provided without delay in the beginning of the criminal investigation, although this time frame is not set in the legislation.<sup>20</sup></p>
<ul style="list-style-type: none"> <li>• court hearings;</li> </ul>		<p>a) In accordance with the Criminal Procedure Act (<i>laki oikeudenkäynnistä rikosasioissa/lag om rättegång i brottmål</i>, 689/1997)<sup>21</sup>, Chapter 6a, Section 2, complainants or defendants other than those speaking Finnish, Swedish or Sami have the right to interpretation free of</p>

<sup>17</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf](http://www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf).

<sup>18</sup> Finland, the National Police Board (*Poliisihallitus/Polisstyrelsen*) (2013): *Vieraskielinen tulkkkaus ja kääntäminen esitutkinnassa ja pakkokeinoja käytettäessä*, 2020/2013/4104 (määräys), 28.11.2013.

<sup>19</sup> Finland, Government bill 63/2013 (*Hallituksen esitys eduskunnalle oikeudenkäynnistä rikosasioissa annetun lain ja eräiden muiden lakien muuttamisesta/ Regeringens proposition till riksdagen med förslag till lagar om ändring av lagen om rättegång i brottmål och av vissa andra laga*, HE 63/2013), available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/esitykset/he/2013/20130063](http://www.finlex.fi/fi/esitykset/he/2013/20130063). See page 13.

<sup>20</sup> Finland, representative of the Office of the Prosecutor General.

<sup>21</sup> Available in Finnish at: [www.finlex.fi/fi/laki/ajantasa/1997/19970689](http://www.finlex.fi/fi/laki/ajantasa/1997/19970689).



1.1.2	<p>charge in criminal proceedings. <b>The court shall ensure</b> that a party receives the interpretation that he or she needs. The Government Bill (HE 63/2013) on the amendment of the Criminal Procedure Act and other acts<sup>22</sup> states that the interpretation can be carried out in a language that the person understands or can speak sufficiently.</p> <p>According to the Ministry of Justice, the court must find out the need for interpretation from its own initiative.<sup>23</sup></p>
	<p>b) According to the Ministry of Justice, the need for interpretation is found out in the criminal investigation and marking/notation of it is made in the record of the criminal investigation. The prosecutor has to inform the court about a need for interpretation that has been brought out in the criminal investigation and about the language that the suspect understands or can speak (that is documented in the record of the criminal investigation).<sup>24</sup></p> <p>According to The Office of the Prosecutor General, as a rule, the court is informed about the need of interpretation in connection with the summons documents or other documents that are delivered by the prosecutor to the court. If there have been problems with the interpretation in the criminal investigation phase, the prosecutor informs the court about these, and possible solutions. Moreover, the court itself can observe the need of interpretation or the counsel can inform the court about this need. If the need for interpretation is noticed in the court session, interpretation is organised for the party.<sup>25</sup></p> <p>According to The Finnish Association of Translators and Interpreters,<sup>26</sup> the secretary of the district court usually acquires the interpretation. In some cases the court session might have to be cancelled if an interpreter is not present or the interpreter is not suitable (wrong language pair).</p>
	<p>c) In accordance with the Criminal Procedure Act (<i>laki oikeudenkäynnistä rikosasioissa/ lag om rättegång i brottmål</i>, 689/1997)<sup>27</sup>, Chapter 6a, Section 2, complainants or defendants other than those speaking Finnish, Swedish or Sami have the right to interpretation <b>free of charge</b> in criminal proceedings. Thus, the state covers the expenses.</p>

<sup>22</sup> Finland, Government proposal 63/2013 (*Hallituksen esitys eduskunnalle oikeudenkäynnistä rikosasioissa annetun lain ja eräiden muiden lakien muuttamisesta/ Regeringens proposition till riksdagen med förslag till lagar om ändring av lagen om rättegång i brottmål och av vissa andra laga*, HE 63/2013), available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/esitykset/he/2013/20130063](http://www.finlex.fi/fi/esitykset/he/2013/20130063). This government bill implements directive 2010/64/EU.

<sup>23</sup> Finland, legal councillor at the Ministry of Justice.

<sup>24</sup> Finland, legal councillor at the Ministry of Justice.

<sup>25</sup> Finland, representative of the Office of the Prosecutor General.

<sup>26</sup> Finland, representative of the Finnish Association of Translators and Interpreters.

<sup>27</sup> Available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/laki/ajantasa/1997/19970689](http://www.finlex.fi/fi/laki/ajantasa/1997/19970689).

	<p>d) In accordance with The Government Bill (HE 63/2013) on the amendment of the Criminal Procedure Act and other acts<sup>28</sup>, The Criminal Procedure Act, Chapter 6a, section 2, means <b>that the matter cannot be dealt without interpretation</b>. Therefore, the time frame (without delay) is not proposed to be included in the legislation.</p> <p>According to the Ministry of Justice, interpretation is provided immediately for the court hearing, and the hearing cannot be started without an interpreter. <sup>29</sup></p> <p>According to The Office of the Prosecutor General, in practice, the trial cannot be initiated before the court has been able to secure a suitable interpreter to arrive to the court. Usually, interpretation into the mother tongue of the accused is provided for during the trial. If this interpretation cannot be organised for some reason, another language is selected. However, the presiding judge assures by discussing with the accused (via interpreter) that the accused in fact knows this language well enough (so that the use of interpretation other than into his/her mother tongue can be considered acceptable). <sup>30</sup></p>
<ul style="list-style-type: none"> <li>• any necessary interim hearings;</li> </ul>	<p>a)</p> <p>In accordance with The Government Bill (HE 63/2013) on the amendment of the Criminal Procedure Act and other acts<sup>31</sup>, the Criminal Procedure Act (<i>laki oikeudenkäynnistä rikosasioissa/ lag om rättegång i brottmål</i>, 689/1997)<sup>32</sup>, Chapter 6a, Section 2, (see above), applies to all court proceedings, including interim hearings.</p>

<sup>28</sup> Finland, Government Bill 63/2013 (*Hallituksen esitys eduskunnalle oikeudenkäynnistä rikosasioissa annetun lain ja eräiden muiden lakien muuttamisesta/ Regeringens proposition till riksdagen med förslag till lagar om ändring av lagen om rättegång i brottmål och av vissa andra laga*, HE 63/2013), available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/esitykset/he/2013/20130063](http://www.finlex.fi/fi/esitykset/he/2013/20130063). See page 13.

<sup>29</sup> Finland, legal councillor at the Ministry of Justice.

<sup>30</sup> Finland, representative of the Office of the Prosecutor General.

<sup>31</sup> Finland, Government Bill 63/2013 (*Hallituksen esitys eduskunnalle oikeudenkäynnistä rikosasioissa annetun lain ja eräiden muiden lakien muuttamisesta/ Regeringens proposition till riksdagen med förslag till lagar om ändring av lagen om rättegång i brottmål och av vissa andra laga*, HE 63/2013), available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/esitykset/he/2013/20130063](http://www.finlex.fi/fi/esitykset/he/2013/20130063). See page 29-.

<sup>32</sup> Available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/laki/ajantasa/1997/19970689](http://www.finlex.fi/fi/laki/ajantasa/1997/19970689).

1.1.3		<p>b) See 1.1.2 b above</p> <p>c) In accordance with The Government Bill (HE 63/2013) on the amendment of the Criminal Procedure Act and other acts<sup>33</sup>, the Criminal Procedure Act (<i>laki oikeudenkäynnistä rikosasioissa/ lag om rättegång i brottmål</i>, 689/1997)<sup>34</sup>, Chapter 6a, Section 2, (see above), applies to all court proceedings, including interim hearings.</p> <p>d) In accordance with The Government Bill (HE 63/2013) on the amendment of the Criminal Procedure Act and other acts<sup>35</sup>, the Criminal Procedure Act (<i>laki oikeudenkäynnistä rikosasioissa/ lag om rättegång i brottmål</i>, 689/1997)<sup>36</sup>, Chapter 6a, Section 2, (see above), applies to all court proceedings, including interim hearings.</p>
1.1.4	<ul style="list-style-type: none"> <li>• any communication between suspects and accused persons and their legal counsel in direct</li> </ul>	<p>a) According to the National Police Board,<sup>37</sup> there is no legislation stipulating this. However, the interpreter used in the questioning can also interpret the communication between the suspected/accused persons and their legal counsel.</p>

<sup>33</sup> Finland, Government Bill 63/2013 (*Hallituksen esitys eduskunnalle oikeudenkäynnistä rikosasioissa annetun lain ja eräiden muiden lakien muuttamisesta/ Regeringens proposition till riksdagen med förslag till lagar om ändring av lagen om rättegång i brottmål och av vissa andra laga*, HE 63/2013), available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/esitykset/he/2013/20130063](http://www.finlex.fi/fi/esitykset/he/2013/20130063). See page 29-.

<sup>34</sup> Available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/laki/ajantasa/1997/19970689](http://www.finlex.fi/fi/laki/ajantasa/1997/19970689).

<sup>35</sup> Finland, Government Bill 63/2013 (*Hallituksen esitys eduskunnalle oikeudenkäynnistä rikosasioissa annetun lain ja eräiden muiden lakien muuttamisesta/ Regeringens proposition till riksdagen med förslag till lagar om ändring av lagen om rättegång i brottmål och av vissa andra laga*, HE 63/2013), available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/esitykset/he/2013/20130063](http://www.finlex.fi/fi/esitykset/he/2013/20130063). See page 29-.

<sup>36</sup> Available in Finnish at (accessed 17 June 2015): [www.finlex.fi/fi/laki/ajantasa/1997/19970689](http://www.finlex.fi/fi/laki/ajantasa/1997/19970689).

<sup>37</sup> Finland, representative of the National Police Board.

<p>connection with any questioning or hearing during the proceedings?</p>	<p>In accordance with the Criminal Procedure Act (<i>laki oikeudenkäynnistä rikosasioissa/ lag om rättegång i brottmål</i>, 689/1997)<sup>38</sup>, Chapter 6a, Section 5, if the defendant's legal protection thus requires, <b>the state compensates the necessary interpretation between the defendant and his/her counsel up to reasonable expenses</b>. In The Government Bill (HE 63/2013) on the amendment of the Criminal Procedure Act and other acts,<sup>39</sup> "the necessary interpretation is defined in accordance with the article 2 (2) : "Member state shall ensure that [...] interpretation is available for communication between suspected or accused persons and their legal counsel in direct connection with any questioning or hearing during the proceedings or with the lodging of an appeal or other procedural applications."</p> <p>According to The Office of the Prosecutor General, the counsel supervises the interests of his/her client in the matter of communication between the counsel and the suspected/accused person.<sup>40</sup></p> <p>According to the Finnish Bar Association<sup>41</sup> the counsel must make sure that the suspected/accused person and his/her counsel understand each other. In other words, it is the counsel's responsibility to make sure that he/she and the suspected/accused person understand each other.</p> <hr/> <p>b) (See above, 1.1.4. a)</p> <p>According to the Ministry of Justice, a marking about the language used in the criminal investigation is made in the record of the criminal investigation. This language is also used in the communication between the suspect and his/her counsel.<sup>42</sup></p> <p>According to The Office of the Prosecutor General, the counsel supervises the interests of his/her client in the matter of communication between the counsel and the suspected/accused person.<sup>43</sup></p>
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<sup>38</sup> Available in Finnish at (accessed 17 June 2015): [www.finlex.fi/fi/laki/ajantasa/1997/19970689](http://www.finlex.fi/fi/laki/ajantasa/1997/19970689).

<sup>39</sup> Finland, Government Bill 63/2013 (*Hallituksen esitys eduskunnalle oikeudenkäynnistä rikosasioissa annetun lain ja eräiden muiden lakien muuttamisesta/ Regeringens proposition till riksdagen med förslag till lagar om ändring av lagen om rättegång i brottmål och av vissa andra laga*, HE 63/2013), available in Finnish at: [www.finlex.fi/fi/esitykset/he/2013/20130063](http://www.finlex.fi/fi/esitykset/he/2013/20130063). See page 26.

<sup>40</sup> Finland, representative of the Office of the Prosecutor General.

<sup>41</sup> Finland, representative of the Finnish Bar Association.

<sup>42</sup> Finland, legal councillor at the Ministry of Justice.

<sup>43</sup> Finland, representative of the Office of the Prosecutor General.

According to the National Police Board,<sup>44</sup> the police makes observations about whether the suspect understands the communication.

c)

In accordance with the Criminal Investigation Act (*esitutkintalaki/förundersökningslag*, 805/2011)<sup>45</sup>, Chapter 4, Section 12, persons other than those speaking Finnish, Swedish or Sami have the right in the criminal investigation to use a language that they understand and speak sufficiently. **The criminal investigation authority** shall ascertain whether or not the party needs interpretation. The criminal authority shall ensure that the party receives the interpretation that he or she needs. In accordance with the Government Bill (HE 222/2010 vp)<sup>46</sup> on the amendment of the Criminal Investigation Act and Coercive Measures Act, the scope of interpretation includes (in connection with the questioning) the communication between the counsel and the person that is being questioned. However, the requirement to ensure the interpretation **free of charge** does not include other communication between them that does not have a direct connection to the questioning. Nevertheless, expenses can be covered in accordance with The Legal Aid Act (*oikeusapulakilrättshjälpslag*, 257/2002)<sup>47</sup>.

In accordance with the Criminal Procedure Act (*laki oikeudenkäynnistä rikosasioissa/ lag om rättegång i brottmål*, 689/1997)<sup>48</sup>, Chapter 6a, Section 5, if the defendants legal protection requires it, **the state compensates the necessary interpretation between the defendant and his/her counsel up to reasonable expenses**. In The Government Bill (HE 63/2013) on the amendment of the Criminal

<sup>44</sup> Finland, representative of the National Police Board.

<sup>45</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf](http://www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf).

<sup>46</sup> Available in Finnish at (accessed 17 June 2016): [www.finlex.fi/fi/esitykset/he/2010/20100222.pdf](http://www.finlex.fi/fi/esitykset/he/2010/20100222.pdf).

<sup>47</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2002/en20020257.pdf](http://www.finlex.fi/en/laki/kaannokset/2002/en20020257.pdf) The Legal Aid Act, Chapter 1: Section 1: "Legal aid is provided at the expense of the state to persons who need expert assistance in a legal matter and who are unable to meet the costs of proceedings as a result of their economic situation. Legal aid covers the provision of legal advice, the necessary measures and representation before a court of law and another authority, and the waiver of certain expenses related to the consideration of the matter, as provided in this Act." Section 4, Subsection 1+2, Benefits included in legal aid:

The granting of legal aid exempts the recipient from liability for:

(1) the fees and compensations for an attorney appointed or approved under this Act, in full or in part, as stated in the legal aid decision;

(2) the fees and compensations arising from the interpretation and translation services required in the consideration of the matter;

<sup>48</sup> Available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/laki/ajantasa/1997/19970689](http://www.finlex.fi/fi/laki/ajantasa/1997/19970689).

Procedure Act and other acts<sup>49</sup> “the necessary interpretation is defined in accordance with the article 2 (2) : “Member state shall ensure that [...] interpretation is available for communication between suspected or accused persons and their legal counsel in direct connection with any questioning or hearing during the proceedings or with the lodging of an appeal or other procedural applications.”

d) What is the timeframe (deadline) for providing interpretation at each stage of the proceedings?

In accordance with The Government Bill (HE 63/2013) on the amendment of the Criminal Procedure Act and other acts<sup>50</sup>, the

Criminal Investigation Act, Chapter 4, Section 12, obliges the criminal investigation authority to ensure that the party receives interpretation if the suspected person does not understand or speak the language used in the criminal investigation. Therefore, the suspected person cannot be questioned without interpretation. According to the Government Bill this is the reason why the timeframe (without delay) is not proposed to be included in the legislation.

According to the Ministry of Justice, the interpretation for the communication between the suspected person and his/her counsel during the questioning have to be available from the beginning of the questioning.<sup>51</sup>

<sup>49</sup> Finland, Government Bill 63/2013 (*Hallituksen esitys eduskunnalle oikeudenkäynnistä rikosasioissa annetun lain ja eräiden muiden lakien muuttamisesta/ Regeringens proposition till riksdagen med förslag till lagar om ändring av lagen om rättegång i brottmål och av vissa andra laga*, HE 63/2013), available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/esitykset/he/2013/20130063](http://www.finlex.fi/fi/esitykset/he/2013/20130063). See page 26.

<sup>50</sup> Finland, Government Bill 63/2013 (*Hallituksen esitys eduskunnalle oikeudenkäynnistä rikosasioissa annetun lain ja eräiden muiden lakien muuttamisesta/ Regeringens proposition till riksdagen med förslag till lagar om ändring av lagen om rättegång i brottmål och av vissa andra laga*, HE 63/2013), available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/esitykset/he/2013/20130063](http://www.finlex.fi/fi/esitykset/he/2013/20130063). See page 13.

<sup>51</sup> Finland, legal councillor at the Ministry of Justice.

		<p>In accordance with The Government Bill (HE 63/2013) on the amendment of the Criminal Procedure Act and other acts<sup>52</sup>, The Criminal Procedure Act, Chapter 6a, section 2, means that the matter cannot be dealt without interpretation. Therefore, the time frame (without delay) is not proposed to be included in the legislation.</p>
<p>1.2</p>	<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 accordance with the government bill (HE 63/2013) on the amendment of the Criminal Procedure Act and other acts<sup>53</sup> when assessing the suitability of the interpreter or translator attention should be paid to the <b>training, experience of the interpreter and translator and the nature of the assignment</b>. Moreover, attention <b>should be paid to the relationship of the interpreter/translator to the case and to the party of the proceedings</b>, to find out does it affect the independence of the translator/interpreter. However, the disqualification of interpreters is not included in the Criminal Procedure Act. According to the government bill (HE 63/2013), primarily an interpreter/translator should be assigned whose independence there is no reason to doubt. However, other adequate person could be used as an interpreter/translator in regard to interpretation/translation of rare/lesser known languages in urgent situations.</p> <p>According to the National Police Board, there is information about translation and interpretation agencies in the administration's intranet.  <sup>54</sup> Moreover, the authorities can use interpreters/translators who do not work for translation and interpretation agencies.<sup>55</sup></p> <p>According to The Office of the Prosecutor General, sometimes interpreters of the language used by the person to be heard are not available in Finland. In those situations assistance has been sought from neighbouring countries, such as Sweden, and the interpretation has been carried out via videoconference. (This procedure applies to both police questioning and court hearings.)<sup>56</sup></p> <p>According to The Office of the Prosecutor General, occasionally, there have been problems with the quality and reliability of interpretation into rare languages. (However, in the future, this should improve with the new training and qualification requirements.) If no</p>

<sup>52</sup> Finland, Government Bill 63/2013 (*Hallituksen esitys eduskunnalle oikeudenkäynnistä rikosasioissa annetun lain ja eräiden muiden lakien muuttamisesta/ Regeringens proposition till riksdagen med förslag till lagar om ändring av lagen om rättegång i brottmål och av vissa andra laga*, HE 63/2013), available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/esitykset/he/2013/20130063](http://www.finlex.fi/fi/esitykset/he/2013/20130063). See page 13.

<sup>53</sup> Finland, Government Bill 63/2013 (*Hallituksen esitys eduskunnalle oikeudenkäynnistä rikosasioissa annetun lain ja eräiden muiden lakien muuttamisesta/ Regeringens proposition till riksdagen med förslag till lagar om ändring av lagen om rättegång i brottmål och av vissa andra laga*, HE 63/2013). Available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/esitykset/he/2013/20130063](http://www.finlex.fi/fi/esitykset/he/2013/20130063), see page 26-28, 31.

<sup>54</sup> Finland, representative of the National Police Board.

<sup>55</sup> Working Group reporting on setting up a register for legal interpreters (2014), Working group's report on setting up a register for legal interpreters, The Ministry of Education and Culture, available at: [www.minedu.fi/export/sites/default/OPM/Julkaisut/2014/liitteet/tr22.pdf?lang=fi](http://www.minedu.fi/export/sites/default/OPM/Julkaisut/2014/liitteet/tr22.pdf?lang=fi), page 20.

<sup>56</sup> Finland, representative of the Office of the Prosecutor General.

		<p>professional interpreter is available, other interpreter can be used if the suspected/accused person accepts the interpreter and the court is assured of the interpreter's reliability and competence.<sup>57</sup></p> <p>According to The Finnish Association of Translators and Interpreters,<sup>58</sup> in some rare cases two interpreters are used and the interpretation is carried out as "relay interpretation"<sup>59</sup>, for example from "a rare language" - into English/Swedish - into Finnish.</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>According to The National Police Board instructions<sup>60</sup> <i>on the interpretation and translation of foreign languages in criminal investigation and when applying coercive measures</i>, the officer in charge of the investigation makes a "criminal investigation decision" (esitutkintapäätös) on the language skills, level of language skills and the translation. The decision cannot be appealed against directly, but an administrative complaint can be made for example to the superior of the police officer or legality control can be requested. Legality control authorities in Finland include inter alia the Parliamentary Ombudsman and the Chancellor of Justice of the Government..</p> <p>According to The National Police Board instructions, it's the duty of the court in connection with the main hearing to indicate whether the proceedings as a whole have ensured the right to fair trial.</p> <p>According to The Office of the Prosecutor General, the suspected/accused persons can take the matter to the prosecutor or the superior of the police officer. The prosecutor can order the interpreter to be used in accordance with the Criminal Investigation Act<sup>61</sup>, chapter 5, section 2, subsection 1. Moreover, the suspected/accused person can demand the interpretation to be provided in court.<sup>62</sup> If the court rejects the demand for interpretation it must make an official decision about it in accordance with the Criminal Procedure Act, Chapter 13, Section 11 and the decision can be appealed in connection with the main case, i.e. criminal matter of which the person is being accused of.<sup>63</sup></p>

<sup>57</sup> Finland, representative of the Office of the Prosecutor General.

<sup>58</sup> Finland, representative of the Finnish Association of Translators and Interpreters.

<sup>59</sup> For definition of relay interpretation, see for example: [http://ec.europa.eu/dgs/scic/what-is-conference-interpreting/relay/index\\_en.htm](http://ec.europa.eu/dgs/scic/what-is-conference-interpreting/relay/index_en.htm).

<sup>60</sup> Finland, the National Police Board (*Poliisihallitus/Polisstyrelsen*) (2013): Vieraskielinen tulkkkaus ja kääntäminen esitutkinnassa ja pakkokeinoja käytettäessä, 2020/2013/4104 (määräys), 28.11.2013.

<sup>61</sup> On the request of the public prosecutor, the criminal investigation authority shall conduct a criminal investigation or perform a criminal investigation measure. Also otherwise the criminal investigation authority shall comply with orders given by the public prosecutor intended to ensure clarification of the matter in the manner referred to in Chapter 1, section 2.

<sup>62</sup> Finland, representative of the Office of the Prosecutor General.

<sup>63</sup> Finland, legal councillor at the Ministry of Justice.



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?	<p>Remote interpretation can be arranged in court proceedings in accordance with the Criminal Procedure Act (<i>laki oikeudenkäynnistä rikosasioissa/ lag om rättegång i brottmål</i>, 689/1997)<sup>64</sup> , Chapter 6a, Section 2. Moreover, in accordance with The Government Bill (HE 63/2013) on the amendment of the Criminal Procedure Act and other acts<sup>65</sup> remote interpretation can be used in a <b>criminal investigation</b> even though it is not explicitly mentioned in the Criminal Investigation Act. Furthermore, remote interpretation <b>can be used in court, especially in urgent situations or in case of rare languages</b>. However, the court shall take into consideration the personal qualities of the parties and the nature of the case when deciding on remote interpretation.</p> <p>According to The Office of the Prosecutor General, the interpretation can be carried out via phone or videoconference etc in extremely urgent situations. Sometimes there are no interpreters available in Finland in the language used by the person to be heard. In those situations assistance has been sought from neighbouring countries, such as Sweden, and the interpretation has been carried out via videoconference. (This procedure applies to both police questioning and court hearings.)<sup>66</sup></p>
	b) Which technologies are used, if any (videoconference, telephone, internet, etc.)	<p>In accordance with the Criminal Procedure Act (<i>laki oikeudenkäynnistä rikosasioissa/ lag om rättegång i brottmål</i>, 689/1997)<sup>67</sup> , Chapter 6a, Section2, if the court deems it appropriate, interpretation can be arranged using <b>videoconference or other appropriate communication channel, via which the persons participating in the session have a speech and visual contact with each other, or via telephone</b>. The Government Bill (HE 63/2013) on the amendment of the Criminal Procedure Act and other acts<sup>68</sup> states that the court can apply this section case-specifically. The court shall consider whether the party’s legal protection requires that the interpretation is carried out via videoconference or other means enabling visual contact, or whether interpretation via telephone can be considered appropriate.</p>

<sup>64</sup> Available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/laki/ajantasa/1997/19970689](http://www.finlex.fi/fi/laki/ajantasa/1997/19970689).

<sup>65</sup> Finland, Government Bill 63/2013 (*Hallituksen esitys eduskunnalle oikeudenkäynnistä rikosasioissa annetun lain ja eräiden muiden lakien muuttamisesta/ Regeringens proposition till riksdagen med förslag till lagar om ändring av lagen om rättegång i brottmål och av vissa andra laga*, HE 63/2013), available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/esitykset/he/2013/20130063](http://www.finlex.fi/fi/esitykset/he/2013/20130063). See page 22, 29.

<sup>66</sup> Finland, representative of the Office of the Prosecutor General.

<sup>67</sup> Available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/laki/ajantasa/1997/19970689](http://www.finlex.fi/fi/laki/ajantasa/1997/19970689).

<sup>68</sup> Finland, Government Bill 63/2013 (*Hallituksen esitys eduskunnalle oikeudenkäynnistä rikosasioissa annetun lain ja eräiden muiden lakien muuttamisesta/ Regeringens proposition till riksdagen med förslag till lagar om ändring av lagen om rättegång i brottmål och av vissa andra laga*, HE 63/2013), available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/esitykset/he/2013/20130063](http://www.finlex.fi/fi/esitykset/he/2013/20130063), see page 21- 22.

	<p>In accordance with The Government Bill (HE 63/2013) on the amendment of the Criminal Procedure Act and other acts,<sup>69</sup> remote interpretation, <b>such as video conference or interpretation via telephone</b>, can be used in criminal investigation even though it is not explicitly mentioned in the Criminal Investigation Act. When using remote interpretation, the criminal investigation authority shall ensure the sufficient quality of the interpretation and the legal protection of the parties.</p> <p>According to The National Police Board instructions<sup>70</sup> <i>on the interpretation and translation of foreign languages in criminal investigation and when applying coercive measures</i>, in order to safeguard the legal protection of the suspect, <b>telephone interpretation cannot be used in connection with severe crimes.</b></p>
<p>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></p>	<p>The portal is in use in the courts, for example the cross-border videoconferencing guidelines are used.<sup>71</sup></p>

<sup>69</sup> Finland, Government Bill 63/2013 (*Hallituksen esitys eduskunnalle oikeudenkäynnistä rikosasioissa annetun lain ja eräiden muiden lakien muuttamisesta/ Regeringens proposition till riksdagen med förslag till lagar om ändring av lagen om rättegång i brottmål och av vissa andra laga*, HE 63/2013), available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/esitykset/he/2013/20130063](http://www.finlex.fi/fi/esitykset/he/2013/20130063). See page 29.

<sup>70</sup> Finland, the National Police Board (*Polisihallitus/Polisstyrelsen*) (2013): Vieraskielinen tulkkauksen ja kääntäminen esitutkinnassa ja pakkokeinoja käytettäessä, 2020/2013/4104 (määräys), 28.11.2013.

<sup>71</sup> Finland, representative of the Ministry of Justice.

	TRAINING <sup>72</sup>	Yes	No	Brief Description
1.5	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.	X		<p>According to the National Police Board, in the basic training of the police, the use of interpreter is dealt in connection with the communication training. Linguistic rights are taught in connection with the training on questioning. However, at this stage the students are only beginning to learn how to carry out questioning, and the right to use interpreter is only dealt on the level of legislation.<sup>73</sup></p> <p>In the continuing training of the police, there is a course on questioning. Approximately during the last eight years this course has included a separate section that concentrates on the use of interpreter in practice. Moreover, there has been experimentation on practical exercises with interpretation students.<sup>74</sup></p> <p>According to the Ministry of Justice, the Directive 2010/64/EU is dealt within the training of the presiding judges and the personnel working in the registries of the district courts. These trainings include information on the acquisition of interpretation, the legal protection of parties in court and the organising of court sessions and hearings from the viewpoint of interpretation.</p> <p>In the prosecutor's basic training course the interpretation is dealt in connection with "communication".<sup>75</sup></p>

<sup>72</sup> See in particular Article 6 and relevant recitals of Directive 2010/64/EU.

<sup>73</sup> Finland, representative of the National Police Board.

<sup>74</sup> Finland, representative of the National Police Board 2015.

<sup>75</sup> Finland, legal councillor at the Ministry of Justice.

2.	RIGHT TO TRANSLATION OF DOCUMENTS <sup>76</sup>	Brief Description
2.1		<p>Please provide answers to the following for each stage of proceedings as indicated below:</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>Please cross-check findings from the desk-research by consulting relevant organisations and/or practitioners.</p>
2.1.1	<ul style="list-style-type: none"> <li>• police questioning;</li> </ul>	<p>a)</p> <p>In accordance with the Criminal Investigation Act (<i>esitutkintalaki/förundersökningslag</i>, 805/2011)<sup>77</sup>, Chapter 4, Section 13, “A document or a portion thereof that is part of the criminal investigation documentation and that is essential from the point of view of the matter shall be translated in writing within a reasonable period into the language of the party referred to in section 12, if translation is necessary to ensure the right of the party”. (In accordance with the Section 12, persons other than those speaking Finnish, Swedish or Sami have the right in the criminal investigation to use a language that they understand and speak sufficiently.)</p>

<sup>76</sup> See in particular Articles 3 and 4 and relevant recitals of Directive 2010/64/EU.

<sup>77</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf](http://www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf).

In The Government Bill (HE 63/2013) on the amendment of the Criminal Procedure Act and other acts<sup>78</sup>, reference is made to the directive article 3 (4): there is no requirement to translate the parts of the document, which are not relevant for the purposes of enabling suspected or accused persons to have knowledge of the case against them. Moreover, in the government bill it is stated that usually the relevant information about documents is obtained through interpretation. Translation is relevant especially in regard to documents that are used as **evidence**. Need for translation can also arise when the document material is **extensive** and the party's need for information is not fulfilled through interpretation. Furthermore, the duty to provide a translation depends on the case-specific circumstances. Essential documents include **relevant information about the case**. The criminal investigation authority can, if need be, consider the extent of the duty to translate together with the prosecutor. The need to translation depends on whether or not it is essential to the exercise of the right of defense. The translation of documents is not necessary essential **in case the defendant has the possibility to get the information via his/her counsel, and if the content of the document is not complicated or difficult to understand**. However, in these circumstances a written translation can be essential if the document/material is **extensive**. In deciding whether the document should be translated, attention could also be paid to **the personal qualities<sup>79</sup> (of the defendant) and the nature and severity<sup>80</sup> of the criminal matter**. The authority shall consider the necessity of the translation from its own initiative; therefore the request of a party for a translation is not required. However, the authority can take into account the party's own perception of the necessity of translation. Nevertheless, the authority can decline from translating the document even if the party requests it, in case the translation of the document is not deemed necessary in order to ensure the right of defence.

According to The National Police Board instructions<sup>81</sup> *on the interpretation and translation of foreign languages in criminal investigation and when applying coercive measures*, which provide further details on and hence complement what the Government Bill (HE 63/2013) amends in the Criminal Procedure Act and the Coercive Measures Act, the extent of the duty to translate depends **on the nature of the case, the personal qualities of the party, the severity of the criminal matter and other information available and the party's knowledge of these matters. Not all parts of the essential documents have to be translated, if they are not significant for the**

<sup>78</sup> Finland, Government Bill 63/2013 (*Hallituksen esitys eduskunnalle oikeudenkäynnistä rikosasioissa annetun lain ja eräiden muiden lakien muuttamisesta/ Regeringens proposition till riksdagen med förslag till lagar om ändring av lagen om rättegång i brottmål och av vissa andra laga*, HE 63/2013), available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/esitykset/he/2013/20130063](http://www.finlex.fi/fi/esitykset/he/2013/20130063). See page, 29-30.

<sup>79</sup> The personal qualities include inter alia the age and level of development; legal counsellor at the Ministry of Justice.

<sup>80</sup> The suspected person's legal protection can require a wider translation duty in more serious criminal matters; legal counsellor at the Ministry of Justice.

<sup>81</sup> Finland, the National Police Board (*Polisihallitus/Polisstyrelsen*) (2013): *Vieraskielinen tulkkaus ja kääntäminen esitutkinnassa ja pakkokeinoja käytettäessä*, 2020/2013/4104 (määräys), 28.11.2013.

**suspect to know the matter and be able to defend him/herself.** The essential information can usually be provided orally. If based on the criminal investigation cooperation it is known that the prosecutor will use some document as written evidence, then this document as a rule is regarded essential.

In accordance with the Coercive Measures Act (*pakkokeinolaki/tvångsmedelslag*, 806/2011)<sup>82</sup> Chapter 2, Section 16, *translation of a decision on arrest*: “(1) The suspect has the right to receive within a reasonable period a written translation of the **decision on arrest** in the language used by the suspect as referred to in Chapter 4, section 12 of the Criminal Investigation Act” (2) Notwithstanding subsection 1, the decision on arrest or a summary of the decision may be translated orally, unless legal safeguards for the suspect require that the decision be translated in writing. (3) The provisions in Chapter 4, section 13 of the Criminal Investigation Act on the translation of an essential document in the criminal investigation documentation apply also to the translation of a decision on arrest.” In accordance with The Government Bill (HE 63/2013) on the amendment of the Criminal Procedure Act and other acts<sup>83</sup>, **the decision on arrest is considered essential document to be translated in writing or orally in order to ensure the rights of the party.** However, the suspect can waive his/her right to translation.

According to The National Police Board instructions,<sup>84</sup> the material provided by the party does not have to be translated in criminal investigation. However, if the party can prove that the document can affect the matter and the translation does not cause unreasonable expenses, there is no obstruction to translation.

According to The National Police Board instructions,<sup>85</sup> the person apprehended or arrested must be without delay informed about the reason of the apprehension. The informing must be without delay made in a language that he/she understands. There is a written

<sup>82</sup> Unofficial translation available at (accessed 17 June 2016): <http://www.finlex.fi/en/laki/kaannokset/2011/en20110806.pdf>.

<sup>83</sup> Finland, Government Bill 63/2013 (*Hallituksen esitys eduskunnalle oikeudenkäynnistä rikosasioissa annetun lain ja eräiden muiden lakien muuttamisesta/ Regeringens proposition till riksdagen med förslag till lagar om ändring av lagen om rättegång i brottmål och av vissa andra laga*, HE 63/2013), available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/esitykset/he/2013/20130063](http://www.finlex.fi/fi/esitykset/he/2013/20130063). See page, 33-.

<sup>84</sup> Finland, the National Police Board (*Poliisihallitus/Polisstyrelsen*) (2013): Vieraskielinen tulkkaus ja kääntäminen esitutkinnassa ja pakkokeinoja käytettäessä, 2020/2013/4104 (määräys), 28.11.2013.

<sup>85</sup> Finland, the National Police Board (*Poliisihallitus/Polisstyrelsen*) (2013): Vieraskielinen tulkkaus ja kääntäminen esitutkinnassa ja pakkokeinoja käytettäessä, 2020/2013/4104 (määräys), 28.11.2013.

document<sup>86</sup> given to every person that has been deprived of his/her liberty. This document has been translated to the most common languages. If the person does not know these languages, the content must be translated orally to a language that he/she understands and knows sufficiently.

According to The National Police Board instructions<sup>87</sup> *on the interpretation and translation of foreign languages in criminal investigation and when applying coercive measures*, in an “ordinary (criminal) matter”<sup>88</sup> for example the main parts of the report of an offence can be translated orally in connection with the hearing with the help of an interpreter. Meticulously written recital of a record of the criminal investigation can also serve as a summary that is translated in writing or orally, and therefore a separate summary is not necessarily needed. The police can also draw a summary from an essential document that is to be translated either orally or in writing, taking into account the requirements of ensuring fair trial. Moreover, there is no duty to translate material of the criminal investigation, if the criminal investigation has been discontinued.

According to The National Police Board instructions,<sup>89</sup> in the preliminary hearing in a criminal matter there might be a need for interpretation, but there is no requirement for translation. (If only “a simplified criminal investigation<sup>90</sup>” is carried out in connection with fine, penal fine or penal judgement, the suspect has the right to information in a language that s/he understands sufficiently about the main content, implications and the possibility to of the summary penal order. Oral translation is in these situations considered sufficient. Moreover, in these situations, the police officer can act as an interpreter, when s/he has adequate and language skills to the task). Furthermore, a police officer can in other “ordinary criminal cases” conduct the hearing in a foreign language if s/he has sufficient

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<sup>86</sup> “The rights and responsibilities of persons held in custody”.

<sup>87</sup> Finland, the National Police Board (*Poliisihallitus/Polisstyrelsen*) (2013): Vieraskielinen tulkkaus ja kääntäminen esitutkinnassa ja pakkokeinoja käytettäessä, 2020/2013/4104 (määräys), 28.11.2013.

<sup>88</sup> Criminal matters that are not defined in the Criminal Code as aggravated and do not include any other procedural or evidencial challenges; representative of the National Police Board.

<sup>89</sup> Finland, the National Police Board (*Poliisihallitus/Polisstyrelsen*) (2013): Vieraskielinen tulkkaus ja kääntäminen esitutkinnassa ja pakkokeinoja käytettäessä, 2020/2013/4104 (määräys), 28.11.2013.

<sup>90</sup> Criminal Investigation Act, Chapter 3, Section 14: Prerequisites for a simplified criminal investigation

(1) In simple and clear matters, the criminal investigation may be conducted in a simplified form as provided below if, in accordance with general sentencing practice, no punishment more severe than a fine is expected for the offence.

(2) A simplified criminal investigation may be conducted in the case of an offence for which a police officer is suspected only if the matter is dealt with as a summary penal fine or summary penal judgment matter.

(3) The head investigator decides as necessary on whether the criminal investigation is to be conducted in full or in a simplified form.

		<p>language skills. In these cases however, the party must have the possibility in practice to verify his/her written statement. For the purposes of the verification, an officer orally translates the text from the original language to a language understood by the party to the proceedings. The statement shall have an appropriate entry on the verification procedure. It is advisable to record (audio-visual) the hearing.</p> <p>According to the Finnish Bar Association,<sup>91</sup> in general (regardless of the language of the suspected/accused) very little material is provided in the final statement of the criminal investigation. In practice, the counsel asks the police for the translation of the essential documents. However, in many cases the counsel him/herself has to take care of acquiring translations of documents important for the defence and bear the costs in order to secure sufficient time to prepare the defence.</p>
		<p>b)</p> <p>In accordance with the Criminal Investigation Act (<i>esitutkintalaki/förundersökningslag</i>, 805/2011)<sup>92</sup>, Chapter 4, Section 13, the translation of the essential documents is done <b>at the expense of the state, unless the pre-trial investigation authority itself attends to (ie. takes care of) the translation.</b></p> <p>In addition, expenses can be covered in accordance with The Legal Aid Act (<i>oikeusapulaki/rättshjälpslag</i>, 257/2002)<sup>93</sup>. According to The National Police Board instructions, the officer in charge of the investigation can if need be inform the party of the possibility of translation with the help of legal aid.</p>
		<p>c)</p>

<sup>91</sup> Finland, representative of the Finnish Bar Association.

<sup>92</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf](http://www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf).

<sup>93</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2002/en20020257.pdf](http://www.finlex.fi/en/laki/kaannokset/2002/en20020257.pdf). The Legal Aid Act, Chapter 1: Section 1: "Legal aid is provided at the expense of the state to persons who need expert assistance in a legal matter and who are unable to meet the costs of proceedings as a result of their economic situation. Legal aid covers the provision of legal advice, the necessary measures and representation before a court of law and another authority, and the waiver of certain expenses related to the consideration of the matter, as provided in this Act." Section 4, Subsection 1+2, Benefits included in legal aid:

The granting of legal aid exempts the recipient from liability for:

(1) the fees and compensations for an attorney appointed or approved under this Act, in full or in part, as stated in the legal aid decision;  
(2) the fees and compensations arising from the interpretation and translation services required in the consideration of the matter;



In accordance with the Criminal Investigation Act (*esitutkintalaki/förundersökningslag*, 805/2011)<sup>94</sup>, Chapter 4, Section 13, “A document or a portion thereof that is part of the criminal investigation documentation and that is essential from the point of view of the matter shall be translated in writing within a **reasonable period** [...]”. In accordance with The Government Bill (HE 63/2013) on the amendment of the Criminal Procedure Act and other acts<sup>95</sup> the essential document shall be translated **in such period that the party can duly look after his/her rights in the criminal process**. The translation should be made available to the suspect **in such period that the party has sufficient time to prepare for the upcoming trial**.

According to the National Police Board, in practice the translations are provided in extensive cases during the final statement.<sup>96</sup> ( In simpler matters, the translations can be provided earlier and if the suspect asks for further clarifications on grounds of the translated documents, the providing of clarifications can be taken into consideration as part of the criminal investigation. <sup>97</sup>

In accordance with the Coercive Measures Act (*pakkokeinolaki/tvångsmedelslag*, 806/2011)<sup>98</sup> Chapter 2, Section 16, *translation of a decision on arrest*: “(1) The suspect has the right to receive within a **reasonable period** a written translation of the **decision on arrest** in the language used by the suspect as referred to in Chapter 4, section 12 of the Criminal Investigation Act”

• court hearings;

a)

<sup>94</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf](http://www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf).

<sup>95</sup> Finland, Government Bill 63/2013 (*Hallituksen esitys eduskunnalle oikeudenkäynnistä rikosasioissa annetun lain ja eräiden muiden lakien muuttamisesta/ Regeringens proposition till riksdagen med förslag till lagar om ändring av lagen om rättegång i brottmål och av vissa andra laga*, HE 63/2013), available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/esitykset/he/2013/20130063](http://www.finlex.fi/fi/esitykset/he/2013/20130063). See page, 29-30.

<sup>96</sup> The Criminal Investigation Act, Chapter 10, Section 1:Final statement

(1) Before the criminal investigation is concluded, the parties shall be reserved an opportunity to submit a final statement to the criminal investigation authority on the sufficiency of the criminal investigation documentation, the assessment of the evidence, the legal issues or other circumstances that are important from the point of view of the consideration of the matter, unless with consideration to the nature and extent of the matter, the pettiness of the offence or the other corresponding circumstances, requesting a statement would be evidently unnecessary from the point of view of the consideration of charges and the court proceedings.

<sup>97</sup> Finland, representative of the National Police Board.

<sup>98</sup> Unofficial translation available at (accessed 17 June 2016): <http://www.finlex.fi/en/laki/kaannokset/2011/en20110806.pdf>.

2.1.2

According to The National Police Board instructions,<sup>99</sup> **the request for remand** is only translated if it is considered necessary in order to safeguard the suspected person's possibility to defend him/herself, for example in a situation in which the suspected person does not have a counsel to guard his/her rights. If the request for remand is based essentially on the same grounds as the decision on arrest, an oral translation is considered sufficient. The court takes care of the translation of the decision on remand.

In accordance with the Coercive Measures Act (pakkokeinolaki/tvångsmedelslag, 806/2011)<sup>100</sup> Chapter 3, Section 21, *Translation of the decision on remand*: (1) The suspect has the right to receive within a reasonable period a written

translation of **the decision on remand** in the language used by the suspect as referred to in Chapter 4, section 12 of the Criminal Investigation Act (2) Notwithstanding subsection 1, the decision on remand or a summary of the decision may be translated orally, unless legal safeguards for the suspect require that the decision be translated in writing. (3) The provisions in Chapter 6a of the Criminal Procedure Act on the translation of a document apply also to the translation of a decision on remand.

In accordance with Criminal Procedure Act (*laki oikeudenkäynnistä rikosasioissa/ lag om rättegång i brottmål*, 689/1997)<sup>101</sup>, Chapter 6a, section 3, subsection 1, defendants other than those speaking Finnish, Swedish or Sami have to be provided within a reasonable timeline a written translation, free of charge, **of the parts of the complaint and the judgement that concern him/her**. Moreover, the defendant has to be provided within a reasonable timeline **free of charge translation of a decision made in the criminal matter or other relevant document or part of it**, if the translation is necessary to ensure the rights of the person. In the Government Bill (HE 63/2013) on the amendment of the Criminal Procedure Act and other acts<sup>102</sup> in defining the aspects to be taken into account to ensure the rights of the person reference is made to the directive article 3:1. The relevant documents can be for example **written evidence or plaintiff's civil law claims**. The documents have **to be essential to the exercise of the right of defense**. The translation of documents is not necessary essential if the defendant has the possibility to get the information via his/her counsel and the content of the document is

<sup>99</sup> Finland, the National Police Board (*Poliisihallitus/Polisstyrelsen*) (2013): Vieraskielinen tulkkaus ja kääntäminen esitutkinnassa ja pakkokeinoja käytettäessä, 2020/2013/4104 (määräys), 28.11.2013.

<sup>100</sup> Unofficial translation available at (accessed 17 June 2016): <http://www.finlex.fi/en/laki/kaannokset/2011/en20110806.pdf>.

<sup>101</sup> Available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/laki/ajantasa/1997/19970689](http://www.finlex.fi/fi/laki/ajantasa/1997/19970689).

<sup>102</sup> Finland, Government Bill 63/2013 (*Hallituksen esitys eduskunnalle oikeudenkäynnistä rikosasioissa annetun lain ja eräiden muiden lakien muuttamisesta/ Regeringens proposition till riksdagen med förslag till lagar om ändring av lagen om rättegång i brottmål och av vissa andra laga*, HE 63/2013), available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/esitykset/he/2013/20130063](http://www.finlex.fi/fi/esitykset/he/2013/20130063). See page, 22-23.

not complicated or difficult to understand. However, in these circumstances a written translation can be essential if the document/material is **extensive**. In deciding whether the document should be translated, attention could also be put on the **personal qualities**<sup>103</sup> **(of the defendant) and the nature and severity**<sup>104</sup> **of the criminal matter**. The authority can take into account the party's own perception of the necessity of translation. However, the authority can decline from translating the document even if the party requests it, if the document is not deemed necessary in order to ensure the right of defence.

In accordance with The Act on Extradition on the Basis of an Offence Between Finland and Other Member States of the European Union (laki rikoksen johdosta tapahtuvasta luovuttamisesta Suomen ja muiden Euroopan unionin jäsenvaltioiden välillä / lag om utlämning för brott mellan Finland och de övriga medlemsstaterna i Europeiska unionen, 1286/2003)<sup>105</sup>, Section 21, Subsection 2, (*notices and inquiries to the requested person*): The notices and inquiries referred to in paragraph one<sup>106</sup> shall be made in a language that the requested person understands. Moreover, Section 20a lists the rights that the requested person must be informed about in writing. Furthermore, the Criminal Investigation Act, Chapter 4, Section 12, applies to the requested person's right to interpretation. **The requested person has the right to get a written translation of the request for apprehension and extradition** (European arrest warrant) in a language that he/she understands. Subsection 3 states that the request for apprehension and extradition or summary thereof may be translated orally if the legal protection of the requested person does not require a written translation. Moreover, The Criminal Investigation Act, Chapter 4, Section 13, applies to translation of the request for apprehension and extradition. Subsection 4 states that a record shall be made of the procedures.

The Act on Extradition on the Basis of an Offence Between Finland and Other Member States of the European Union (laki rikoksen johdosta tapahtuvasta luovuttamisesta Suomen ja muiden Euroopan unionin jäsenvaltioiden välillä / lag om utlämning för brott mellan

<sup>103</sup> The personal qualities include inter alia the age and level of development; legal councillor at the Ministry of Justice.

<sup>104</sup> The suspected person's legal protection can require a wider translation duty in more serious criminal matters; legal councillor at the Ministry of Justice.

<sup>105</sup> Available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/laki/ajantasa/2003/20031286](http://www.finlex.fi/fi/laki/ajantasa/2003/20031286).

<sup>106</sup> *"When a requested person has been taken into custody or otherwise found in Finland, the National Bureau of Investigation shall without deal certifiably give the requested person service of the request for apprehension and extradition (European arrest warrant) and explain its contents. The requested person shall be notified that he or she has the possibility of consenting to the extradition, of consenting to prosecution, sentencing or detention in the requesting Member State for an offence committed prior to the extradition, other than that for which the extradition to another Member State is requested, and of consenting to being subsequently extradite to another Member State. The requested person shall also be informed of the consequences of consent. The requested person shall be asked whether or not he or she intends to consent to the extradition or whether he or she is of the view that the ground for refusal or the conditions provided in the Act may apply in his or her case. If necessary the requested person shall also be asked whether he or she requests to serve the custodial sentence in Finland."*

		<p>Finland och de övriga medlemsstaterna i Europeiska unionen, 1286/2003)<sup>107</sup>, Section 25, states that “unless otherwise provided in this Act, the provisions on the consideration of criminal cases in the district court apply to the consideration of the question of extradition in district court”. Therefore, in accordance with the Government Bill (HE 63/2013) on the amendment of the Criminal Procedure Act and other acts<sup>108</sup>, the Criminal Procedure Act, Section 6a on interpretation applies to extradition cases.</p>
	b)	<p>In accordance with Criminal Procedure Act (<i>laki oikeudenkäynnistä rikosasioissa/ lag om rättegång i brottmål</i>, 689/1997)<sup>109</sup>, Chapter 6a, section 3, subsection 1, defendants other than those speaking Finnish, Swedish or Sami have to be provided within a reasonable timeline with a written translation, free of charge, <b>of the parts of the complaint and the judgement that concern him/her</b>. Moreover, the defendant has to be provided within a reasonable timeline <b>free of charge translation of a decision made in the criminal matter or other relevant document or part of it</b>, if the translation is necessary to ensure the rights of the person. The costs are born by the State.</p>
	c)	<p>In accordance with the Criminal Procedure Act (<i>laki oikeudenkäynnistä rikosasioissa/ lag om rättegång i brottmål</i>, 689/1997)<sup>110</sup>, Chapter 6a, section 3, subsection 1, defendants other than those speaking Finnish, Swedish or Sami have to be provided within <b>a reasonable timeline</b> a written translation of the parts of the complaint and the judgement that concern him/her free of charge. Moreover, the defendant has to be provided a translation of a decision made in the criminal matter or other relevant document or part of it within <b>a reasonable timeline</b>, if the translation is necessary to ensure the rights of the person.</p> <p>The Government Bill (HE 63/2013) on the amendment of the Criminal Procedure Act and other acts<sup>111</sup> states that the translation of the complaint or other essential document <b>has to be provided in such timeline that the party has sufficient time to prepare for the defense. If the right to institute criminal proceedings is expiring soon, the translation of the complaint has to be given at the same time as the service of summons. The judgement has to be accessible to the party in such a timeline that his/her right of</b></p>

<sup>107</sup> Available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/laki/ajantasa/2003/20031286](http://www.finlex.fi/fi/laki/ajantasa/2003/20031286).

<sup>108</sup> Finland, Government Bill 63/2013 (*Hallituksen esitys eduskunnalle oikeudenkäynnistä rikosasioissa annetun lain ja eräiden muiden lakien muuttamisesta/ Regeringens proposition till riksdagen med förslag till lagar om ändring av lagen om rättegång i brottmål och av vissa andra laga*, HE 63/2013), available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/esitykset/he/2013/20130063](http://www.finlex.fi/fi/esitykset/he/2013/20130063). See page, 22-23.

<sup>109</sup> Available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/laki/ajantasa/1997/19970689](http://www.finlex.fi/fi/laki/ajantasa/1997/19970689).

<sup>110</sup> Available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/laki/ajantasa/1997/19970689](http://www.finlex.fi/fi/laki/ajantasa/1997/19970689).

<sup>111</sup> Finland, Government Bill 63/2013 (*Hallituksen esitys eduskunnalle oikeudenkäynnistä rikosasioissa annetun lain ja eräiden muiden lakien muuttamisesta/ Regeringens proposition till riksdagen med förslag till lagar om ändring av lagen om rättegång i brottmål och av vissa andra laga*, HE 63/2013), available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/esitykset/he/2013/20130063](http://www.finlex.fi/fi/esitykset/he/2013/20130063). See page, 25.

appeal is not endangered. If need be and at the latest during the closing statements, the court should find out whether the party wants a translation of the judgement. (The court then should consider whether a written or oral translation shall be provided.) If a written translation is needed, the court should translate the judgement so that the translation is accessible on the day when the judgement is handed down or made available or at the latest on the timeline set in the Criminal Procedure Act (*laki oikeudenkäynnistä rikosasioissa/ lag om rättegång i brottmål*, 689/1997)<sup>112</sup>, Chapter 11, section 12, subsection 3, which sets out the time when the copy should be made available after the judgement has been handed down: “**Counting from the date when the judgment of the district court is handed down or made available, the copy of the judgment is to be available to the party in the court registry (1) within two weeks, if an intention to appeal has been declared in the case, and (2) if possible, within 30 days in other events.**”

The period for submitting an appeal against the judgment starts to run from the day after the date of service. However, the appellant must give notice of one's intent to appeal within a week (7 days) of the date of service.<sup>113</sup> If a document must be translated in order to make it accessible to a party to the proceedings, this may constitute an exception to the requirement of making the judgement available in 14 days. In accordance with the Criminal Procedure Act (*laki oikeudenkäynnistä rikosasioissa/ lag om rättegång i brottmål*, 689/1997)<sup>114</sup>, Chapter 11, Section 7, Subsection 2, which governs handing down the judgment after the main hearing has ended, “**If in an extensive or complex case the deliberations or the drawing up of the judgment so require, the judgment may be made available in the court registry within 14 days of the conclusion of the main hearing. If, for a special reason, the judgment cannot be made available within this deadline, it is to be made available as soon as possible.**”

According to The Office of the Prosecutor General, the judgement that is handed down in the court session is interpreted to the accused. If the judgement is given as a court registry decision, the counsel of the accused usually explains the content via interpreter. A court registry decision is a decision taken by the judge only after the court session as a final judgment. The party to the proceedings can obtain these decisions in writing from the court registry, or they can be communicated by mail by request.<sup>115</sup> **In some rare cases the judgement is translated in writing to the language used by the suspect/accused.**<sup>116</sup>

<sup>112</sup> Available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/laki/ajantasa/1997/19970689](http://www.finlex.fi/fi/laki/ajantasa/1997/19970689).

<sup>113</sup> Finland, Ministry of Justice (*Oikeusministeriö/Justitieministeriet*) (2013), ‘Tyytymättömyyden ilmoitus’ (*Notice of one's intent to appeal*), available at (accessed 16 June 2015): <http://www.oikeus.fi/tuomioistuimet/karajaoikeudet/fi/index/muutoksenhaku/muutoksenhakeminen.html>.

<sup>114</sup> Available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/laki/ajantasa/1997/19970689](http://www.finlex.fi/fi/laki/ajantasa/1997/19970689).

<sup>115</sup> Finland, Ministry of Justice (*Oikeusministeriö/Justitieministeriet*) (2014), ‘Pääkäsittely’ (*The court session*), available at (accessed 16 June 2015): <http://www.oikeus.fi/tuomioistuimet/karajaoikeudet/fi/index/rikosasiat/paakasittely.html>.

<sup>116</sup> Finland, representative of the Office of the Prosecutor General.

		In accordance with the Coercive Measures Act (pakkokeinolaki/tvångsmedelslag, 806/2011) <sup>117</sup> Chapter 3, Section 21, <i>Translation of the decision on remand: (1) The suspect has the right to receive <b>within a reasonable period</b> a written translation of <b>the decision on remand</b> in the language used by the suspect as referred to in Chapter 4, section 12 of the Criminal Investigation Act.</i>
2.1.3	<ul style="list-style-type: none"> <li>any necessary interim hearings;</li> </ul>	a) See above 2.1.2
		b) See above 2.1.2
		c) See above 2.1.2
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>	a) According to the National Police Board, this is not part of the police duties. <sup>118</sup>  According to the Finnish Bar Association, <sup>119</sup> in practice, the translations between the suspected/accused persons and their legal counsel are not included. However, the legal aid can cover the costs. (see below)
		b)

<sup>117</sup> Unofficial translation available at (accessed 17 June 2016): <http://www.finlex.fi/en/laki/kaannokset/2011/en20110806.pdf>.

<sup>118</sup> Finland, representative of the National Police Board.

<sup>119</sup> Finland, representative of the Finnish Bar Association.

		<p>Expenses can be covered in accordance with The Legal Aid Act (<i>oikeusapulakilrättshjälpslag, 257/2002</i>)<sup>120</sup>. According to The National Police Board instructions, the officer in charge of the investigation can, if need be, inform the party of the possibility of translation with the help of legal aid. Moreover, according to the Finnish Bar Association<sup>121</sup>, in some situations the state can retain counsel for the suspected/accused and then it is possible for the state to also cover these expenses.</p>
		<p>c) N/A</p>
<p>2.2</p>	<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>(N.B. Throughout this report, there are references to the decisions on whether an oral or a written translation of documents is required. All of these issues are not repeated here.)</p> <p>In accordance with the Criminal Procedure Act (<i>laki oikeudenkäynnistä rikosasioissa/ lag om rättegång i brottmål, 689/1997</i>)<sup>122</sup> Chapter 6a, section 3, subsection 2 and 3, the complaint, judgement or other essential document or a part or summary thereof <b>may be translated orally for a party</b>, unless legal safeguards for the party require that the document be translated in writing. The court shall ensure that the party receives sufficient knowledge of his or her right to translation of a document and if necessary shall ascertain whether the party wants the translation of a document referred to in this section. A party need not be provided with a translation of a document if the party waives his or her right to a translation.</p>

<sup>120</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2002/en20020257.pdf](http://www.finlex.fi/en/laki/kaannokset/2002/en20020257.pdf) The Legal Aid Act, Chapter 1: Section 1: "Legal aid is provided at the expense of the state to persons who need expert assistance in a legal matter and who are unable to meet the costs of proceedings as a result of their economic situation. Legal aid covers the provision of legal advice, the necessary measures and representation before a court of law and another authority, and the waiver of certain expenses related to the consideration of the matter, as provided in this Act." Section 4, Subsection 1+2, Benefits included in legal aid:

The granting of legal aid exempts the recipient from liability for:

- (1) the fees and compensations for an attorney appointed or approved under this Act, in full or in part, as stated in the legal aid decision;
- (2) the fees and compensations arising from the interpretation and translation services required in the consideration of the matter;

<sup>121</sup> Finland, representative of the Finnish Bar Association.

<sup>122</sup> Available in Finnish at (accessed 17 June 2016): [www.finlex.fi/fi/laki/ajantasa/1997/19970689](http://www.finlex.fi/fi/laki/ajantasa/1997/19970689).

The Government Bill (HE 63/2013) on the amendment of the Criminal Procedure Act and other acts<sup>123</sup> states that the oral translation can, for example, be simultaneous interpretation of a court judgement or oral translation of the written judgement. When assessing whether an oral translation is sufficient in regard to the legal safeguards, the court should take into account *inter alia* the nature of the case and the document<sup>124</sup>, the personal qualities<sup>125</sup> of the party and whether the party has a counsel. The necessity of a **written translation** depends on how severe<sup>126</sup> or complex the criminal matter is. The court can take into account the party's own perception of the necessity of translation. However, the document can be translated orally even if the party requests a **written translation**. Moreover, other procedural rights should not be affected, therefore the need for written translation can be assessed in regard to its effect on the length of the judicial procedure.

In accordance with the Criminal Investigation Act (*esitutkintalaki/förundersökningslag*, 805/2011)<sup>127</sup>, an essential document or a part or summary thereof may **be translated orally for a party**, unless legal safeguards for the party require that the document be translated **in writing**. In accordance with The Government Bill (HE 63/2013) on the amendment of the Criminal Procedure Act and other acts,<sup>128</sup> the assessment on whether an **oral translation** is sufficient is made case-specifically. When assessing whether oral translation is sufficient in regard to the legal safeguards, the criminal investigation authority should take into account *inter alia* the nature of the case and the document<sup>129</sup>, the personal qualities of the party and whether the party has a counsel. The necessity of a written translation depends on how severe or complex the criminal matter is and on the expected penalty/sanction. Usually there is no need for a written translation for example when, based on the communication<sup>130</sup>) between the police and the prosecution, it is known that the prosecutor will not press

<sup>123</sup> Finland, Government Bill 63/2013 (*Hallituksen esitys eduskunnalle oikeudenkäynnistä rikosasioissa annetun lain ja eräiden muiden lakien muuttamisesta/ Regeringens proposition till riksdagen med förslag till lagar om ändring av lagen om rättegång i brottmål och av vissa andra laga*, HE 63/2013), available in Finnish at (accessed 16 June 2015):: [www.finlex.fi/fi/esitykset/he/2013/20130063](http://www.finlex.fi/fi/esitykset/he/2013/20130063). See page, 24.

<sup>124</sup> If the document includes a lot of detailed and complex information, then it might be hard to understand in oral form.

<sup>125</sup> The personal qualities include *inter alia* the age and level of development; legal councillor at the Ministry of Justice.

<sup>126</sup> The suspected person's legal protection can require a wider translation duty in more serious criminal matters; legal councillor at the Ministry of Justice.

<sup>127</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf](http://www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf).

<sup>128</sup> Finland, Government Bill 63/2013 (*Hallituksen esitys eduskunnalle oikeudenkäynnistä rikosasioissa annetun lain ja eräiden muiden lakien muuttamisesta/ Regeringens proposition till riksdagen med förslag till lagar om ändring av lagen om rättegång i brottmål och av vissa andra laga*, HE 63/2013), available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/esitykset/he/2013/20130063](http://www.finlex.fi/fi/esitykset/he/2013/20130063). See page, 30-31.

<sup>129</sup> If the document includes a lot of detailed or complex information, then it might be hard to understand in oral form.

<sup>130</sup> Finland, the Criminal Investigation Act (*esitutkintalaki/förundersökningslag*, 805/2011), Chapter 5: *Cooperation between the criminal investigation authority and the public prosecutor*. Section 1: Notification to the prosecutor: [...] In addition, the public prosecutor shall be notified of an offence that has come under investigation, and the criminal investigation and the prosecutorial authorities have jointly decided on the basis of their competence that notice shall be given of such offences, or the public prosecutor has requested that notice be given of such offences.



	<p>charges. Moreover, the criminal investigation authority can take into account the party's own perception of the necessity of translation. However, the document can be translated <b>orally</b> even if the party requests for a written translation. Moreover, other procedural rights should not be affected, therefore the need for a written translation can be assessed in regard to its effect on the length of the judicial procedure.</p> <p>According to The National Police Board instructions,<sup>131</sup> the police must find out: 1) whether, in accordance with the Criminal Investigation Act or the Coercive Measures Act, the party has the right to be provided with a translation 2) If he/she has this right, whether the document must be <b>translated in writing, or whether an oral translation is sufficient</b>. When considering this, the following must be taken into account: How relevant is the duty to translate in regard to fulfilment of other rights (such as to have the matter dealt within a reasonable time)?; Is the translation carried out by another authority, for example the court (basically it means that oral translation could be considered sufficient if translation is also provided by some other authority, for example the court.)?</p> <p>In accordance with the Coercive Measures Act (pakkokeinolaki/tvångsmedelslag, 806/2011)<sup>132</sup> Chapter, 2, Section 16, <i>translation of a decision on arrest</i>: "(1) The suspect has the right to receive within a reasonable period a written translation of the decision on arrest in the language used by the suspect as referred to in Chapter 4, section 12 of the Criminal Investigation Act" (2) Notwithstanding subsection 1,</p>
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Section 2 – The competence of the public prosecutor in the criminal investigation:

(1) On the request of the public prosecutor, the criminal investigation authority shall conduct a criminal investigation or perform a criminal investigation measure. Also otherwise the criminal investigation authority shall comply with orders given by the public prosecutor intended to ensure clarification of the matter in the manner referred to in Chapter 1, section 2.

Section 3: Obligation to cooperate

(1) The criminal investigation authority shall, in the manner required by the nature or scope of the matter, notify the public prosecutor of the conducting of a criminal investigation and of circumstances connected with criminal investigation measures and otherwise of progress in the investigation. If the criminal investigation authority has notified the public prosecutor of the opening of an investigation in an offence, the head investigator shall, before concluding the criminal investigation, hear the public prosecutor on whether the matter has been clarified sufficiently in the manner referred to in Chapter 1, section 2, if the nature or scope of the matter require that the public prosecutor be heard, or if the intention is to conclude the criminal investigation without submitting the matter to the prosecutor.

(2) The public prosecutor shall participate to the extent necessary in the criminal investigation in order to ensure that the matter is clarified in the manner referred to in Chapter 1, section 2.

(3) The criminal investigation authority and the public prosecutor shall discuss questions relating to the arrangement of cooperation in the criminal investigation.

<sup>131</sup> Poliisihallitus (2013): Vieraskielinen tulkkaus ja kääntäminen esitutkinnassa ja pakkokeinoja käytettäessä, 2020/2013/4104 (määräys), 28.11.2013.

<sup>132</sup> Unofficial translation available at (accessed 17 June 2015): <http://www.finlex.fi/en/laki/kaannokset/2011/en20110806.pdf>.

**the decision on arrest or a summary of the decision may be translated orally, unless legal safeguards for the suspect require that the decision be translated in writing.** (3) The provisions in Chapter 4, section 13 of the Criminal Investigation Act on the translation of an essential document in the criminal investigation documentation apply also to the translation of a decision on arrest.” In accordance with The Government Bill (HE 63/2013) on the amendment of the Criminal Procedure Act and other acts,<sup>133</sup> **the decision on arrest is usually translated orally to the suspect with the help of the interpreter in connection with the hearing. The criminal investigation authority should case-specifically assess whether the legal safeguards of the suspect require in addition the decision on arrest to be translated in writing.** When assessing the need for written translation, inter alia the following could be taken into account: **the length of apprehension, the personal qualities of the suspect, the use of counsel and whether the suspect’s remand is still requested.** As a rule, **the oral translation can be considered sufficient in regard to the legal safeguards, if the apprehended person has a counsel with whom he/she has the possibility to talk about the content of the decision.**

According to The National Police Board instructions,<sup>134</sup> if the suspected person will be later remanded, the oral translation in connection with the arrest is considered sufficient as a rule.

In accordance with the Coercive Measures Act (pakkokeinolaki/tvångsmedelslag, 806/2011)<sup>135</sup> Chapter 3, Section 21, *Translation of the decision on remand*: (1) The suspect has the right to receive within a reasonable period a written translation of the decision on remand in the language used by the suspect as referred to in Chapter 4, section 12 of the Criminal Investigation Act (2) Notwithstanding subsection 1, **the decision on remand or a summary of the decision may be translated orally, unless legal safeguards of the suspect require that the decision be translated in writing.**(3) The provisions in Chapter 6a of the Criminal Procedure Act on the translation of a document apply also to the translation of a decision on remand. In accordance with The Government Bill (HE 63/2013) on the amendment of the Criminal Procedure Act and other acts,<sup>136</sup> the decision on remand is given in a court session where an interpreter has

<sup>133</sup> Finland, Government Bill 63/2013 (*Hallituksen esitys eduskunnalle oikeudenkäynnistä rikosasioissa annetun lain ja eräiden muiden lakien muuttamisesta/ Regeringens proposition till riksdagen med förslag till lagar om ändring av lagen om rättegång i brottmål och av vissa andra laga*, HE 63/2013), available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/esitykset/he/2013/20130063](http://www.finlex.fi/fi/esitykset/he/2013/20130063). See page, 33.

<sup>134</sup> Finland, the National Police Board (*Poliisihallitus/Polisstyrelsen*) (2013): Vieraskielinen tulkkaus ja kääntäminen esitutkinnassa ja pakkokeinoja käytettäessä, 2020/2013/4104 (määräys), 28.11.2013.

<sup>135</sup> Unofficial translation available at (accessed 17 June 2016): <http://www.finlex.fi/en/laki/kaannokset/2011/en20110806.pdf>.

<sup>136</sup> Finland, Government Bill 63/2013 (*Hallituksen esitys eduskunnalle oikeudenkäynnistä rikosasioissa annetun lain ja eräiden muiden lakien muuttamisesta/ Regeringens proposition till riksdagen med förslag till lagar om ändring av lagen om rättegång i brottmål och av vissa andra laga*, HE 63/2013), available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/esitykset/he/2013/20130063](http://www.finlex.fi/fi/esitykset/he/2013/20130063). See page, 33-34.

		<p>to be present if the person whose remand is requested does not understand the language used in the matter. The interpreter translates the decision on remand to the suspect at the same time when the decision on remand is given. <b>The court should case-specifically assess whether the legal safeguards of the suspect additionally require the decision on arrest to be translated in writing. When assessing the need for written translation, inter alia attention should be pressed on the complexity of the matter and the personal qualities of the suspect.</b></p>
<p><b>2.3</b></p>	<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 National Police Board instructions<sup>137</sup> <i>on the interpretation and translation of foreign languages in criminal investigation and when applying coercive measures</i>, the officer in charge of the investigation makes a “criminal investigation decision” (esitutkintapäätös) on the language skills, level of language skills and the translation. The decision cannot be appealed against directly, but an administrative complaint can be filed or a legality control authority<sup>138</sup> can be contacted.</p> <p>In practice, the decision can be challenged either by contacting the police department, The National Police Board or legality control.<sup>139</sup></p> <p>According to The National Police Board instructions, it’s the duty of the court in connection with the main hearing to indicate whether the proceedings as a whole have ensured the right to a fair trial.</p> <p>According to The Office of the Prosecutor General, the suspects/accused persons can take the matter to the prosecutor or the superior of the police officer. The prosecutor can order translation to be provided in accordance with the Criminal Investigation Act<sup>140</sup>, chapter 5, section 2, subsection 1. Moreover, the suspected/accused person can demand translation in court and bring up the lack of translation in</p>

<sup>137</sup> Finland, the National Police Board (*Poliisihallitus/Polisstyrelsen*) (2013): Vieraskielinen tulkkkaus ja kääntäminen esitutkinnassa ja pakkokeinoja käytettäessä, 2020/2013/4104 (määräys), 28.11.2013.

<sup>138</sup> Legality control authorities in Finland include inter alia The Parliamentary Ombudsman and the Chancellor of Justice of the Government.

<sup>139</sup> Finland, representative of the National Police Board.

<sup>140</sup> On the request of the public prosecutor, the criminal investigation authority shall conduct a criminal investigation or perform a criminal investigation measure. Also otherwise the criminal investigation authority shall comply with orders given by the public prosecutor intended to ensure clarification of the matter in the manner referred to in Chapter 1, section 2.

		<p>the court. The court decision on the matter can be appealed in connection with the main case, i.e. criminal matter of which the person is being accused of.<sup>141</sup></p> <p>According to the Finnish Bar Association,<sup>142</sup> it is quite hard to challenge these decisions, and therefore it is a general practice that the counsels acquire the translations, if the costs are not too high. If the material to be translated is extensive, there is a real risk that the translation will not be available soon enough to secure effective defence.</p>		
		<b>Yes</b>	<b>No</b>	<b>Brief Description</b>
2.4	Do all documents that the suspected or accused person has to sign during the proceedings have to be translated?	X (oral)		<p>According to the National Police Board, as a rule in Finland the suspect only has to sign his/her own “questioning report” (kuulustelukertomus). In the end of the questioning the interpreter orally translates the content. If the investigator conducts the questioning in a foreign language, he/she then translates the report orally to the suspected/accused person.<sup>143</sup> According to The Finnish Association of Translators and Interpreters,<sup>144</sup> this “questioning report” is immediately orally translated.</p> <p>According to The Office of the Prosecutor General, the questioning report (kuulustelukertomus) is written in Finnish and the suspected person has to sign it. The interpreter is present and also signs it.<sup>145</sup></p> <p>(N.B. See below on the waiving of translation.)</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?	X		<p>In accordance with the Criminal Investigation Act (<i>esitutkintalaki/förundersökningslag</i>, 805/2011)<sup>146</sup>, the criminal investigation authority shall ensure that the party receives sufficient knowledge of his or her right to translation of a document and if necessary shall ascertain whether the party wants the translation of an essential document. <b>A party needs not be provided with a translation of a document if the party waives his or her right to a translation. The matter is discussed orally with the suspected/accused person. However, the procedure is recorded in writing in the criminal investigation records.</b><sup>147</sup> In accordance with The Government Bill (HE 63/2013) on the amendment of the</p>

<sup>141</sup> Finland, representative of the Office of the Prosecutor General.

<sup>142</sup> Finland, representative of the Finnish Bar Association.

<sup>143</sup> Finland, representative of the National Police Board.

<sup>144</sup> Finland, representative of the Finnish Association of Translators and Interpreters.

<sup>145</sup> Finland, representative of the Office of the Prosecutor General.

<sup>146</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf](http://www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf).

<sup>147</sup> Finland, representative of the National Police Board.

			<p>Criminal Procedure Act and other acts<sup>148</sup> <b>the criminal investigation authority must inform the suspect of his/her right to translation of a document, or to an oral translation, and that the translation is free of charge.</b> The criminal investigation authority, if necessary, shall ascertain from the party or his/her counsel, whether the party wants the translation of a document.</p> <p>According to The National Police Board instructions<sup>149</sup> <i>on the interpretation and translation of foreign languages in criminal investigation and when applying coercive measures</i>, the party can waive his/her right to translation. This must be <b>voluntary and unambiguous</b>, and it must be ascertained that the party has sufficient information about his/her right to translation and the legal implications of the waiving. As a general rule, the waiving of the right to translation concerns the whole process, therefore records about the waiving and the informing of the rights concerning it must be entered meticulously.</p> <p>The following is stated in the form titled "Information for the suspect": <i>"You may give up your right to get documents translated (both orally and in writing) in relation to this criminal case. Giving up your right to translations in this criminal process is voluntary. Please note that your decision to give up your right to translations concerns all stages of this criminal process. However, if you decide to give up this right to translations, you would still have the right to free interpretation services in this very same criminal process. You would also still have the right to have documents translated to you in other criminal cases or administrative proceedings that concern you personally."</i></p> <p>In accordance with the Criminal Procedure Act (<i>laki oikeudenkäynnistä rikosasioissa/ lag om rättegång i brottmål, 689/1997</i>)<sup>150</sup> Chapter 6a, section 3, The court shall ensure that the party receives sufficient knowledge of his or her right to translation of a document and, if necessary, shall ascertain whether the party wants the translation of a</p>
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<sup>148</sup> Finland, Government Bill 63/2013 (*Hallituksen esitys eduskunnalle oikeudenkäynnistä rikosasioissa annetun lain ja eräiden muiden lakien muuttamisesta/ Regeringens proposition till riksdagen med förslag till lagar om ändring av lagen om rättegång i brottmål och av vissa andra laga, HE 63/2013*), available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/esitykset/he/2013/20130063](http://www.finlex.fi/fi/esitykset/he/2013/20130063). See page, 31.

<sup>149</sup> Finland, the National Police Board (*Polisihallitus/Polisstyrelsen*) (2013): Vieraskielinen tulkkaus ja kääntäminen esitutkinnassa ja pakkokeinoja käytettäessä, 2020/2013/4104 (määräys), 28.11.2013.

<sup>150</sup> Available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/laki/ajantasa/1997/1997068](http://www.finlex.fi/fi/laki/ajantasa/1997/1997068).

				<p>document. <b>A party needs not be provided with a translation of a document if the party waives (orally or in writing) his or her right to a translation.</b> The Government Bill (HE 63/2013) on the amendment of the Criminal Procedure Act and other acts<sup>151</sup> states that the party should be (in accordance with the directive 3 article (8)) <b>informed of the right to written or oral translation of the document and that the translation is free of charge.</b></p> <p>According to The Office of the Prosecutor General, in practice, the waiving can be accepted if the party's legal protection is not endangered. The possible waiving is discussed with the suspected/accused person and his/her counsel via interpreter. For example, if the accused says in court that s/he does not need interpretation, but later on during the court proceedings it can be deduced that s/he in fact needs an interpreter, an interpreter is provided. Usually there is an interpreter present just in case the accused person does not understand enough Finnish or Swedish.<sup>152</sup></p>
<b>3.</b>	<b>RIGHTS CONCERNING BOTH INTERPRETATION AND TRANSLATION<sup>153</sup></b>			
<b>3.1</b>	<b>With regard to use of registers of interpreters and translators in EU Member States:</b>	<b>Yes</b>	<b>No</b>	<b>Brief Description</b>
	a) Do national databases or registers exist for legal translators and interpreters?		(not yet both) X	Working Group reporting on setting up a register for legal interpreters (The Ministry of Education and Culture) gave a report in 29 August 2014. The working group was commissioned to submit pertinent development and legislation amendment proposals related to Directive 2010/64/EU. The working group decided that authorised translators are competent enough to meet the requirements defined in the directive, and that the register for authorised translators is equivalent to the translators register defined in the directive. The working group proposed that a register for legal interpreters be set up.

<sup>151</sup> Finland, Government Bill 63/2013 (*Hallituksen esitys eduskunnalle oikeudenkäynnistä rikosasioissa annetun lain ja eräiden muiden lakien muuttamisesta/ Regeringens proposition till riksdagen med förslag till lagar om ändring av lagen om rättegång i brottmål och av vissa andra laga, HE 63/2013*), available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/esitykset/he/2013/20130063](http://www.finlex.fi/fi/esitykset/he/2013/20130063). See page, 24.

<sup>152</sup> Finland, representative of the Office of the Prosecutor General.

<sup>153</sup> See in particular Article 5 and relevant recitals of Directive 2010/64/EU.

				Moreover, The University of Helsinki is preparing a specialised vocational degree that will qualify legal interpreters. <sup>154</sup>
	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?		X	<p>The authorised translators are listed in a register in accordance with the Act on the authorised translators (<i>Laki auktorisoiduista kääntäjistä / Lag om auktoriserade translatorer</i>, 1231/2007<sup>155</sup>). The register is maintained by the Finnish National Board of Education.</p> <p>In accordance with the Act on the authorised translators (<i>Laki auktorisoiduista kääntäjistä / Lag om auktoriserade translatorer</i>, 1231/2007<sup>156</sup>) Chapter 5, section 15, the authorised translator's name, the languages that he/she has been authorised to translated and the municipality of residence can be published on a website. (However, the authorised translator can forbid the publication of this information.) The website is available at: <a href="http://www03.oph.fi/kaantajat/">www03.oph.fi/kaantajat/</a>.</p>
	c) Who has access to these databases?	<p><b>Brief Description:</b></p> <p>In accordance with the Act on the authorised translators (<i>Laki auktorisoiduista kääntäjistä / Lag om auktoriserade translatorer</i>, 1231/2007<sup>157</sup>), Section 15, the authorised translator's board of examiners maintains the register.</p> <p>The website listing the authorised translators is available online: <a href="http://www03.oph.fi/kaantajat/">www03.oph.fi/kaantajat/</a>. However, the Finnish National Board of Education cannot publish contact details of individual translators. The translators' details can be searched for example on the website of The Finnish Association of Translators and Interpreters. (<a href="http://www.sktl.fi/in-english/search/">www.sktl.fi/in-english/search/</a>)</p>		
	d) Which professional qualifications are needed by:	<p><b>Brief Description:</b></p>		

<sup>154</sup> The Ministry of Justice (2014), "Uusi tutkinto pätevoittää oikeustulkin", Press release, 2 June 2014, available at: [www.oikeus.fi/fi/index/ajankohtaista/tiedotteet/2014/06/uusitutkintopatevoittaa-oikeustulkin.html](http://www.oikeus.fi/fi/index/ajankohtaista/tiedotteet/2014/06/uusitutkintopatevoittaa-oikeustulkin.html).

<sup>155</sup> Available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/laki/ajantasa/2007/20071231#L3P9](http://www.finlex.fi/fi/laki/ajantasa/2007/20071231#L3P9).

<sup>156</sup> Available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/laki/ajantasa/2007/20071231#L3P9](http://www.finlex.fi/fi/laki/ajantasa/2007/20071231#L3P9).

<sup>157</sup> Available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/laki/ajantasa/2007/20071231#L3P9](http://www.finlex.fi/fi/laki/ajantasa/2007/20071231#L3P9).

	<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>The qualifications of the authorised translators are described in the Act on the authorised translators (<i>Laki auktorisoiduista kääntäjistä / Lag om auktoriserade translatorer</i>, 1231/2007<sup>158</sup>). According to the Chapter 2, Section 2 of the Act, a person who is over 18 years of age and known to be reliable, who is not legally incompetent, whose domicile is Finland or who is a permanent resident of an EU or ETA member state, and who has passed authorised translator’s examination referred to in the Act, is qualified as an authorised translator. However, persons who have completed a higher university degree of which translation studies constitute an extensive part and who apply to work as an authorised translator in defined languages, do not need to pass the authorised translator’s examination.</p>		
	<p>e) Are there any requirements in place to ensure the independence of interpreters and translators? If yes, provide a brief overview (for both translators and interpreters).</p>		X	<p>The Finnish Association of Translators and Interpreters has “professional regulations for interpreter” (<i>tulkin ammattisäännöstö</i><sup>159</sup>). All the members of the association commit to these regulations when they join the association. In principle, they can be dismissed from the association if they don’t comply with these regulations. These regulations include inter alia “professional ethics”.</p> <p>Moreover, The Finnish Association of Translators and Interpreters has published instructions for legal interpretation<sup>160</sup>.</p>
	<p>f) Is access to existing databases provided through the <a href="#">European e-Justice portal</a>?<sup>161</sup> How is this register available to legal counsel and relevant authorities?</p>			<p>All the members of the association commit to these regulations when they join the association. In principle, they can be dismissed from the association if they don’t comply with these instructions.</p> <p>The website of the Finnish Association of Translators and Interpreters is available at: <a href="https://e-justice.europa.eu/content_find_a_legal_translator_or_an_interpreter-116-fi-en.do?init=true&amp;member=1">https://e-justice.europa.eu/content_find_a_legal_translator_or_an_interpreter-116-fi-en.do?init=true&amp;member=1</a></p> <p>N.B. The Finnish Association of Translators and Interpreters in an NGO.</p>
	<p>g) Are criminal justice institutions required to use</p>		X	<p>In accordance with The government bill (HE 63/2013) on the amendment of the Criminal Procedure Act and other acts,<sup>162</sup> the disqualification of interpreters is not to be included in the Criminal investigation Act nor the Criminal</p>

<sup>158</sup> Available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/laki/ajantasa/2007/20071231#L3P9](http://www.finlex.fi/fi/laki/ajantasa/2007/20071231#L3P9).

<sup>159</sup> Available in Finnish at (accessed 16 June 2015): [www.sktl.fi/@Bin/33666/tulkin+ammattis%C3%A4%C3%A4nn%C3%B6st%C3%B6.pdf](http://www.sktl.fi/@Bin/33666/tulkin+ammattis%C3%A4%C3%A4nn%C3%B6st%C3%B6.pdf).

<sup>160</sup> Available in Finnish at (accessed 16 June 2015): [www.sktl.fi/kaantaminen\\_ja\\_tulkkkaus/tyokalupakki-ammattilaiselle-ja-oikeustulkkausohjeet/](http://www.sktl.fi/kaantaminen_ja_tulkkkaus/tyokalupakki-ammattilaiselle-ja-oikeustulkkausohjeet/).

<sup>161</sup> <https://e-justice.europa.eu/home.do?plang=en&action=home>.

<sup>162</sup> Finland, Government Bill 63/2013 (*Hallituksen esitys eduskunnalle oikeudenkäynnistä rikosasioissa annetun lain ja eräiden muiden lakien muuttamisesta/ Regeringens proposition till riksdagen med förslag till lagar om ändring av lagen om rättegång i brottmål och av vissa andra laga*, HE 63/2013), available in Finnish at (accessed 16 June 2015):: [www.finlex.fi/fi/esitykset/he/2013/20130063](http://www.finlex.fi/fi/esitykset/he/2013/20130063), see page 26-28, 31.



	interpreters and translators listed in these registers?			Procedure Act for it might result to be problematic for example in regard to interpretation of rare/lesser known languages in urgent situations. However, primarily, the court and the criminal investigation authorities should assign a professional interpreter and/or an authorised translator.
3.2	<b>With regard to other mechanisms/procedures:</b>	<b>Yes</b>	<b>No</b>	<b>Brief Description</b>
	<p>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?</p> <p><b>Yes and No. There are procedures as explained in the text, but there are no real systematic “quality checks”.</b></p>			<p><b>Criminal Procedure</b></p> <p>In accordance with the <b>Criminal Procedure Act</b>, Chapter 6a, Section 6, an honest person who is also otherwise suitable to the task and who has the competence required by the task can act as interpreter or translator. The court must assign a new interpreter or a new translator to the task if the legal protection of the party requires it.</p> <p>In accordance with The government bill (HE 63/2013) on the amendment of the Criminal Procedure Act and other acts<sup>163</sup> when assessing the suitability of the interpreter or translator attention should be paid to the <b>training, experience of the interpreter and translator and the nature of the assignment</b>. Moreover, attention <b>should be paid to the relationship of the interpreter/translator to the case and to the party of the proceedings</b>, to find out does it affect the independence of the translator/interpreter. However, the disqualification of interpreters is not to be included in the Criminal Procedure Act, but, primarily, an interpreter/translator should be assigned, whose independence there is no reason to doubt. However, other adequate person could be used as an interpreter/translator in regard to interpretation/translation of rare/lesser known languages in urgent situations. Nevertheless, primarily, the court and the criminal investigation authorities should assign a professional interpreter and/or an authorised translator. In addition to the adequate language skills, the interpreter/translator should have adequate knowledge of the <b>judicial terminology</b> in regard to the case at hand. Furthermore, an interpreter should have skills required for the interpretation assignment at hand. The interpreter <b>should be able to interpret the message unaltered from one language to another</b>. The interpreter should be <b>neutral and independent</b> when carrying out the interpretation assignment. The interpreter’s <b>competence should match with the difficulty of the assignment: more difficult the assignment, more competent the interpreter</b>.</p>

<sup>163</sup> Finland, Government Bill 63/2013 (*Hallituksen esitys eduskunnalle oikeudenkäynnistä rikosasioissa annetun lain ja eräiden muiden lakien muuttamisesta/ Regeringens proposition till riksdagen med förslag till lagar om ändring av lagen om rättegång i brottmål och av vissa andra laga*, HE 63/2013), available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/esitykset/he/2013/20130063](http://www.finlex.fi/fi/esitykset/he/2013/20130063), see page 26-28, 31.

			<p><b>Criminal Investigation (Preliminary investigation)</b></p> <p>In accordance with the Criminal Investigation Act, Chapter 4, Section 12, A person who has the <b>skills required for the task, is honest and is otherwise suitable for the task may serve as interpreter</b>. The criminal investigation authority shall appoint a new interpreter if legal safeguards for the party require this. The criminal investigation authority may appoint a new interpreter for the task also for another weighty reason. Similarly in accordance with the Chapter 4, Section 13, Subsection 4, a person who has the skills required for the task, is honest and is otherwise suitable for the task may serve as translator. The criminal investigation authority shall appoint a new translator if legal safeguards for the party requiring this. The criminal investigation authority may appoint a new translator for the task also for another weighty reason, for example if the criminal investigation authority has reason to suspect the reliability of the interpreter/translator.</p> <p>(N.B. Similar to the procedure described above concerning court proceedings, but with some alterations)</p> <p>In accordance with The government bill (HE 63/2013) on the amendment of the Criminal Procedure Act and other acts,<sup>164</sup> when assessing the suitability of the interpreter, attention should be paid to the training and experience of the interpreter and the nature of the assignment. Moreover, attention should be paid to the relationship of the interpreter to the case and the party of the proceedings to find out, whether the relationship affects the independence of the interpreter. However, the disqualification of an interpreter is not to be included in the Criminal investigation Act, but an interpreter should primarily be assigned whose independence there is no reason to doubt. Some other adequate person could however be used as an interpreter in regard to interpretation of rare/lesser known languages in urgent situations. Nevertheless, the court and the criminal investigation authorities should primarily assign a professional interpreter or authorised translator. In addition to the adequate language skills, the interpreter should have adequate knowledge of the judicial terminology in regard to the case at hand. Furthermore, an interpreter should have skills required for the interpretation assignment at hand. The interpreter should be able to interpret the message from one language to another without alterations. The interpreter should be neutral and independent when carrying out the interpretation assignment. The interpreter's competence should match with the difficulty of the assignment: more difficult the assignment, more competent the interpreter. However, in some cases the criminal investigation authority can carry out the interpretation if the authority has enough language skills for the task. This procedure could especially take place in</p>
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<sup>164</sup> Finland, Government Bill 63/2013 (*Hallituksen esitys eduskunnalle oikeudenkäynnistä rikosasioissa annetun lain ja eräiden muiden lakien muuttamisesta/ Regeringens proposition till riksdagen med förslag till lagar om ändring av lagen om rättegång i brottmål och av vissa andra laga*, HE 63/2013), available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/esitykset/he/2013/20130063](http://www.finlex.fi/fi/esitykset/he/2013/20130063), see page 27-28, 31-32.

			<p>matters of summary penal fine or a summary penal judgement (so that the suspect understands the essential content). In accordance with the government bill, the suitability of the translator and his/her competence should be assessed in the same way as the interpreter's suitability.</p> <p>According to The National Police Board instructions<sup>165</sup> <i>on the interpretation and translation of foreign languages in criminal investigation and when applying coercive measures</i>, when interpretation or translation is ordered via interpretation centre or translation bureau, , one may in general trust that the translator/interpreter has adequate professional skills. The quality must nevertheless be observed. When ordering services from the appointed service producers, one must as a general rule ask for legal interpretation services instead of community interpreter services (<i>asioimistulkkipalvelu</i>). The instructions refer to The Finnish Association of Translators and Interpreters instructions for legal interpretation<sup>166</sup>. The police can take these recommendations into account.</p> <p>According to the National Police Board<sup>167</sup>, the officer in charge of the investigation and the prosecutor are responsible for the investigation in accordance with the Criminal Investigation Act. Every contractor (the police) must, when possible, check the quality of interpretation and translation: The National Police Board is responsible for the translation of the general forms<sup>168</sup> and the units carrying out the criminal investigation are responsible for the quality of the documents and other measures.</p> <p>According to The Finnish Association of Translators and Interpreters,<sup>169</sup> because interpreters are acquired from the translation and interpretation agencies, the responsibility for the quality is in practice delegated to them, even though it should be under the responsible of the officials. The Finnish Bar Association<sup>170</sup> brings out the same matter.</p>
	<p>b) Is there any procedure in place to ensure that suspects or</p>		<p>In accordance with the <b>Criminal Procedure Act</b>, Chapter 6a, Section 6, a person that is honest and otherwise suitable to the task and who has the competence required by the task can act as interpreter or translator. <b>The court must assign a new interpreter or a new translator to the task if the legal protection of the party requires it.</b></p>

<sup>165</sup> Finland, the National Police Board (*Poliisihallitus/Polisstyrelsen*) (2013): Vieraskielinen tulkkaus ja kääntäminen esitutkinnassa ja pakkokeinoja käytettäessä, 2020/2013/4104 (määräys), 28.11.2013.

<sup>166</sup> Available in Finnish at (accessed 16 June 2015): [www.sktl.fi/kaantaminen\\_ja\\_tulkkaus/tyokalupakki-ammattilaiselle-ja-/oikeustulkkausohjeet/](http://www.sktl.fi/kaantaminen_ja_tulkkaus/tyokalupakki-ammattilaiselle-ja-/oikeustulkkausohjeet/).

<sup>167</sup> Finland, representative of the National Police Board.

<sup>168</sup> For example the form "information for the suspect" has been checked by the translators of the National Bureau of Investigation.

<sup>169</sup> Finland, representative of the Finnish Association of Translators and Interpreters.

<sup>170</sup> Finland, representative of the Finnish Bar Association.

<p>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>Yes and No. It is possible to complain, but for example in connection with the criminal investigation information is not provided about this possibility.</p>			<p>In accordance with the government bill (HE 63/2013) on the amendment of the Criminal Procedure Act and other acts,<sup>171</sup> <b>the court</b> must ascertain that the legal protection of the party is not endangered by an interpreter/translator that cannot carry out the assignment adequately. The party to the proceedings can demand (<i>voi vaatia</i>) the court to assign a new interpreter if he/she thinks that the quality of the interpretation does not ensure the legality of the proceedings. (However, there is no legal obligation (not mentioned in the legislation) to inform the suspect/accused of this right<sup>172</sup>.) Moreover, the party to the proceedings can demand the translator to be changed, if he/she is not satisfied with the quality of the translation. The court shall make a decision on the matter and the matter can then be appealed in connection with the main hearing. Nevertheless, the court should from its own initiative change the interpreter or get a new translation, if the court notices that the quality of the interpretation or the translation does not correspond the requirements of a fair trial.</p> <p>In accordance with the government bill (HE 63/2013) on the amendment of the Criminal Procedure Act and other acts,<sup>173</sup> the party to the proceedings can ask <b>the criminal investigation authority</b> to assign a new interpreter/translator if he/she thinks that the quality of the interpretation/translation does not ensure the legality of the proceedings. The interpreter/translator does not have to be replaced even if the party asks for it, if the replacement is not considered necessary in regard to the party's legal protection, for example if the request is considered groundless. Nevertheless, the criminal investigation authority should from its own initiative take action to replace the interpreter/translator, if the authority notices that the quality of the interpretation/translation or other conduct of the interpreter is not appropriate in regard to the party's legal protection. The criminal investigation authority may appoint a new interpreter/translator for the task for some other weighty reason, for example criminal investigation reasons, if the criminal investigation authority has reason to suspect the reliability of the interpreter/translator.</p>
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<sup>171</sup> Finland, Government Bill 63/2013 (*Hallituksen esitys eduskunnalle oikeudenkäynnistä rikosasioissa annetun lain ja eräiden muiden lakien muuttamisesta/ Regeringens proposition till riksdagen med förslag till lagar om ändring av lagen om rättegång i brottmål och av vissa andra laga*, HE 63/2013), available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/esitykset/he/2013/20130063](http://www.finlex.fi/fi/esitykset/he/2013/20130063), see page particularly 26-27.

<sup>172</sup> Finland, legal councillor at the Ministry of Justice.

<sup>173</sup> Finland, Government Bill 63/2013 (*Hallituksen esitys eduskunnalle oikeudenkäynnistä rikosasioissa annetun lain ja eräiden muiden lakien muuttamisesta/ Regeringens proposition till riksdagen med förslag till lagar om ändring av lagen om rättegång i brottmål och av vissa andra laga*, HE 63/2013), available in Finnish at (accessed 16 June 2015):: [www.finlex.fi/fi/esitykset/he/2013/20130063](http://www.finlex.fi/fi/esitykset/he/2013/20130063), see page 28, 32.

			<p>According to The National Police Board instructions<sup>174</sup> <i>on the interpretation and translation of foreign languages in criminal investigation and when applying coercive measures</i>, the party can (in criminal investigation) file a request about the replacement of the interpreter. The request is assessed from the point of view of the party's legal protection. The prosecutor can also be consulted. No action is required if the request is assessed to have no grounds,</p> <p>According to the National Police Board<sup>175</sup>, the suspect/accused can complain to the investigator or the officer in charge of the investigation orally or in writing. As a rule, the suspect/accused is not informed about the possibility to complain about the quality or independence.</p> <p>According to The Office of the Prosecutor General, in practice, the quality of the interpretation (in addition to the accused him/herself) has been brought out by interpreters themselves if there has been more than one interpreter of the same language present in court. Moreover, there have been situations, in which an interpreter present in the court hearing has criticised the quality of the translation of the application for a summons (complaint).<sup>176</sup></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.	X	<p>(See the answer above)</p> <p>According to The National Police Board instructions<sup>177</sup> <i>on the interpretation and translation of foreign languages in criminal investigation and when applying coercive measures</i>, a new interpreter must be assigned if the legal protection of the party requires it, or for some other weighty reason. In the criminal investigation one must, if possible, monitor the quality of the interpretation, and observe the interpreter's action from the point of view of the party's legal protection. The criminal investigation authority can use The Finnish Association of Translators and Interpreters instructions for legal interpretation.</p> <p>According to The Office of the Prosecutor General, the suspects/accused persons can take the matter to the prosecutor or the superior of the police officer. The prosecutor can order a new translation / new interpreter to be provided in</p>

<sup>174</sup> Finland, the National Police Board (*Poliisihallitus/Polisstyrelsen*) (2013): Vieraskielinen tulkkaus ja kääntäminen esitutkinnassa ja pakkokeinoja käytettäessä, 2020/2013/4104 (määräys), 28.11.2013.

<sup>175</sup> Finland, representative of the National Police Board. Moreover, the Finnish Bar Association brings out that the possibility to complain is not informed to the suspected/accused person.

<sup>176</sup> Finland, representative of the Office of the Prosecutor General.

<sup>177</sup> Finland, the National Police Board (*Poliisihallitus/Polisstyrelsen*) (2013): Vieraskielinen tulkkaus ja kääntäminen esitutkinnassa ja pakkokeinoja käytettäessä, 2020/2013/4104 (määräys), 28.11.2013.

				accordance with the Criminal Investigation Act <sup>178</sup> , chapter 5, section 2, subsection 1. Moreover, the suspect/accused person can demand new translation/ new interpreter in court and bring out in court the quality of translation/interpretation. The court decision on the matter can be appealed in connection with the main case , i.e. criminal matter of which the person is being accused of. <sup>179</sup>
3.3	Are there special procedures designed to take into account the special needs of vulnerable suspects or vulnerable accused persons which affect their ability to communicate effectively? <sup>180</sup> If yes, briefly provide information on those mechanisms considering the following vulnerable groups:			
	a) suspect or accused persons with physical impairment or disability;	X		In accordance with the Criminal Procedure Act ( <i>laki oikeudenkäynnistä rikosasioissa/ lag om rättegång i brottmål, 689/1997</i> ) <sup>181</sup> , Chapter 6a, Section 2, the court shall ensure interpretation to persons using sign language or when interpretation is necessary due to a sensory or speaking impediment of the person. <sup>182</sup>  In accordance with the Criminal Investigation Act, Chapter 4, Section 12, persons using sign language have the right to use sign language in the criminal investigation. The criminal investigation authority shall ascertain whether or not the party needs translation. The criminal authority shall ensure that the party receives the interpretation that he or she needs. Moreover, the interpretation shall be arranged also when this is necessary due to a sensory or speaking impediment of the person to be heard.

<sup>178</sup> On the request of the public prosecutor, the criminal investigation authority shall conduct a criminal investigation or perform a criminal investigation measure. Also otherwise the criminal investigation authority shall comply with orders given by the public prosecutor intended to ensure clarification of the matter in the manner referred to in Chapter 1, section 2.

<sup>179</sup> Finland, representative of the Office of the Prosecutor General.

<sup>180</sup> See in particular recital 27 of Directive 2010/64/EU.

<sup>181</sup> Available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/laki/ajantasa/1997/19970689](http://www.finlex.fi/fi/laki/ajantasa/1997/19970689).

<sup>182</sup> Moreover, in The Constitution of Finland, Section 17, it is stated "The rights of persons using sign language and of persons in need of interpretation or translation aid owing to disability shall be guaranteed by an Act."

				<p>According to the National Police Board<sup>183</sup>, these cases rarely occur, but when they do for example national organisations can be contacted for expert advice and information about interpretation needed can be searched in their registers.</p> <p>(According to The Office of the Prosecutor General, technical equipment/instruments are tested before court session, when suspected/accused person has a hearing impairment.<sup>184</sup>)</p> <p>In accordance with the Criminal Investigation Act (<i>esitutkintalaki/förundersökningslag</i>, 805/2011)<sup>185</sup>, Chapter 4, Section 10, <i>a party has the right in a criminal investigation <b>to retain counsel of his or her own choice. A suspected person has to be informed of this right</b> in accordance with the Section 16 and 17. [...]The criminal investigation authority shall also otherwise, with consideration to the offence under investigation and to <b>the circumstances connected with the investigation of the offence and the party himself or herself, ensure that the right of a party to retain counsel is in fact realised</b> when he or she wants this or when the ensuring of due process requires this.</i> The circumstances connected to the party himself/herself can include those of physical impairment or disability.</p>
	b) suspect or accused persons with intellectual impairment or disability;		X	<p>According to the National Police Board<sup>186</sup>, these cases rarely occur, but when they do, for example national organisations (NGOs) can be contacted for expert advice and information about interpretation needed can be searched in their registers.</p> <p>In accordance with the Criminal Investigation Act (<i>esitutkintalaki/förundersökningslag</i>, 805/2011)<sup>187</sup>, Chapter 4, Section 10, <i>a party has the right in a criminal investigation <b>to retain counsel of his or her own choice. A suspected person has to be informed of this right</b> in accordance with the Section 16 and 17. [...]The criminal investigation authority shall also otherwise, with consideration to the offence under investigation and to <b>the circumstances connected with the investigation of the offence and the party himself or herself, ensure that the right of a party</b></i></p>

<sup>183</sup> Finland, representative of the National Police Board.

<sup>184</sup> Finland, representative of the Office of the Prosecutor General.

<sup>185</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf](http://www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf).

<sup>186</sup> Finland, representative of the National Police Board.

<sup>187</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf](http://www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf).

				<b>to retain counsel is in fact realised</b> when he or she wants this or when the ensuring of due process requires this. The circumstances connected to the party himself/herself can include those of intellectual impairment or disability.
	c) i) children who are suspects/defendants, and/or ii) holders of parental responsibility (please distinguish between the two).	(X)		<p>In accordance with the Criminal Investigation Act, Chapter 4, Section 7, Treatment of a child in criminal investigation:</p> <p>“(1) In the criminal investigation, a person under the age of 18 years shall be treated in the manner required by his or her age and level of development. Particular care shall be taken so that criminal investigation measures do not cause him or her unnecessary inconvenience at school, at work or in other environments important to him or her.</p> <p>(2) To the extent possible, investigation measures directed at persons under the age of 18 years shall be assigned to investigators particularly trained in this function. When necessary, the criminal investigation authority shall consult with a physician or other expert on whether investigation measures may be directed at a person under the age of 18 years.”</p> <p>(See also Criminal Investigation Act, Chapter 7, Section 14 on the <i>presence in the questioning of the legal representative of a minor</i><sup>188</sup>, Section 15<sup>189</sup>, <i>contact with the legal representative of a minor</i>, and Section 16<sup>190</sup>, <i>participation of the representative of a social welfare authority in the questioning</i>.)</p>

<sup>188</sup> (1) If the person being questioned is under the age of 15 years, the person responsible for his or her care and custody, or his or her trustee or other legal representative has the right to be present in the questioning

(2) If the injured party or the person being questioned as a suspect is a minor over the age of fifteen years, his or her legal representative has the right to be present in the questioning if said legal representative may, in accordance with Chapter 12, section 1 or 2 of the Code of Judicial Procedure, speak on behalf of or in addition to the minor in the trial concerning the offence being investigated.

(3) The investigator may prohibit the presence of the legal representative in the questioning if this person is a suspect in the offence under investigation or if his or her presence may otherwise be assumed to hamper the clarification of the offence.

<sup>189</sup> (1) Advance notice of the questioning shall be made to the legal representatives of the minor referred to in section 14, subsections 1 and 2 as being entitled to be present and at least one of them shall be reserved an opportunity to be present at the questioning.

(2) An exception may be made to the obligation to give notice and to reserve an opportunity to be present only if it is not possible to contact the legal representative or if for reasons related to the criminal investigation it is not possible to give notice and reserve an opportunity to be present and if the suspect should be questioned without delay in order to clarify the offence or the criminal act.

(3) In the case referred to in subsection 2, notice of the questioning and the contents of the record of the questioning shall be given as soon as possible to the legal representative of the person being questioned.

<sup>190</sup> (1) When a person under the age of 18 years is suspected in an offence or a criminal act, the social welfare authority shall be informed of the act and be reserved an opportunity to send its representative to the questioning, unless this is clearly not necessary.

(2) The criminal investigation authority shall provide the record of the questioning to the social welfare authority without delay.



				<p>If need be, a minor can be appointed a trustee in accordance with the Criminal Investigation Act, Chapter 4, Section 8.<sup>191</sup></p> <p>According to the National Police Board<sup>192</sup>, there are no special procedures. (The age limit of criminal responsibility is 15 years in Finland.)</p>
3.4	<p>Is there any recording procedure to note that interpretation and translation have occurred and in which form?<sup>193</sup> If yes, briefly provide information on how this procedure is organised in practice.</p>	X		<p>In accordance with the Criminal Procedure Act (<i>laki oikeudenkäynnistä rikosasioissa/ lag om rättegång i brottmål, 689/1997</i>)<sup>194</sup>, Chapter 6a, Section 4, if a party has been heard with the help of interpreter, the complaint, judgement or other essential document or a part or summary thereof (described in section 3) has been translated orally in court session or the defendant has waived the right to translation, an entry about this must be made in the record, judgement or decision.</p> <p>In accordance with the Criminal Investigation Act, Chapter 9, Section 6, “The language used by the persons heard in the criminal investigation shall be noted in the record of the criminal investigation. If a party has been heard or questioned with the aid of an interpreter, an essential document or part or summary thereof (referred to in Chapter 4, section 13, subsection 1) has been translated for the party orally or the party has waived his or her right to translation of the document, a notation shall be made thereof into the record of the criminal investigation or into another document.” According to the National Police Board, as a rule, in Finland the suspect only has to sign his/her own “questioning report” (<i>kuulustelukertomus</i>).<sup>195</sup></p>

<sup>191</sup> Appointment of a trustee for a child

(1) The court shall appoint a trustee in the criminal investigation for a party under the age of 18 years if there is justified reason to assume that the person having care and custody of the child, the trustee or other legal representative cannot objectively ensure the interests of the party in the matter and the appointment of a trustee is not evidently unnecessary. The head investigator shall if necessary submit an application to the court for the appointment of a trustee. The application may be submitted also by the public prosecutor, the city administrative court that is acting as the social welfare authority referred to in the Social Welfare Act(422/1999) or the body referred to in section 6, subsection 1 of the Social Welfare Act (710/1982) (social welfare authority).The appointment as trustee is in force until the conclusion of the criminal proceedings following the criminal investigation in respect of which the appointment has been made.

(2) The costs incurred in the appointment of the trustee and the fee and expenses of the trustee are paid from State funds. In other respects, the provisions of the Social Welfare Act apply as appropriate.

<sup>192</sup> Finland, representative of the National Police Board.

<sup>193</sup> See in particular Article 7 and relevant recitals of Directive 2010/64/EU.

<sup>194</sup> Available in Finnish at (accessed 17 June 2015): [www.finlex.fi/fi/laki/ajantasa/1997/19970689](http://www.finlex.fi/fi/laki/ajantasa/1997/19970689).

<sup>195</sup> Finland, representative of the National Police Board.

				<p>According to The National Police Board instructions<sup>196</sup> <i>on the interpretation and translation of foreign languages in criminal investigation and when applying coercive measures</i>, it is important to record the way the criminal investigation procedure has been carried out. An entry about the criminal investigation hearing can be made either in the beginning of the examination record or in a separate document. The hearing can also be recorded in an audio-visual format. If the hearing is not recorded in (an audio-visual format), attention must be paid to the careful written record to be made about the language skills, interpretation and translation. As a rule, if there is an audio-visual recording, no written transcript is made. The Government Decree on the criminal investigation, coercive measures and covert collection of intelligence<sup>197</sup> also regulates the notation.</p>
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## SECTION B: RIGHT TO INFORMATION IN CRIMINAL PROCEEDINGS

1.	PROVISION OF INFORMATION ON THE PROCEDURAL RIGHTS <sup>198</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>

<sup>196</sup> Finland, the National Police Board (*Poliisihallitus/Polisstyrelsen*) (2013): Vieraskielinen tulkkauk ja kääntäminen esitutkinnassa ja pakkokeinoja käytettäessä, 2020/2013/4104 (määräys), 28.11.2013.

<sup>197</sup> Available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/laki/ajantasa/2014/20140122](http://www.finlex.fi/fi/laki/ajantasa/2014/20140122).

<sup>198</sup> See in particular Article 3 and relevant recitals of Directive 2012/13/EU.

<ul style="list-style-type: none"> <li>• police questioning;</li> </ul>	<p>a) In accordance with the Criminal Investigation Act (<i>esitutkintalaki/förundersökningslag</i>, 805/2011)<sup>199</sup>, Chapter 4, Section 10, A party has the right in a criminal investigation <b>to retain counsel of his or her own choice. A suspected person has to be informed of this right</b> in accordance with the Section 16 and 17. Before a complainant is to be heard, he or she shall be notified in writing of said right, unless the matter is being considered in a simple criminal investigation<sup>200</sup>. The criminal investigation authority shall also otherwise, with consideration to the offence under investigation and to the circumstances connected with the investigation of the offence and the party himself or herself, ensure that the right of a party to retain counsel is in fact realised when he or she wants this or when the ensuring of due process requires this.“</p> <p>In accordance with the Criminal Investigation Act (<i>esitutkintalaki/förundersökningslag</i>, 805/2011)<sup>201</sup>, Chapter 4, Section 15, After the initiation of the criminal investigation a party <b>has the right to obtain information on matters that have led to and become apparent in the criminal investigation and criminal investigation material that can affect or could have affected his/her matter</b>. In accordance with the Government Bill (HE 71/2014) on the amendment of the Criminal Procedure Act and other acts<sup>202</sup>, the right to obtain information, as a rule, covers <b>the criminal investigation material: the documents drawn by the criminal investigation authorities and documents received by the criminal investigation authority. The right to obtain information includes also criminal investigation material that is not included in the record of the criminal investigation. The “material that can or could have affected his/her matter” includes material that can affect the outcome of the criminal process</b>. Moreover, the party’s representative and counsel has also the right to information. However, in accordance with the Criminal Investigation Act (<i>esitutkintalaki/förundersökningslag</i>, 805/2011)<sup>203</sup> the party does not have this right before the end of the investigation, if the provision of information would impede clarification of the matter. Moreover, the party does not have this right, <b>if there is a very important public or private interest to be secured and therefore it is essential to withhold the information</b>. Furthermore, the party does not have the right to obtain information about matters described in the</p>
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<sup>199</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf](http://www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf).

<sup>200</sup> Criminal Investigation Act, Chapter 3, Section 14: Prerequisites for a simplified criminal investigation

(1) In simple and clear matters, the criminal investigation may be conducted in a simplified form as provided below if, in accordance with general sentencing practice, no punishment more severe than a fine is expected for the offence.

(2) A simplified criminal investigation may be conducted in the case of an offence for which a police officer is suspected only if the matter is dealt with as a summary penal fine or summary penal judgment matter.

(3) The head investigator decides as necessary on whether the criminal investigation is to be conducted in full or in a simplified form.

<sup>201</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf](http://www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf).

<sup>202</sup> Finland, the Government Bill 71/2014 (*Hallituksen esitys eduskunnalle laiksi esitutkintalain muuttamisesta ja eräiksi siihen liittyviksi laeiksi / Proposition till riksdagen med förslag till lag om ändring av förundersökningslagen och till vissa lagar som har samband med den*, HE 71/2014), available in Finnish at (accessed 16 June 2015):

[www.finlex.fi/fi/esitykset/he/2014/20140071](http://www.finlex.fi/fi/esitykset/he/2014/20140071).

<sup>203</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf](http://www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf).

Act on the Openness of Government Activities (621/1999) Section 11, Subsection 2: 7. In accordance with the Government Bill (HE 71/2014) on the amendment of the Criminal Procedure Act and other acts<sup>204</sup> there must be **case-specific comparison of interests** (the requirements of the fair trial, the important public and private interests, the solving of crime interests). When assessing the party's right to receive information or restricting this right, one must take into account the party's right to duly defence or otherwise duly guard one's rights in trial. To the right to receive information about use of covert coercive measures also applies Coercive Measures Act<sup>205</sup> (pakkokeinolaki/tvångsmedelslag, 806/2011) Chapter 10, Section 60 & 62 and to the right to receive information about the use of a secret intelligence gathering method, Police Act<sup>206</sup> (poliisilaki / polislag, 872/2011), Chapter 5, Section 58 & 60. Otherwise, to the party's right to receive information about the criminal investigation material applies the Act on the Openness of Government Activities. However, to providing information about audio and visual recording applies the Criminal Investigation Act (*esitutkintalaki/förundersökningslag*, 805/2011)<sup>207</sup>, Chapter 9, Section 7, subsection 2<sup>208</sup>.

<sup>204</sup> Finland, the Government Bill 71/2014 (*Hallituksen esitys eduskunnalle laiksi esitutkintalain muuttamisesta ja eräiksi siihen liittyviksi laeiksi / Proposition till riksdagen med förslag till lag om ändring av förundersökningslagen och till vissa lagar som har samband med den*, HE 71/2014), available in Finnish at (accessed 16 June 2015):: [www.finlex.fi/fi/esitykset/he/2014/20140071](http://www.finlex.fi/fi/esitykset/he/2014/20140071).

<sup>205</sup> Unofficial translation available at [www.finlex.fi/fi/laki/ajantasa/2011/20110806#L10P60](http://www.finlex.fi/fi/laki/ajantasa/2011/20110806#L10P60), Chapter 10, section 60, subsection 1+2+3:

(1) Written notice shall be given without delay to the suspect concerning telecommunications interception, the obtaining of data other than through telecommunications interception, traffic data monitoring, extended surveillance, covert collection of intelligence, technical surveillance and controlled delivery directed at him or her, after the matter has been submitted to the consideration of the prosecutor or the criminal investigation has otherwise been terminated or interrupted. However, the suspect shall be informed at the latest within one year of the termination of the use of a coercive measure. (2) A written notice shall be given without undue delay to the suspect concerning covert activity, pseudo-purchase and controlled use of covert human intelligence sources directed at him or her after the matter has been submitted to the consideration of the prosecutor. (3) A court may decide on the request of an official with the power of arrest that the notice to the suspect referred to in subsections 1 and 2 may be postponed at the most two years at a time, if this is justified in order to ensure present or future collection of intelligence, ensure the security of the state or protect life or health. The court may decide that no notice is given at all, if this is necessary in order to ensure the security of the state or protect life or health.

<sup>206</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2011/en20110872.pdf](http://www.finlex.fi/en/laki/kaannokset/2011/en20110872.pdf). Chapter 5, Section 58, subsection 1+2:

(1) The target of intelligence gathering shall be notified in writing without delay of the telecommunications interception, obtaining data other than through telecommunications interception, traffic data monitoring, extended surveillance, covert intelligence gathering, technical surveillance or controlled delivery once the purpose of the intelligence gathering has been achieved. The use of a secret intelligence gathering method shall, however, be notified to the target of the intelligence gathering no later than one year after use of the method has ceased. (2) At the request of a police officer with the power of arrest, a court may decide that the notification referred to in subsection 1 to the target of the intelligence gathering may be postponed for up to two years at a time if this is justifiable in order to secure ongoing intelligence gathering, to ensure State security or to protect lives or health. By decision of the court, there is no need to send the notification at all if this is essential for the purpose of ensuring State security or protecting lives or health.

<sup>207</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf](http://www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf).

<sup>208</sup> "Information on an audio and video recording may be provided only by allowing the recording to be examined at the criminal investigation authority, if in view of the contents of the recording there is reason to assume that providing the information in another manner may lead to a violation of the protection of the privacy of an individual depicted in the recording."

According to the Finnish Bar Association<sup>209</sup>, very little information is provided in the beginning of the criminal investigation process, basically only some basic information about the crime that the person is being suspected/accused of is provided. In general, the right to information in the criminal investigation phase is fulfilled poorly and at a very late stage from the point of view of the defence.

In accordance with the Criminal Investigation Act (*esitutkintalaki/förundersökningslag*, 805/2011)<sup>210</sup>, Chapter 4, Section 16, when a person is informed that he/she is being suspected of a crime, he/she must be informed, **without delay and at the latest before he/she is being heard**, of following: 1) **the right to access a lawyer of his/her choice**; 2) **The right to a defence counsel** in accordance with the Criminal Procedure Act (*laki oikeudenkäynnistä rikosasioissa/ lag om rättegång i brottmål*, 689/1997)<sup>211</sup>. section 2, subsection 1; 3) **right to legal aid free of charge and to a lawyer (counsel) in accordance with** The Legal Aid Act (*oikeusapulakilrättshjälpslag*, 257/2002)<sup>212</sup>, 4) **the right to information about the crime, that he/she is being suspected of and to information about changes concerning the suspicion of a crime**; 5) **the right to interpretation and translation of essential document** in accordance with the Section 13, the Coercive Measures Act (*pakkokeinolaki/tvängsmedelslag*, 806/2011) Chapter 2, Section 16, and The Criminal Procedure Act (*laki oikeudenkäynnistä rikosasioissa/ lag om rättegång i brottmål*, 689/1997), Chapter 6a, section 3. 6) **Right to remain silent and not to contribute to the solving of a crime**. (The suspect of a crime must be informed of these rights in a language used by the suspect in accordance with the Section 12.)

According to the National Police Board, the investigator goes through the form titled “the information for the suspect” together with the suspect. The information is provided at the latest before the questioning.<sup>213</sup>

According to the Finnish Bar Association<sup>214</sup> in “the information for the suspect” form the right to remain silent is not especially mentioned, instead the right to speak is highlighted:

<sup>209</sup> Finland, representative of the Finnish Bar Association.

<sup>210</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf](http://www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf).

<sup>211</sup> Available in Finnish at (accessed 17 June 2016): [www.finlex.fi/fi/laki/ajantasa/1997/19970689](http://www.finlex.fi/fi/laki/ajantasa/1997/19970689)

<sup>212</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2002/en20020257.pdf](http://www.finlex.fi/en/laki/kaannokset/2002/en20020257.pdf) The Legal Aid Act, Chapter 1: Section 1: “Legal aid is provided at the expense of the state to persons who need expert assistance in a legal matter and who are unable to meet the costs of proceedings as a result of their economic situation. Legal aid covers the provision of legal advice, the necessary measures and representation before a court of law and another authority, and the waiver of certain expenses related to the consideration of the matter, as provided in this Act.” Section 4, Subsection 1+2, Benefits included in legal aid:

The granting of legal aid exempts the recipient from liability for:

(1) the fees and compensations for an attorney appointed or approved under this Act, in full or in part, as stated in the legal aid decision;  
(2) the fees and compensations arising from the interpretation and translation services required in the consideration of the matter;

<sup>213</sup> Finland, representative of the National Police Board.

<sup>214</sup> Finland, representative of the Finnish Bar Association.

Right against self-incrimination and right to speak

*It is your right not to contribute anything to the investigation of the crime of which you are suspected. This means that you have the right not to say anything or answer any questions asked by the police, if you do not want to.*

*In some cases sharing information can be in your interests. You have the right to speak freely and answer questions asked by the police about the crime that you are suspected of, if you want to. Please note that anything you say may be used as evidence against you if the case goes to court. You may ask your legal counsel for more information.*

In accordance with the Criminal Investigation Act (*esitutkintalaki/förundersökningslag*, 805/2011)<sup>215</sup>, Chapter 4, Section 17, (1) **when a suspect of a crime is deprived of liberty due to apprehension, arrest or remand**, he/she must be **without delay** informed (in writing) of: 1) **the rights laid down in section 16**; 2) **the right to information in accordance with the section 15**; 3) **right to his/her familiar or other person be informed of his/her deprivation of liberty** in accordance with the Act on treatment of persons taken into custody by the police (*Laki poliisin säilyttämien henkilöiden kohtelusta/ Lag om behandlingen av personer i förvar hos polisen*, 2006/841<sup>216</sup>) Chapter 2, section 2; 4) **right to health care** in accordance with Act on treatment of persons taken into custody by the police (*Laki poliisin säilyttämien henkilöiden kohtelusta/ Lag om behandlingen av personer i förvar hos polisen*, 2006/841<sup>217</sup>), Chapter 5, section 1 and Detention Act<sup>218</sup> (*tutkintavankeuslaki / lag on rannsakningsfångelse*, 768/2005), Chapter 6, section 1; 5)<sup>219</sup> **the right to court proceedings in a remand matter** in a time limit set in the Coercive Measures Act (*pakkokeinolaki/tvångsmedelslag*, 806/2011), Chapter 3, Section 5 **and the right of person who has been remanded to a new remand hearing** (Coercive Measures Act, Chapter 3, Section 15). (2) **A foreigner that is deprived of liberty must be in addition to subsection 1 be informed without delay of right that his/her deprivation of liberty be informed to a consulate or embassy that represents his/her country of origin.** (3) The person deprived of liberty must be informed of the rights laid down in subsection 1 and 2 in writing in a language used by the suspect in accordance with the Section 12.

<sup>215</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf](http://www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf).

<sup>216</sup> Available in Finnish at (accessed 17 June 2016): [www.finlex.fi/fi/laki/ajantasa/2006/20060841](http://www.finlex.fi/fi/laki/ajantasa/2006/20060841).

<sup>217</sup> Available in Finnish at (accessed 17 June 2016): [www.finlex.fi/fi/laki/ajantasa/2006/20060841](http://www.finlex.fi/fi/laki/ajantasa/2006/20060841).

<sup>218</sup> Available at (accessed 17 June 2016): [www.finlex.fi/fi/laki/ajantasa/2005/20050768](http://www.finlex.fi/fi/laki/ajantasa/2005/20050768).

<sup>219</sup> There is no provision on the request for provisional release set in the national legislation.

According to the National Police Board, the persons deprived of their liberty are given the form “rights and responsibilities of persons held in custody” when they are registered in police custody.<sup>220</sup>

In accordance with the Criminal Investigation Act (*esitutkintalaki/förundersökningslag*, 805/2011)<sup>221</sup>, Chapter 7, Section 10, (1) **Before the questioning, the person to be questioned shall be informed of his or her position in the criminal investigation, his or her right to request the presence of a credible witness, and his or her rights in respect of language.**(2) Before the questioning, **the suspect in the offence shall be informed of the specific offence in which he or she is suspected.** The suspected person must be informed of his/her right in accordance with Chapter 4, section 16, if the informing has not been carried out earlier. **The suspected person must be before questioning informed of his/her right to remain silent and otherwise not to contribute to the solving of the crime** even if the information about this right has already been provided earlier. The suspected person must be before questioning be informed of his/her right to use a lawyer of his/her choice and information about in which situations a counsel can be assigned even if information about these rights has already been provided earlier, unless the informing is decidedly unnecessary. In accordance with The Government Bill (HE 71/2014) on the amendment of the Criminal Procedure Act and other acts<sup>222</sup>, the informing can be deemed unnecessary if the suspected person is accompanied by a lawyer when arriving to the questioning.

In accordance with the Criminal Investigation Act (*esitutkintalaki/förundersökningslag*, 805/2011)<sup>223</sup>, Chapter 9, Section 7, (1) The Act on the Openness of Government Activities contains provisions on the openness of the documentation in a criminal investigation. The right of a party to obtain information on the criminal investigation is laid down in Chapter 4, section 15 of the Criminal Investigation Act (2) information on an audio and video recording may be provided only by allowing the recording to be examined at the criminal investigation authority, if in view of the contents of the recording there is reason to assume that providing the information in another manner may lead to a violation of the protection of the privacy of an individual depicted in the recording.

In accordance with the Criminal Investigation Act (*esitutkintalaki/förundersökningslag*, 805/2011)<sup>224</sup>, Chapter 11, Section 2, the simple criminal investigation can be carried out irrespective of the Chapter 5, section 1 (on notification to the prosecutor) and Chapter 7, sections

<sup>220</sup> Finland, representative of the National Police Board.

<sup>221</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf](http://www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf).

<sup>222</sup> Finland, the Government Bill 71/2014 (*Hallituksen esitys eduskunnalle laiksi esitutkintalain muuttamisesta ja eräiksi siihen liittyviksi laeiksi / Proposition till riksdagen med förslag till lag om ändring av förundersökningslagen och till vissa lagar som har samband med den*, HE 71/2014), available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/esitykset/he/2014/20140071](http://www.finlex.fi/fi/esitykset/he/2014/20140071).

<sup>223</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf](http://www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf).

<sup>224</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf](http://www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf).

<p>11 (on credible witnesses), 14 (on the presence of a person responsible for the care of a person questioned who is under 15 years old), 15 (on contact with the legal representative of a minor) and 16 ( on the participation of the representative of a social welfare authority in the questioning). Thus, these chapters do not have to be applied to simple criminal investigation.</p> <p>According to the Finnish Bar Association<sup>225</sup>, the police should list in the record of the criminal investigation all the material that has not been considered essential enough to be attached in the record. In practice, however, these markings are not always made. Moreover, there is no clear dividing line between criminal investigation (pre-trial investigation) and police investigation. In consequence, the Criminal Investigation Act is often interpreted so that the right to information only includes criminal investigation phase, not the police investigation. Thus essential material can be excluded from the defence. Furthermore, in order for to make a request to the court about access to material, one has to be able to specify the document/material in question.</p>
<p>b)</p> <p>In accordance with the Criminal Investigation Act (<i>esitutkintalaki/förundersökningslag</i>, 805/2011)<sup>226</sup>, Chapter 4, Section 10, <i>A party has the right in a criminal investigation to retain counsel of his or her own choice. A suspected person has to be informed of this right in accordance with the Section 16 and 17. Before a complainant is to be heard, he or she shall be notified in writing of said right, unless the matter is being considered in a simple criminal investigation.</i></p> <p>In accordance with the Criminal Investigation Act (<i>esitutkintalaki/förundersökningslag</i>, 805/2011)<sup>227</sup>, Chapter 4, Section 16, when a person is informed that he/she is being suspected of a crime, he/she must be informed, without delay and at the latest before he/she is being heard, of following: 1) the right to access a lawyer of his/her choice; 2) The right to a defence counsel in accordance with the Criminal Procedure Act (<i>laki oikeudenkäynnistä rikosasioissa/ lag om rättegång i brottmål</i>, 689/1997)<sup>228</sup>, section 2, subsection 1; 3) right to legal aid free of charge and to a lawyer (counsel) in accordance with The Legal Aid Act (<i>oikeusapulakilrättshjälpslag</i>, 257/2002)<sup>229</sup>, 4) the right to</p>

<sup>225</sup> Finland, representative of the Finnish Bar Association.

<sup>226</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf](http://www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf).

<sup>227</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf](http://www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf).

<sup>228</sup> Available in Finnish at (accessed 17 June 2016): [www.finlex.fi/fi/laki/ajantasa/1997/19970689](http://www.finlex.fi/fi/laki/ajantasa/1997/19970689).

<sup>229</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2002/en20020257.pdf](http://www.finlex.fi/en/laki/kaannokset/2002/en20020257.pdf) The Legal Aid Act, Chapter 1: Section 1: “Legal aid is provided at the expense of the state to persons who need expert assistance in a legal matter and who are unable to meet the costs of proceedings as a result of their economic situation. Legal aid covers the provision of legal advice, the necessary measures and representation before a court of law and another authority, and the waiver of certain expenses related to the consideration of the matter, as provided in this Act.” Section 4, Subsection 1+2, Benefits included in legal aid: The granting of legal aid exempts the recipient from liability for:



information about the crime, that he/she is being suspected of and to information about changes concerning the suspicion of a crime; 5) the right to interpretation and translation of essential document in accordance with the Section 13, the Coercive Measures Act (pakkokeinolaki/tvångsmedelslag, 806/2011) Chapter 2, Section 16, and The Criminal Procedure Act (*laki oikeudenkäynnistä rikosasioissa/lag om rättegång i brottmål*, 689/1997), Chapter 6a, section 3. 6) Right to remain silent and not to contribute to the solving of a crime.

The suspect of a crime must be informed of these rights (section 16) in a language used by the suspect in accordance with the Section 12. The suspected person must be informed of “The right to access a lawyer of his/her choice” **in writing** unless the matter is being considered in a simple criminal investigation. In accordance with the Government Bill (HE 71/2014) on the amendment of the Criminal Procedure Act and other acts<sup>230</sup> other than persons who have been deprived of liberty can be informed of the rights laid down in section 16 either **orally or in writing**.

In accordance with the Criminal Investigation Act (*esitutkintalaki/förundersökningslag*, 805/2011)<sup>231</sup>, Chapter 4, Section 17, (1) when a suspect of a crime is deprived of liberty due to apprehension, arrest or remand, he/she must be without delay informed (**in writing**) of: 1) the rights laid down in section 16; 2) the right to information in accordance with the section 15; 3) right to his/her familiar or other person be informed of his/her deprivation of liberty in accordance with the Act on treatment of persons taken into custody by the police (Laki poliisin säilyttämien henkilöiden kohtelusta / Lag om behandlingen av personer i förvar hos polisen, 2006/841<sup>232</sup>) Chapter 2, section 2; 4) right to health care in accordance with Act on treatment of persons taken into custody by the police (Laki poliisin säilyttämien henkilöiden kohtelusta/ Lag om behandlingen av personer i förvar hos polisen, 2006/841<sup>233</sup>), Chapter 5, section 1 and Detention Act<sup>234</sup> (*tutkintavankeuslaki / lag on rannsakningsfångelse*, 768/2005), Chapter 6, section 1; 5)<sup>235</sup> the right to court proceedings in a remand matter in a time limit set in the Coercive Measures Act (pakkokeinolaki/tvångsmedelslag, 806/2011), Chapter 3, Section 5 and the right of person who has been remanded to a new remand hearing (Coercive Measures Act, Chapter 3, Section 15). (2) A foreigner that is deprived of

(1) the fees and compensations for an attorney appointed or approved under this Act, in full or in part, as stated in the legal aid decision;

(2) the fees and compensations arising from the interpretation and translation services required in the consideration of the matter;

<sup>230</sup> Finland, the Government Bill 71/2014 (*Hallituksen esitys eduskunnalle laiksi esitutkintalain muuttamisesta ja eräiksi siihen liittyviksi laeiksi / Proposition till riksdagen med förslag till lag om ändring av förundersökningslagen och till vissa lagar som har samband med den*, HE 71/2014), available in Finnish at (accessed 16 June 2015):: [www.finlex.fi/fi/esitykset/he/2014/20140071](http://www.finlex.fi/fi/esitykset/he/2014/20140071).

<sup>231</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf](http://www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf).

<sup>232</sup> Available in Finnish at (accessed 17 June 2016): [www.finlex.fi/fi/laki/ajantasa/2006/20060841](http://www.finlex.fi/fi/laki/ajantasa/2006/20060841).

<sup>233</sup> Available in Finnish at (accessed 17 June 2016): [www.finlex.fi/fi/laki/ajantasa/2006/20060841](http://www.finlex.fi/fi/laki/ajantasa/2006/20060841).

<sup>234</sup> Available at (accessed 17 June 2016): [www.finlex.fi/fi/laki/ajantasa/2005/20050768](http://www.finlex.fi/fi/laki/ajantasa/2005/20050768).

<sup>235</sup> There is no provision on the request for provisional release set in the national legislation.

liberty must be in addition to subsection 1 be informed without delay of right that his/her deprivation of liberty be informed to a consulate or embassy that represents his/her country of origin. (3) The person deprived of liberty must be informed of the rights laid down in subsection 1 and 2 **in writing** in a language used by the suspect in accordance with the Section 12. In accordance with The Government Bill (HE 71/2014) on the amendment of the Criminal Procedure Act and other acts<sup>236</sup> the person deprived of liberty should be informed of the rights laid down in subsection 1 and 2 first via interpreter orally, if the written translation is not available immediately in a language that the suspect understands. **The suspected person must then without justified delay be provided with a written translation about his/her rights.**

c)

In accordance with the Criminal Investigation Act (*esitutkintalaki/förundersökningslag*, 805/2011)<sup>237</sup>, Chapter 4, Section 15, *After the initiation of the criminal investigation a party has the right to obtain information on matters that have led to and become apparent in the criminal investigation* and criminal investigation material that can affect or could have affected his/her matter. In accordance with the Government Bill (HE 71/2014) on the amendment of the Criminal Procedure Act and other acts<sup>238</sup>, **the party has the right to obtain this information as soon as it doesn't impede the clarification of the matter considering that the right to information is not restricted** (by the other subsections of the section 15). A suspected person has to be granted right to information **that early that he/she can duly prepare for the trial.**

In accordance with the Criminal Investigation Act (*esitutkintalaki/förundersökningslag*, 805/2011)<sup>239</sup>, Chapter 4, Section 16, when a person is informed that he/she is being suspected of a crime, he/she must be informed, **without delay and at the latest before he/she is being heard**, of following: 1) the right to access a lawyer of his/her choice; 2) The right to a defence counsel in accordance with the Criminal Procedure Act (*laki oikeudenkäynnistä rikosasioissa/ lag om rättegång i brottmål*, 689/1997)<sup>240</sup>. section 2, subsection 1; 3) right to legal aid

<sup>236</sup> Finland, the Government Bill 71/2014 (*Hallituksen esitys eduskunnalle laiksi esitutkintalain muuttamisesta ja eräiksi siihen liittyviksi laeiksi / Proposition till riksdagen med förslag till lag om ändring av förundersökningslagen och till vissa lagar som har samband med den*, HE 71/2014), available in Finnish at (accessed 16 June 2015):

[www.finlex.fi/fi/esitykset/he/2014/20140071](http://www.finlex.fi/fi/esitykset/he/2014/20140071).

<sup>237</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf](http://www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf).

<sup>238</sup> Finland, the Government Bill 71/2014 (*Hallituksen esitys eduskunnalle laiksi esitutkintalain muuttamisesta ja eräiksi siihen liittyviksi laeiksi / Proposition till riksdagen med förslag till lag om ändring av förundersökningslagen och till vissa lagar som har samband med den*, HE 71/2014), available in Finnish at (accessed 16 June 2015):

[www.finlex.fi/fi/esitykset/he/2014/20140071](http://www.finlex.fi/fi/esitykset/he/2014/20140071).

<sup>239</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf](http://www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf).

<sup>240</sup> Available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/laki/ajantasa/1997/19970689](http://www.finlex.fi/fi/laki/ajantasa/1997/19970689).

free of charge and to a lawyer (counsel) in accordance with The Legal Aid Act (*oikeusapulakilrättshjälpslag*, 257/2002)<sup>241</sup>; 4) the right to information about the crime, that he/she is being suspected of and to information about changes concerning the suspicion of a crime; 5) the right to interpretation and translation of essential document in accordance with the Section 13, the Coercive Measures Act (*pakkokeinolaki/tvångsmedelslag*, 806/2011) Chapter 2, Section 16, The Criminal Procedure Act (*laki oikeudenkäynnistä rikosasioissa/ lag om rättegång i brottmål*, 689/1997), Chapter 6a, section 3; 6) the right to remain silent and not to contribute to the solving of a crime.

In accordance with the Criminal Investigation Act (*esitutkintalaki/förundersökningslag*, 805/2011)<sup>242</sup>, Chapter 4, Section 17, (1) when a suspect of a crime is deprived of liberty due to apprehension, arrest or remand, he/she must be **without delay** informed (in writing) of: 1) the rights laid down in section 16 2) the right to information in accordance with the section 15; 3) right to his/her familiar or other person be informed of his/her deprivation of liberty in accordance with the Act on treatment of persons taken into custody by the police (*Laki poliisin säilyttämien henkilöiden kohtelusta / Lag om behandlingen av personer i förvar hos polisen*, 2006/841<sup>243</sup>) Chapter 2, section 2. 4) right to health care in accordance with Act on treatment of persons taken into custody by the police (*Laki poliisin säilyttämien henkilöiden kohtelusta/ Lag om behandlingen av personer i förvar hos polisen*, 2006/841<sup>244</sup>), Chapter 5, section 1 and Detention Act<sup>245</sup> (*tutkintavankeuslaki / lag on rannsakningsfångelse*, 768/2005), Chapter 6, section 1. 5)<sup>246</sup> the right to court proceedings in a remand matter in a time limit set in the Coercive Measures Act (*pakkokeinolaki/tvångsmedelslag*, 806/2011), Chapter 3, Section 5 and the right of person who has been remanded to a new remand hearing (Coercive Measures Act, Chapter 3, Section 15). (2) A foreigner that is deprived of liberty must be in addition to subsection 1 be informed **without delay** of right that his/her deprivation of liberty be informed to a consulate or embassy that represents his/her country of origin. (3) The person deprived of liberty must be informed of the rights laid down in subsection 1 and 2 in writing in a language used by the suspect in accordance with the Section 12. In accordance with The Government Bill (HE

<sup>241</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2002/en20020257.pdf](http://www.finlex.fi/en/laki/kaannokset/2002/en20020257.pdf) The Legal Aid Act, Chapter 1: Section 1: "Legal aid is provided at the expense of the state to persons who need expert assistance in a legal matter and who are unable to meet the costs of proceedings as a result of their economic situation. Legal aid covers the provision of legal advice, the necessary measures and representation before a court of law and another authority, and the waiver of certain expenses related to the consideration of the matter, as provided in this Act." Section 4, Subsection 1+2, Benefits included in legal aid:

The granting of legal aid exempts the recipient from liability for:

- (1) the fees and compensations for an attorney appointed or approved under this Act, in full or in part, as stated in the legal aid decision;
- (2) the fees and compensations arising from the interpretation and translation services required in the consideration of the matter;

<sup>242</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf](http://www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf).

<sup>243</sup> Available in Finnish at (accessed 17 June 2016): [www.finlex.fi/fi/laki/ajantasa/2006/20060841](http://www.finlex.fi/fi/laki/ajantasa/2006/20060841).

<sup>244</sup> Available in Finnish at (accessed 17 June 2016): [www.finlex.fi/fi/laki/ajantasa/2006/20060841](http://www.finlex.fi/fi/laki/ajantasa/2006/20060841).

<sup>245</sup> Available in Finnish at (accessed 17 June 2016): [www.finlex.fi/fi/laki/ajantasa/2005/20050768](http://www.finlex.fi/fi/laki/ajantasa/2005/20050768).

<sup>246</sup> There is no provision on the request for provisional release set in the national legislation.

	<p>71/2014) on the amendment of the Criminal Procedure Act and other acts<sup>247</sup> the rights laid down in subsection 1 and 2 should be informed to the person deprived of liberty first via interpreter orally, if the written translation is not available <b>immediately</b> in a language that the suspect understands. <b>The suspected person must then without justified delay be provided with a written translation about his/her rights.</b></p> <p>According to the National Police Board, the investigator goes through the form titled “the information for the suspect” together with the suspect. The information is provided at the latest before the questioning.<sup>248</sup> According to the Finnish Bar Association<sup>249</sup>, if the form is only given in the beginning of the questioning or little before it, in practice one can question the real possibility for the suspected person to understand his/her rights and act upon them.</p>
<ul style="list-style-type: none"> <li>• court hearings;</li> </ul>	<p>a) What information is provided?</p> <p>(See above police questioning.) According to the Ministry of Justice, the criminal investigation authority already informs the suspect/accused of the rights set in article 3 (directive 2012/13/EU) in regard to court proceedings in accordance with the Criminal Investigation Act. (Thus, it is the responsibility of the criminal investigation authority.)<sup>250</sup> In accordance with Criminal Procedure Act (<i>laki oikeudenkäynnistä rikosasioissa/ lag om rättegång i brottmål</i>, 689/1997)<sup>251</sup> Chapter 6a, section 3, <b>the court shall ensure that the party receives sufficient knowledge of his or her right to translation of a document and if necessary shall ascertain whether the party wants the translation of a document referred to in this section.</b> (In accordance with The Government Bill (HE 63/2013) on the amendment of the Criminal Procedure Act and other acts<sup>252</sup>, the accused person must be informed of the consequences of waiving of the right to translation (in accordance with the article 3: 8, directive 2010/64/EU). Thus, the party has to be informed of his/her right to written or verbal translation of a document and that the translation is free of charge.)</p>

<sup>247</sup> Finland, the Government Bill 71/2014 (*Hallituksen esitys eduskunnalle laiksi esitutkintalain muuttamisesta ja eräiksi siihen liittyviksi laeiksi / Proposition till riksdagen med förslag till lag om ändring av förundersökningslagen och till vissa lagar som har samband med den*, HE 71/2014), available in Finnish at (accessed 16 June 2015):

[www.finlex.fi/fi/esitykset/he/2014/20140071](http://www.finlex.fi/fi/esitykset/he/2014/20140071)

<sup>248</sup> Finland, representative of the National Police Board.

<sup>249</sup> Finland, representative of the Finnish Bar Association.

<sup>250</sup> Finland, legal councillor at the Ministry of Justice.

<sup>251</sup> Available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/laki/ajantasa/1997/19970689](http://www.finlex.fi/fi/laki/ajantasa/1997/19970689).

<sup>252</sup> Finland, Government proposal 63/2013 (*Hallituksen esitys eduskunnalle oikeudenkäynnistä rikosasioissa annetun lain ja eräiden muiden lakien muuttamisesta/ Regeringens proposition till riksdagen med förslag till lagar om ändring av lagen om rättegång i brottmål och av vissa andra laga*, HE 63/2013), available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/esitykset/he/2013/20130063](http://www.finlex.fi/fi/esitykset/he/2013/20130063). See page 24.

		<p>(See right to translation of documents, 2.2.)</p> <p>b) How is it provided (e.g. orally or in writing)?</p> <p>(See above police questioning.)</p> <p>The information on the right to translation of a document can be given either verbally or in writing.<sup>253</sup></p> <p>c) What is the timeframe (deadline) for providing information at each stage of the proceedings?</p> <p>(See above police questioning.)</p> <p>The timeframe for providing translation of a document depends on the document in question, for example during the closing statements the court must inform about the right to translation of the judgement and find out whether the party wants to use this right.<sup>254</sup></p>
	<ul style="list-style-type: none"> <li>any necessary interim hearings;</li> </ul>	<p>a)</p> <p>(See above police questioning.) According to the Ministry of Justice, the criminal investigation authority already informs the suspect/accused of the rights set in article 3 (directive 2012/13/EU) in regard to court proceedings in accordance with the Criminal Investigation Act. (Thus, it is the responsibility of the criminal investigation authority.)<sup>255</sup> In accordance with Criminal Procedure Act (<i>laki oikeudenkäynnistä rikosasioissa/ lag om rättegång i brottmål</i>, 689/1997)<sup>256</sup> Chapter 6a, section 3, <b>the court shall ensure that the party receives sufficient knowledge of his or her right to translation of a document and if necessary shall ascertain whether the party wants the translation of a document referred to in this section.</b> (In accordance with The Government Bill (HE 63/2013) on the amendment of the Criminal Procedure Act and other acts<sup>257</sup>, the accused person must be informed of the consequences of waiving of the right to translation (in accordance with the article 3: 8, directive 2010/64/EU). Thus, the party has to be informed of his/her right to written or verbal translation of a document and that the translation is free of charge.)</p>

<sup>253</sup> Finland, legal councillor at the Ministry of Justice.

<sup>254</sup> Finland, legal councillor at the Ministry of Justice.

<sup>255</sup> Finland, legal councillor at the Ministry of Justice.

<sup>256</sup> Available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/laki/ajantasa/1997/19970689](http://www.finlex.fi/fi/laki/ajantasa/1997/19970689).

<sup>257</sup> Finland, Government proposal 63/2013 (*Hallituksen esitys eduskunnalle oikeudenkäynnistä rikosasioissa annetun lain ja eräiden muiden lakien muuttamisesta/ Regeringens proposition till riksdagen med förslag till lagar om ändring av lagen om rättegång i brottmål och av vissa andra laga*, HE 63/2013), available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/esitykset/he/2013/20130063](http://www.finlex.fi/fi/esitykset/he/2013/20130063). See page 24.

		<p>(See right to translation of documents, 2.2.)</p> <p>b)</p> <p>See above police questioning.)</p> <p>The right to translation of a document can be informed either verbally or in writing.<sup>258</sup></p> <p>c)</p> <p>See above police questioning.)</p> <p>The timeframe for providing translation of a document depends on the document in question, for example during the closing statements the court must inform about the right to translation of the judgement and find out whether the party wants to use this right.<sup>259</sup></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)</p> <p>According to the Finnish Bar Association<sup>260</sup>, the counsel has to take part in informing his/her client about his/her rights and how to access them.</p> <p>The counsel has the same rights to information as the suspect.<sup>261</sup></p> <p>b) (See above)</p> <p>The counsel has the same rights to information as the suspect.<sup>262</sup></p>

<sup>258</sup> Finland, legal councillor at the Ministry of Justice.

<sup>259</sup> Finland, legal councillor at the Ministry of Justice.

<sup>260</sup> Finland, representative of the Finnish Bar Association.

<sup>261</sup> Finland, legal councillor at the Ministry of Justice.

<sup>262</sup> Finland, legal councillor at the Ministry of Justice.

		<p>c) (See above)</p> <p>The counsel has the same rights to information as the suspect.<sup>263</sup></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.	According to the National Police Board <sup>264</sup> , <i>inter alia</i> the following information is provided for the suspected persons: the person to be questioned shall be informed of his or her position in the criminal investigation, the right to explain circumstances and provide evidence for the defence, the right to request the presence of a witness in the questioning/interview, the right to get information from the police about the possibility for mediation etc.
2.	<b>LETTER OF RIGHTS<sup>265</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>In accordance with the Government Bill (HE 71/2014) on the amendment of the Criminal Procedure Act and other acts<sup>266</sup>, the provision of information is included in the Criminal Investigation Act, Chapter 4, Section 17 (see above).</p> <p>There is no separate letter for children under 18 years of age. (Children under 15 years of age are not under criminal responsibility and therefore they cannot be arrested.) In accordance with the "rights and responsibilities of persons held in custody" form: "Particular attention must be paid to the treatment of young persons (under the age of 21)." Moreover it is stated: "The police must immediately inform the social welfare authorities about any person of less than 18 years of age held in custody, if the need for child welfare services is to be examined with regard to this person (section 25 of the Child Welfare Act)." <sup>267</sup></p>

<sup>263</sup> Finland, legal councillor at the Ministry of Justice.

<sup>264</sup> Finland, representative of the National Police Board.

<sup>265</sup> See in particular Article 4 and relevant recitals of Directive 2012/13/EU.

<sup>266</sup> Finland, the Government Bill 71/2014 (*Hallituksen esitys eduskunnalle laiksi esitutkintalain muuttamisesta ja eräiksi siihen liittyviksi laeiksi / Proposition till riksdagen med förslag till lag om ändring av förundersökningslagen och till vissa lagar som har samband med den*, HE 71/2014), available in Finnish at (accessed 16 June 2015):

[www.finlex.fi/fi/esitykset/he/2014/20140071](http://www.finlex.fi/fi/esitykset/he/2014/20140071).

<sup>267</sup> Finland, representative of the National Police Board; Finland, legal councillor at the Ministry of Justice.

2.2	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>In accordance with the Government Bill (HE 71/2014) on the amendment of the Criminal Procedure Act and other acts<sup>268</sup> the provision of information is included in the Criminal Investigation Act, Chapter 4, Section 17 (see above). The information must be provided in writing in a language used by the suspect. The information must be given <b>without delay</b> when a suspected person is deprived of liberty due to apprehension, arrest or remand.</p> <p>According to the National Police Board, the persons deprived of their liberty are given the form titled “rights and responsibilities of persons held in custody” they are registered in the police custody. If they are taken straight into the questioning, the form/information is provided immediately.<sup>269</sup></p>
2.3	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</b>	<p>In accordance with The Government Bill HE (71/2014) on the amendment of the Criminal Procedure Act and other acts<sup>270</sup>, the suspected person must be informed of the rights set in section 16 either orally or in writing, <b>in a clear and accessible language</b>. (A reference is made to the recital (38)). When informing on the rights, special attention should be paid on the informing of suspects who have difficulty to understand the content and meaning of the rights, for example due to young age or mental state. Moreover, the rights in section 17 (letter of rights) should be informed in a clear and accessible language.</p> <p>According to the National Police Board, an expert (interpreter) working in the National Bureau of Investigation was consulted when preparing the form “<i>Rights and responsibilities of persons held in custody</i>” in order for the language to be simple. The content of the form is explained also orally and observations are made about whether the person understands what is being said.<sup>271</sup></p>

<sup>268</sup> Finland, the Government Bill 71/2014 (*Hallituksen esitys eduskunnalle laiksi esitutkintalain muuttamisesta ja eräksi siihen liittyviksi laeiksi / Proposition till riksdagen med förslag till lag om ändring av förundersökningslagen och till vissa lagar som har samband med den*, HE 71/2014), available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/esitykset/he/2014/20140071](http://www.finlex.fi/fi/esitykset/he/2014/20140071).

<sup>269</sup> Finland, representative of the National Police Board.

<sup>270</sup> Finland, the Government Bill 71/2014 (*Hallituksen esitys eduskunnalle laiksi esitutkintalain muuttamisesta ja eräksi siihen liittyviksi laeiksi / Proposition till riksdagen med förslag till lag om ändring av förundersökningslagen och till vissa lagar som har samband med den*, HE 71/2014), available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/esitykset/he/2014/20140071](http://www.finlex.fi/fi/esitykset/he/2014/20140071).

<sup>271</sup> Finland, representative of the National Police Board.



	relevant organisations and/or practitioners.	
3.	<b>RIGHT TO INFORMATION ABOUT THE ACCUSATION<sup>272</sup></b>	<b>Brief Description</b>
3.1	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>In accordance with the Criminal Investigation Act (<i>esitutkintalaki/förundersökningslag</i>, 805/2011)<sup>273</sup>, Chapter 7, Section 10, (1) <b>Before the questioning, the person to be questioned shall be informed of his or her position in the criminal investigation, his or her right to request the presence of a credible witness, and his or her rights in respect of language.</b>(2) Before the questioning, <b>the suspect in the offence shall be informed of the specific offence in which he or she is suspected. [...]</b> In accordance with the Chapter 6, section1, subsection 2 on the summons to criminal investigation: “The summons shall indicate the offence under investigation and the position of the person being summoned in the criminal investigation” (a position of the person refers to whether the person is considered a suspect, witness, etc.).</p> <p>According to the National Police Board, when the suspected/accused person is summoned to the questioning, the suspect is given information about the crime s/he is being suspected of, the essential elements of that offence and the possible implications. These matters are informed in the summons for questioning and orally before each questioning.<sup>274</sup></p> <p>The prosecutor brings charges by delivering a written application for a summons to the registry of the district court. According to The Office of the Prosecutor General, in practice the complaint (application for a summons) include the evidence, description of the criminal act charged and summary penal order.<sup>275</sup></p>

<sup>272</sup> See in particular Article 6 and relevant recitals of Directive 2012/13/EU.

<sup>273</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf](http://www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf).

<sup>274</sup> Finland, representative of the National Police Board.

<sup>275</sup> Finland, representative of the Office of the Prosecutor General.

		<p>The court must issue a summons without delay. The content of the complaint (application for a summons) is described in the Criminal Procedure Act, Chapter 5, Section 3<sup>276</sup>.</p> <p>In accordance with the Coercive Measures Act (pakkokeinolaki/tvångsmedelslag, 806/2011)<sup>277</sup> Chapter 2, Section 10, on <i>notification on arrest</i>: (1) <i>The person under arrest shall be notified without delay of the reason for his or her arrest when the decision on the arrest has been made or he or she has been apprehended pursuant to an arrest warrant.</i> (2) <i>Chapter 2, section 2, subsection 2 of the Act on the Treatment of Persons in Police Custody contains provisions on notification to a person close to the person under arrest or to another person.</i></p>
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>	See above 3.1.
3.3	How are suspects or accused persons informed when, in the course of the criminal	See above 3.1.

<sup>276</sup> (1) The application for a summons shall indicate: 1. the defendant; 2. the injured party; 3. the act for which the charge is being brought, the time and place of commission and the other information necessary to specify the act; 4. the offence which the prosecutor considers to have been committed; 5. the demands for a penalty and for forfeiture, and the provisions on which they are based; 6. the claims of the injured party pursued by the prosecutor by virtue of chapter 3, section 9; 7. the evidence that the prosecutor intends to present and what he/she intends to prove with each piece of evidence; 8. the request, order or consent, if one is a prerequisite for the bringing of a charge; and 9. the circumstances on which the jurisdiction of the court is based, unless jurisdiction is otherwise evident in the application for a summons.

(2) In addition, the application for a summons shall indicate the names of the court and the parties, as well as the contact information of their legal representatives, attorneys or counsel. The court shall also be provided in a suitable manner with the phone number and other contact information of the parties, witnesses and other persons to be heard. If some of the information later on changes, the court shall be notified with no delay.

(3) The application for a summons shall indicate the duration of the deprivation of liberty, if the defendant has been deprived of his/her liberty for longer than 24 hours, and whether there is a reason for the holding of the main hearing within two weeks of the date when the charge become pending, as provided in section 13 (1).

(4) The prosecutor is to sign the application for a summons.

<sup>277</sup> Unofficial translation available at (accessed 17 June 2016): <http://www.finlex.fi/en/laki/kaannokset/2011/en20110806.pdf>.

<p>proceedings, the details of the accusation change?</p>	<p>In accordance with the Government Bill (HE 71/2014) on the amendment of the Criminal Procedure Act and other acts<sup>278</sup>, the Criminal Investigation Act, Chapter 7, Section 10, Subsection 2 (see above) applies to informing about changes to accusation during criminal investigation.</p> <p>According to The Office of the Prosecutor General, if the charges are altered before the court hearing, the party is informed in writing. If the charges are altered in court, the party can hear it there. <sup>279)</sup></p> <p>According to the National Police Board, the counsel of the suspected/accused person is informed either orally or in writing. If the suspect/accused does not have a counsel s/he is informed directly.<sup>280</sup></p> <p>In accordance with the Criminal Procedure Act, Chapter , Section 17, Subsection 1, “A charge that has been brought shall not be altered. However, the prosecutor may extend a charge against the same defendant to cover another act, if the court considers this appropriate in view of the available evidence and other circumstances.” In accordance with the Government Bill (HE 71/2014) on the amendment of the Criminal Procedure Act and other acts<sup>281</sup> if the accusation is changed, the suspected/accused person must be heard on the changes.</p> <p>According to the Finnish Bar Association<sup>282</sup> the police often informs the suspected/accused person about the accusation at a very late stage of the criminal investigation, even during the final statement.</p>
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<sup>278</sup> Finland, the Government Bill 71/2014 (*Hallituksen esitys eduskunnalle laiksi esitutkintalain muuttamisesta ja eräksi siihen liittyviksi laeiksi / Proposition till riksdagen med förslag till lag om ändring av förundersökningslagen och till vissa lagar som har samband med den*, HE 71/2014), available in Finnish at (accessed 16 June 2015):

[www.finlex.fi/fi/esitykset/he/2014/20140071](http://www.finlex.fi/fi/esitykset/he/2014/20140071).

<sup>279</sup> Finland, representative of the Office of the Prosecutor General.

<sup>280</sup> Finland, representative of the National Police Board.

<sup>281</sup> Finland, the Government Bill 71/2014 (*Hallituksen esitys eduskunnalle laiksi esitutkintalain muuttamisesta ja eräksi siihen liittyviksi laeiksi / Proposition till riksdagen med förslag till lag om ändring av förundersökningslagen och till vissa lagar som har samband med den*, HE 71/2014), available in Finnish at (accessed 16 June 2015):

[www.finlex.fi/fi/esitykset/he/2014/20140071](http://www.finlex.fi/fi/esitykset/he/2014/20140071).

<sup>282</sup> Finland, representative of the Finnish Bar Association.

4.	RIGHT OF ACCESS TO CASE MATERIALS <sup>283</sup>	Brief Description
4.1	What material evidence can be accessed by suspected or accused persons (e.g. documents, photographs, audio, video, summaries...)?	<p>In accordance with the Criminal Investigation Act (<i>esitutkintalaki/förundersökningslag</i>, 805/2011)<sup>284</sup>, Chapter 4, Section 15, <i>After the initiation of the criminal investigation a party has the right to obtain information on matters that have led to and become apparent in the criminal investigation and criminal investigation material that can affect or could have affected his/her matter.</i> In accordance with the Government Bill (HE 71/2014) on the amendment of the Criminal Procedure Act and other acts<sup>285</sup>, the right to obtain information, as a rule, covers <b>the criminal investigation material: the documents drawn by the criminal investigation authorities and documents received by the criminal investigation authority. The right to obtain information includes also criminal investigation material that is not included in the record of a criminal investigation</b> as not all material is included (attached) in the record of a criminal investigation. <b>The “material that can or could have affected his/her matter” includes material that can affect the outcome of the criminal process.</b> Moreover, the party’s representative and counsel also have the right to information. However, in accordance with the Criminal Investigation Act (<i>esitutkintalaki/förundersökningslag</i>, 805/2011)<sup>286</sup> the party does not have this right before the ending of the investigation if the provision of information would impede clarification of the matter. Moreover, the party does not have this right <b>if there is a very important public or private interest to be secured and therefore it is essential to withhold the information.</b> Furthermore, the party does not have the right to obtain information about matters described in the Act on the Openness of Government Activities (621/1999) Section 11, Subsection 2: 7: “the address, telephone number or other comparable contact information of a witness, an injured party, another party to the matter or a person who has reported an offence, made a report referred to in section 40 of the Child Welfare Act (683/1983) or another report giving rise to official action, if access would compromise the safety, interest or right of the witness, injured party, other party or the person making the report.”<sup>287</sup></p>

<sup>283</sup> See in particular Article 7 and relevant recitals of Directive 2012/13/EU.

<sup>284</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf](http://www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf).

<sup>285</sup> Finland, the Government Bill 71/2014 (*Hallituksen esitys eduskunnalle laiksi esitutkintalain muuttamisesta ja eräiksi siihen liittyviksi laeiksi / Proposition till riksdagen med förslag till lag om ändring av förundersökningslagen och till vissa lagar som har samband med den*, HE 71/2014), available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/esitykset/he/2014/20140071](http://www.finlex.fi/fi/esitykset/he/2014/20140071).

<sup>286</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf](http://www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf).

<sup>287</sup> Unofficial translation available at (accessed 16 June 2015): <http://www.finlex.fi/en/laki/kaannokset/1999/en19990621>.

	<p>In accordance with the Government Bill (HE 71/2014) on the amendment of the Criminal Procedure Act and other acts<sup>288</sup>, there must be <b>case-specific comparison of interests</b> (the requirements of the fair trial, the important public and private interests, the solving of crime interests). When assessing the party's right to receive information or restricting this right, one must take into account the party's right to duly defence or otherwise duly guard one's rights in trial. To the right to receive information about use of covert coercive measures also applies Coercive Measures Act<sup>289</sup> (pakkokeinolaki/tvångsmedelslag, 806/2011) Chapter 10, Section 60 &amp; 62 and to the right to receive information about the use of a secret intelligence gathering method, Police Act<sup>290</sup> (poliisilaki / polislagen, 872/2011), Chapter 5, Section 58 &amp; 60. Otherwise the Act on the Openness of Government Activities applies to the party's right to receive information about the criminal investigation material. However, to providing information about audio- and visualrecording applies the Criminal Investigation Act (<i>esitutkintalaki/förundersökningslag</i>, 805/2011)<sup>291</sup>, Chapter 9, Section 7, subsection 2:</p>
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<sup>288</sup> Finland, the Government Bill 71/2014 (*Hallituksen esitys eduskunnalle laiksi esitutkintalain muuttamisesta ja eräiksi siihen liittyviksi laeiksi / Proposition till riksdagen med förslag till lag om ändring av förundersökningslagen och till vissa lagar som har samband med den*, HE 71/2014), available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/esitykset/he/2014/20140071](http://www.finlex.fi/fi/esitykset/he/2014/20140071).

<sup>289</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2011/en20110806.pdf](http://www.finlex.fi/en/laki/kaannokset/2011/en20110806.pdf), Chapter 10, section 60, subsection 1+2+3:

(1) Written notice shall be given without delay to the suspect concerning telecommunications interception, the obtaining of data other than through telecommunications interception, traffic data monitoring, extended surveillance, covert collection of intelligence, technical surveillance and controlled delivery directed at him or her, after the matter has been submitted to the consideration of the prosecutor or the criminal investigation has otherwise been terminated or interrupted. However, the suspect shall be informed at the latest within one year of the termination of the use of a coercive measure. (2) A written notice shall be given without undue delay to the suspect concerning covert activity, pseudo-purchase and controlled use of covert human intelligence sources directed at him or her after the matter has been submitted to the consideration of the prosecutor. (3) A court may decide on the request of an official with the power of arrest that the notice to the suspect referred to in subsections 1 and 2 may be postponed at the most two years at a time, if this is justified in order to ensure present or future collection of intelligence, ensure the security of the state or protect life or health. The court may decide that no notice is given at all, if this is necessary in order to ensure the security of the state or protect life or health.

<sup>290</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2011/en20110872.pdf](http://www.finlex.fi/en/laki/kaannokset/2011/en20110872.pdf), Chapter 5, Section 58, subsection 1+2:

1) The target of intelligence gathering shall be notified in writing without delay of the telecommunications interception, obtaining data other than through telecommunications interception, traffic data monitoring, extended surveillance, covert intelligence gathering, technical surveillance or controlled delivery once the purpose of the intelligence gathering has been achieved. The use of a secret intelligence gathering method shall, however, be notified to the target of the intelligence gathering no later than one year after use of the method has ceased. (2) At the request of a police officer with the power of arrest, a court may decide that the notification referred to in subsection 1 to the target of the intelligence gathering may be postponed for up to two years at a time if this is justifiable in order to secure ongoing intelligence gathering, to ensure State security or to protect lives or health. By decision of the court, there is no need to send the notification at all if this is essential for the purpose of ensuring State security or protecting lives or health.

<sup>291</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf](http://www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf).

		<p><i>“Information on an audio and video recording may be provided only by allowing the recording to be examined at the criminal investigation authority, if in view of the contents of the recording there is reason to assume that providing the information in another manner may lead to a violation of the protection of the privacy of an individual depicted in the recording.”</i></p> <p>Moreover, the suspected/accused person has the right to be informed of all the material that have been presented in court. <sup>292</sup></p> <p>According to the Finnish Bar Association<sup>293</sup>, in general, the rights set in article 7 (1) of the directive are not duly fulfilled in practice, and not enough information is provided about the deprivation of liberty.</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>In accordance with the Criminal Investigation Act (<i>esitutkintalaki/förundersökningslag</i>, 805/2011)<sup>294</sup>, Chapter 4, Section 15, <b>after the initiation of the criminal investigation</b> a party has the right to obtain information on matters that have led to and become apparent in the criminal investigation and criminal investigation material that can affect or could have affected his/her matter. However, in accordance with the Criminal Investigation Act (<i>esitutkintalaki/förundersökningslag</i>, 805/2011)<sup>295</sup>, <b>the party does not have this right before the ending of the investigation</b> if the provision of information would impede clarification of the matter. Moreover, the party does not have this right, if there is a very important public or private interest to be secured and therefore it is essential to withhold the information. Furthermore, the party does not have the right to obtain information about matters described in the Act on the Openness of Government Activities (621/1999) Section 11, Subsection 2: 7.</p> <p>To the right to receive information about use of covert coercive measures also applies Coercive Measures Act<sup>296</sup> (<i>pakkokeinolaki/tvångsmedelslag</i>, 806/2011) Chapter 10, Section 60 &amp; 62 and to the right to receive information about the use of a secret</p>

<sup>292</sup> Finland, legal councillor at the Ministry of Justice.

<sup>293</sup> Finland, representative of the Finnish Bar Association.

<sup>294</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf](http://www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf).

<sup>295</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf](http://www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf).

<sup>296</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2011/en20110806.pdf](http://www.finlex.fi/en/laki/kaannokset/2011/en20110806.pdf). Chapter 10, section 60, subsection 1+2+3:

(1) Written notice shall be given without delay to the suspect concerning telecommunications interception, the obtaining of data other than through telecommunications interception, traffic data monitoring, extended surveillance, covert collection of intelligence, technical surveillance and controlled delivery directed at him or her, after the matter has been submitted to the consideration of the prosecutor or the criminal investigation has otherwise been terminated or interrupted. However, the suspect shall be informed at the latest within one year of the termination of the use of a coercive measure. (2) A written notice shall be given without undue delay to the suspect concerning covert activity, pseudo-purchase and controlled use of covert

		<p>intelligence gathering method, Police Act<sup>297</sup> (poliisilaki / polislag, 872/2011), Chapter 5 , Section 58 &amp; 60. Otherwise, to the party’s right to receive information about the criminal investigation material applies the Act on the Openness of Government Activities. However, to providing information about audio- and visualrecording applies the Criminal Investigation Act (<i>esitutkintalaki/förundersökningslag</i>, 805/2011)<sup>298</sup>, Chapter 9, Section 7, subsection 2<sup>299</sup>.</p> <p>The suspected/accused can have access to the case material at the latest when the criminal investigation is finished. Some of the material can be accessed before that. If a final statement is asked for in the criminal investigation, the access is granted to all material that has been gathered up to that point. <sup>300</sup></p> <p>According to the Finnish Bar Association<sup>301</sup> the access to material is granted at a very late stage: during the final statement of the criminal investigation.</p> <p>There is no time limit to access the evidence material in possession of the court. <sup>302</sup></p>
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human intelligence sources directed at him or her after the matter has been submitted to the consideration of the prosecutor. (3) A court may decide on the request of an official with the power of arrest that the notice to the suspect referred to in subsections 1 and 2 may be postponed at the most two years at a time, if this is justified in order to ensure present or future collection of intelligence, ensure the security of the state or protect life or health. The court may decide that no notice is given at all, if this is necessary in order to ensure the security of the state or protect life or health.

<sup>297</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2011/en20110872.pdf](http://www.finlex.fi/en/laki/kaannokset/2011/en20110872.pdf). Chapter 5, Section 58, subsection 1+2: (1)The target of intelligence gathering shall be notified in writing without delay of the telecommunications interception, obtaining data other than through telecommunications interception, traffic data monitoring, extended surveillance, covert intelligence gathering, technical surveillance or controlled delivery once the purpose of the intelligence gathering has been achieved. The use of a secret intelligence gathering method shall, however, be notified to the target of the intelligence gathering no later than one year after use of the method has ceased. (2) At the request of a police officer with the power of arrest, a court may decide that the notification referred to in subsection 1 to the target of the intelligence gathering may be postponed for up to two years at a time if this is justifiable in order to secure ongoing intelligence gathering, to ensure State security or to protect lives or health. By decision of the court, there is no need to send the notification at all if this is essential for the purpose of ensuring State security or protecting lives or health.

<sup>298</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf](http://www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf).

<sup>299</sup> *Information on an audio and video recording may be provided only by allowing the recording to be examined at the criminal investigation authority, if in view of the contents of the recording there is reason to assume that providing the information in another manner may lead to a violation of the protection of the privacy of an individual depicted in the recording.*

<sup>300</sup> Finland, representative of the Office of the Prosecutor General and representative of the National Police Board.

<sup>301</sup> Finland, representative of the Finnish Bar Association.

<sup>302</sup> Finland, legal councillor at the Ministry of Justice.

<p>4.3</p>	<p>Under what circumstances is access to material refused? Who takes the decision of refusal?</p>	<p>In accordance with the Criminal Investigation Act (<i>esitutkintalaki/förundersökningslag</i>, 805/2011)<sup>303</sup>, Chapter 4, Section 15, <i>after the initiation of the criminal investigation a party has the right to obtain information on matters that have led to and become apparent in the criminal investigation</i> and criminal investigation material that can affect or could have affected his/her matter. In accordance with the Government Bill (HE 71/2014) on the amendment of the Criminal Procedure Act and other acts<sup>304</sup>, the right to obtain information as a rule covers the criminal investigation material: the documents drawn by the criminal investigation authorities and documents received by the criminal investigation authority. The right to obtain information includes also criminal investigation material that is not included in the record of a criminal investigation. The “material that can or could have affected his/her matter” includes material that can affect the outcome of the criminal process. The party’s counsel has the same right to information as the party the counsel is representing. However, in accordance with the Criminal Investigation Act (<i>esitutkintalaki/förundersökningslag</i>, 805/2011)<sup>305</sup> the party <b>does not have this right before the ending of the investigation if the provision of information would impede clarification of the matter. Moreover, the party does not have this right if there is a very important public or private interest<sup>306</sup> to be secured and therefore it is essential to withhold the information. Furthermore, the party does not have the right to obtain information about matters described in the Act on the Openness of Government Activities (621/1999) Section 11, Subsection 2: 7. In accordance with the Government Bill (HE 71/2014) on the amendment of the Criminal Procedure Act and other acts<sup>307</sup>, there must be case-specific comparison of interests (the requirements of the fair trial, the important public and private interests, the solving of crime interests). When assessing the party’s right to receive information or restricting this right, one must take into account the party’s right to duly defence or otherwise duly guard one’s rights in trial. To the right to receive information about use of covert coercive measures also applies Coercive Measures Act<sup>308</sup></b></p>
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<sup>303</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf](http://www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf).

<sup>304</sup> Finland, the Government Bill 71/2014 (*Hallituksen esitys eduskunnalle laiksi esitutkintalain muuttamisesta ja eräiksi siihen liittyviksi laeiksi / Proposition till riksdagen med förslag till lag om ändring av förundersökningslagen och till vissa lagar som har samband med den*, HE 71/2014), available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/esitykset/he/2014/20140071](http://www.finlex.fi/fi/esitykset/he/2014/20140071).

<sup>305</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf](http://www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf).

<sup>306</sup> Finland, representative of the National Police Board; the public interest include inter alia the securing of confidential police tactics or technical methods and state security, private interest include the protecting of a party or child’s best interest.

<sup>307</sup> Finland, the Government Bill 71/2014 (*Hallituksen esitys eduskunnalle laiksi esitutkintalain muuttamisesta ja eräiksi siihen liittyviksi laeiksi / Proposition till riksdagen med förslag till lag om ändring av förundersökningslagen och till vissa lagar som har samband med den*, HE 71/2014), available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/esitykset/he/2014/20140071](http://www.finlex.fi/fi/esitykset/he/2014/20140071).

<sup>308</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2011/en20110806.pdf](http://www.finlex.fi/en/laki/kaannokset/2011/en20110806.pdf), Chapter 10, section 60, subsection 1+2+3:

1) Written notice shall be given without delay to the suspect concerning telecommunications interception, the obtaining of data other than through telecommunications interception, traffic data monitoring, extended surveillance, covert collection of intelligence, technical surveillance and controlled delivery directed at him or her, after the matter has been submitted to the consideration of the prosecutor or the criminal investigation has



		<p><b>(pakkokeinolaki/tvångsmedelslag, 806/2011) Chapter 10, Section 60 &amp; 62 and to the right to receive information about the use of a secret intelligence gathering method, Police Act<sup>309</sup> (poliisilaki / polislagen, 872/2011), Chapter 5, Section 58 &amp; 60. Otherwise, to the party's right to receive information about the criminal investigation material applies the Act on the Openness of Government Activities. However, to providing information about audio- and visualrecording applies the Criminal Investigation Act (esitutkintalaki/förundersökningslag, 805/2011)<sup>310</sup>, Chapter 9, Section 7, subsection 2<sup>311</sup>.</b></p> <p>The investigator in charge of the proceedings makes an assessment about the refusal of access.<sup>312</sup>The decision cannot be appealed against directly. However, a complaint<sup>313</sup> can be filed.<sup>314</sup></p> <p>In accordance with the Act on the Publicity of Court Proceedings in General Courts (<i>Laki oikeudenkäynnin julkisuudesta yleisissä tuomioistuimissa / Lag om offentlighet vid rättegång i allmänna domstolar</i>, 370/2007)<sup>315</sup> Section 12, right of a party to be informed, "a party</p>
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otherwise been terminated or interrupted. However, the suspect shall be informed at the latest within one year of the termination of the use of a coercive measure. (2) A written notice shall be given without undue delay to the suspect concerning covert activity, pseudo-purchase and controlled use of covert human intelligence sources directed at him or her after the matter has been submitted to the consideration of the prosecutor. (3) A court may decide on the request of an official with the power of arrest that the notice to the suspect referred to in subsections 1 and 2 may be postponed at the most two years at a time, if this is justified in order to ensure present or future collection of intelligence, ensure the security of the state or protect life or health. The court may decide that no notice is given at all, if this is necessary in order to ensure the security of the state or protect life or health.

<sup>309</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2011/en20110872.pdf](http://www.finlex.fi/en/laki/kaannokset/2011/en20110872.pdf). Chapter 5, Section 58, subsection 1+2: (1)The target of intelligence gathering shall be notified in writing without delay of the telecommunications interception, obtaining data other than through telecommunications interception, traffic data monitoring, extended surveillance, covert intelligence gathering, technical surveillance or controlled delivery once the purpose of the intelligence gathering has been achieved. The use of a secret intelligence gathering method shall, however, be notified to the target of the intelligence gathering no later than one year after use of the method has ceased. (2) At the request of a police officer with the power of arrest, a court may decide that the notification referred to in subsection 1 to the target of the intelligence gathering may be postponed for up to two years at a time if this is justifiable in order to secure ongoing intelligence gathering, to ensure State security or to protect lives or health. By decision of the court, there is no need to send the notification at all if this is essential for the purpose of ensuring State security or protecting lives or health.

<sup>310</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf](http://www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf).

<sup>311</sup> Information on an audio and video recording may be provided only by allowing the recording to be examined at the criminal investigation authority, if in view of the contents of the recording there is reason to assume that providing the information in another manner may lead to a violation of the protection of the privacy of an individual depicted in the recording.

<sup>312</sup> Finland, representative of the Office of the Prosecutor General and representative of the National Police Board.

<sup>313</sup> Usually an administrative action taken by an authority can be appealed to request a change, for example an appeal can be filed to the Administrative Court. A complaint can be filed if one suspects that the authority in question has taken an unlawful/erroneous action. An administrative action/decision cannot be modified or dissolved with the complaint, but the legality of the actions of the authority is looked into and the authority for complaints can issue a reprimand to the authority in question. For more information see: [www.suomi.fi/suomifi/english/services\\_by\\_topic/law\\_and\\_legal\\_protection/legal\\_protection/complaints\\_and\\_appeals/index.html](http://www.suomi.fi/suomifi/english/services_by_topic/law_and_legal_protection/legal_protection/complaints_and_appeals/index.html).

<sup>314</sup> Finland, representative of the National Police Board.

<sup>315</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2007/en20070370.pdf](http://www.finlex.fi/en/laki/kaannokset/2007/en20070370.pdf).

		has the right to be informed about the contents of trial document other than public trial documents". The exceptions are listed in subsection 2 <sup>316</sup> . In accordance with the Government Bill (HE 71/2014) on the amendment of the Criminal Procedure Act and other acts <sup>317</sup> , in practice, the access to the evidence material in possession of the court can be limited only in regards to the confidential contact details of the witness and the plaintiff. The court makes the decision on the limitation. The decision is subject to appeal.
<b>5.</b>	<b>CROSS-CUTTING ISSUES: LANGUAGES, COMPLAINT MECHANISMS, RECORDING &amp; SPECIAL MEASURES<sup>318</sup></b>	<b>Brief Description</b>
<b>5.1</b>	In which languages can information be provided for the following?	
	a) information on procedural rights	In accordance with the Criminal Investigation Act ( <i>esitutkintalaki/förundersökningslag</i> , 805/2011) <sup>319</sup> , Chapter 4, Section 16, when a person is informed that he/she is being suspected of a crime, he/she must be informed, without delay and at the latest before he/she is being heard, of following: 1) the right to access a lawyer of his/her choice; 2) The right to a defence counsel in accordance with the Criminal Procedure Act ( <i>laki oikeudenkäynnistä rikosasioissa/ lag om rättegång i brottmål</i> , 689/1997) <sup>320</sup> . section 2, subsection 1; 3) right to legal aid

<sup>316</sup> (1) Subject to the provisions of subsection 2, a party has the right to be informed about the contents of trial documents other than public trial documents.

(2) A party does not have the right referred to in subsection 1

(1) to contact information referred to in section 11 (2)(7) of the Act on the Openness of Government Activities; (2) to trial documents prepared in the court, before the date referred to in section 8; (3) in a case concerning coercive measures referred to in chapter 5(a) of the Coercive Measures Act, a police measure referred to in section 32 (b) of the Police Act or a customs measure referred to in section 20 (f) of the Customs Act, where the person who is the subject of the coercive measure or other measure need not be heard when considering the claim; (4) to trial documents to the extent that they contain information on the deliberations of the court.

<sup>317</sup> Finland, the Government Bill 71/2014 (*Hallituksen esitys eduskunnalle laiksi esitutkintalain muuttamisesta ja eräiksi siihen liittyviksi laeiksi / Proposition till riksdagen med förslag till lag om ändring av förundersökningslagen och till vissa lagar som har samband med den*, HE 71/2014), available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/esitykset/he/2014/20140071](http://www.finlex.fi/fi/esitykset/he/2014/20140071).

<sup>318</sup> See in particular Articles 3 - 8 and relevant recitals of Directive 2012/13/EU.

<sup>319</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf](http://www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf).

<sup>320</sup> Available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/laki/ajantasa/1997/19970689](http://www.finlex.fi/fi/laki/ajantasa/1997/19970689).

free of charge and to a lawyer (counsel) in accordance with The Legal Aid Act (*oikeusapulakilrättshjälpslag, 257/2002*)<sup>321</sup>; 4) the right to information about the crime, that he/she is being suspected of and to information about changes concerning the suspicion of a crime; 5) the right to interpretation and translation of essential document in accordance with the Section 13, the Coercive Measures Act (*pakkokeinolaki/tvångsmedelslag, 806/2011*) Chapter 2, Section 16, The Criminal Procedure Act (*laki oikeudenkäynnistä rikosasioissa/ lag om rättegång i brottmål, 689/1997*), Chapter 6a, section 3. 6) Right to remain silent and not to contribute to the solving of a crime. The suspect of a crime must be informed of these rights (section 16) **in a language used by the suspect in accordance with the Section 12.**

According to the Criminal Investigation Act (*esitutkintalaki/förundersökningslag, 805/2011*)<sup>322</sup>, Chapter 4, Section 12, persons other than those speaking Finnish, Swedish or Sami have the right in the criminal investigation to use a language that they understand and speak sufficiently. **The criminal investigation authority shall ascertain whether or not the party needs interpretation.** The criminal authority shall ensure that the party receives the interpretation that he or she needs.

The person deprived of liberty must be informed of the rights laid down in the Criminal Investigation Act (*esitutkintalaki/förundersökningslag, 805/2011*)<sup>323</sup>, Chapter 4, Section 17, Subsection 1 and 2: 1) the rights laid down in section 16 2) the right to information in accordance with the section 15.

In accordance with the Criminal Investigation Act (*esitutkintalaki/förundersökningslag, 805/2011*)<sup>324</sup>, Chapter 4, Section 17,

(1) when a suspect of a crime is deprived of liberty due to apprehension, arrest or remand, he/she must be without delay informed (in writing) of: 1) the rights laid down in section 16 2) the right to information in accordance with the section 15; 3) right to his/her familiar or other person be informed of his/her deprivation of liberty in accordance with the Act on treatment of persons taken into custody by the police (*Laki poliisin säilyttämien henkilöiden kohtelusta / Lag om behandlingen av personer i förvar hos polisen, 2006/841*)<sup>325</sup> Chapter 2,

<sup>321</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2002/en20020257.pdf](http://www.finlex.fi/en/laki/kaannokset/2002/en20020257.pdf) The Legal Aid Act, Chapter 1: Section 1: "Legal aid is provided at the expense of the state to persons who need expert assistance in a legal matter and who are unable to meet the costs of proceedings as a result of their economic situation. Legal aid covers the provision of legal advice, the necessary measures and representation before a court of law and another authority, and the waiver of certain expenses related to the consideration of the matter, as provided in this Act." Section 4, Subsection 1+2, Benefits included in legal aid:

The granting of legal aid exempts the recipient from liability for:

- (1) the fees and compensations for an attorney appointed or approved under this Act, in full or in part, as stated in the legal aid decision;
- (2) the fees and compensations arising from the interpretation and translation services required in the consideration of the matter;

<sup>322</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf](http://www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf).

<sup>323</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf](http://www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf).

<sup>324</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf](http://www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf).

<sup>325</sup> Available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/laki/ajantasa/2006/20060841](http://www.finlex.fi/fi/laki/ajantasa/2006/20060841).

section 2; 4) right to health care in accordance with Act on treatment of persons taken into custody by the police (Laki poliisin säilyttämien henkilöiden kohtelusta/ Lag om behandlingen av personer i förvar hos polisen, 2006/841<sup>326</sup>), Chapter 5, section 1 and Detention Act<sup>327</sup> (tutkintavankeuslaki / lag om rannsakningsfångelse, 768/2005), Chapter 6, section 1; 5)<sup>328</sup> the right to court proceedings in a remand matter in a timelimit set in the Coercive Measures Act (*pakkokeinolaki/tvångsmedelslag*, 806/2011), Chapter 3, Section 5 and the right of person who has been remanded to a new remand hearing (Coercive Measures Act, Chapter 3, Section 15).

(2) A foreigner that is deprived of liberty must be in addition to subsection 1 be informed without delay of right that his/her deprivation of liberty be informed to a consulate or embassy that represents his/her country of origin.

(3) The person deprived of liberty must be informed of the rights laid down in subsection 1 and 2 in writing **in a language used by the suspect in accordance with the Section 12.**

According to the Criminal Investigation Act (*esitutkintalaki/förundersökningslag*, 805/2011)<sup>329</sup>, Chapter 4, Section 12, persons other than those speaking Finnish, Swedish or Sami have the right in the criminal investigation to use a language that they understand and speak sufficiently. **The criminal investigation authority shall ascertain whether or not the party needs interpretation.** The criminal authority shall ensure that the party receives the interpretation that he or she needs.

In accordance with The Government Bill (HE 71/2014) on the amendment of the Criminal Procedure Act and other acts<sup>330</sup>, these rights laid down in subsection 1 and 2 should be informed to the person deprived of liberty first via interpreter orally, if the written translation is not available **immediately in a language that the suspect understands.** The suspected person must then without justified delay be provided with a written translation about his/her rights.

<sup>326</sup> Available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/laki/ajantasa/2006/20060841](http://www.finlex.fi/fi/laki/ajantasa/2006/20060841).

<sup>327</sup> Available at (accessed 16 June 2015): [www.finlex.fi/fi/laki/ajantasa/2005/20050768](http://www.finlex.fi/fi/laki/ajantasa/2005/20050768).

<sup>328</sup> There is no provision on the request for provisional release set in the national legislation.

<sup>329</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf](http://www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf).

<sup>330</sup> Finland, the Government Bill 71/2014 (*Hallituksen esitys eduskunnalle laiksi esitutkintalain muuttamisesta ja eräiksi siihen liittyviksi laeiksi / Proposition till riksdagen med förslag till lag om ändring av förundersökningslagen och till vissa lagar som har samband med den*, HE 71/2014), available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/esitykset/he/2014/20140071](http://www.finlex.fi/fi/esitykset/he/2014/20140071).

	In accordance with the Criminal Investigation Act ( <i>esitutkintalaki/förundersökningslag</i> , 805/2011) <sup>331</sup> , Chapter 4, Section 12, persons other than those speaking Finnish, Swedish or Sami have the right in the criminal investigation to use a language that they understand and speak sufficiently.
b) letter of rights	<p>In accordance with the Criminal Investigation Act (<i>esitutkintalaki/förundersökningslag</i>, 805/2011)<sup>332</sup>, Chapter 4, Section 17,</p> <p>(1) when a suspect of a crime is deprived of liberty due to apprehension, arrest or remand, he/she must be without delay informed (in writing) of: 1) the rights laid down in section 16; 2) the right to information in accordance with the section 15; 3) right to his/her familiar or other person be informed of his/her deprivation of liberty in accordance with the Act on treatment of persons taken into custody by the police (<i>Laki poliisin säilyttämien henkilöiden kohtelusta / Lag om behandlingen av personer i förvar hos polisen</i>, 2006/841<sup>333</sup>) Chapter 2, section 2; 4) right to health care in accordance with Act on treatment of persons taken into custody by the police (<i>Laki poliisin säilyttämien henkilöiden kohtelusta/ Lag om behandlingen av personer i förvar hos polisen</i>, 2006/841<sup>334</sup>), Chapter 5, section 1 and Detention Act<sup>335</sup> (<i>tutkintavankeuslaki / lag on rannsakningsfängelse</i>, 768/2005), Chapter 6, section 1; 5)<sup>336</sup> the right to court proceedings in a remand matter in a timelimit set in the Coercive Measures Act (<i>pakkokeinolaki/tvångsmedelslag</i>, 806/2011), Chapter 3, Section 5 and the right of person who has been remanded to a new remand hearing (Coercive Measures Act, Chapter 3, Section 15).</p> <p>(2) A foreigner that is deprived of liberty must be in addition to subsection 1 be informed without delay of right that his/her deprivation of liberty be informed to a consulate or embassy that represents his/her country of origin.</p> <p>(3) The person deprived of liberty must be informed of the rights laid down in subsection 1 and 2 in writing <b>in a language used by the suspect in accordance with the Section 12.</b></p> <p>According to the Criminal Investigation Act (<i>esitutkintalaki/förundersökningslag</i>, 805/2011)<sup>337</sup>, Chapter 4, Section 12, persons other than those speaking Finnish, Swedish or Sami have the right in the criminal investigation to use a language that they understand and speak sufficiently. <b>The criminal investigation authority shall ascertain whether or not the party needs interpretation.</b> The criminal authority shall ensure that the party receives the interpretation that he or she needs.</p>

<sup>331</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf](http://www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf).

<sup>332</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf](http://www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf).

<sup>333</sup> Available in Finnish at (accessed 17 June 2016): [www.finlex.fi/fi/laki/ajantasa/2006/20060841](http://www.finlex.fi/fi/laki/ajantasa/2006/20060841).

<sup>334</sup> Available in Finnish at (accessed 17 June 2016): [www.finlex.fi/fi/laki/ajantasa/2006/20060841](http://www.finlex.fi/fi/laki/ajantasa/2006/20060841).

<sup>335</sup> Available at (accessed 17 June 2016): [www.finlex.fi/fi/laki/ajantasa/2005/20050768](http://www.finlex.fi/fi/laki/ajantasa/2005/20050768).

<sup>336</sup> There is no provision on the request for provisional release set in the national legislation.

<sup>337</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf](http://www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf).

	c) information about the accusation	<p>In accordance with the Criminal Investigation Act (<i>esitutkintalaki/förundersökningslag</i>, 805/2011)<sup>338</sup>, Chapter 4, Section 16, when a person is informed that he/she is being suspected of a crime, he/she must be informed, without delay and at the latest before he/she is being heard, of following: [...] 4) the right to information about the crime, that he/she is being suspected of and to information about changes concerning the suspicion of a crime; The suspect of a crime must be informed of these rights (section 16) in a language used by the suspect in accordance with the Section 12.</p> <p>According to the Criminal Investigation Act (<i>esitutkintalaki/förundersökningslag</i>, 805/2011)<sup>339</sup>, Chapter 4, Section 12, persons other than those speaking Finnish, Swedish or Sami have the right in the criminal investigation to use a language that they understand and speak sufficiently. <b>The criminal investigation authority shall ascertain whether or not the party needs interpretation.</b> The criminal authority shall ensure that the party receives the interpretation that he or she needs.</p>		
	d) case materials	The essential material or a summary thereof must be made accessible in a language that the suspect/accused understands in accordance with the Criminal Investigation Act, Chapter 4, section 13 and the Criminal Procedure Act, Chapter 6a, Section 3. <sup>340</sup>		
		<b>Yes</b>	<b>No</b>	<b>Brief Description</b>
5.2	<p>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?</p> <p><b>If yes, briefly describe the procedure where relevant.</b></p>			

<sup>338</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf](http://www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf).

<sup>339</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf](http://www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf).

<sup>340</sup> Finland, representative of the Office of the Prosecutor General and representative of the National Police Board.

	a) information on procedural rights		(X)	<p>According to the National Police Board a complaint can be made to the superior (of the police officer). This is a general complaint procedure. In general, the actions of officials and authorities can also be complained to the legality control. Legality control authorities in Finland include inter alia The Parliamentary Ombudsman and the Chancellor of Justice of the Government.<sup>341</sup> In addition, a complaint can be filed to the prosecutor.<sup>342</sup></p> <p>According to The National Police Board instructions, it's the duty of the court in connection with the main hearing to indicate whether the proceedings as a whole have ensured the right to fair trial.</p>
	b) letter of rights		(X)	<p>According to the National Police Board, a complaint can be filed to the superior (of the police officer). This is a general complaint procedure. In general, the actions of officials and authorities can also be complained to the legality control. Legality control authorities in Finland include inter alia The Parliamentary Ombudsman and the Chancellor of Justice of the Government.<sup>343</sup> In addition, a complaint can be filed to the prosecutor.<sup>344</sup></p>
	c) information about the accusation		(X)	<p>According to the National Police Board, a complaint can be filed to the superior (of the police officer). This is a general complaint procedure. In general, the actions of officials and authorities can also be complained to the legality control. Legality control authorities in Finland include inter alia The Parliamentary Ombudsman and the Chancellor of Justice of the Government.<sup>345</sup> In addition, a complaint can be filed to the prosecutor.<sup>346</sup></p>

<sup>341</sup> Finland, representative of the National Police Board.

<sup>342</sup> Finland, legal councillor at the Ministry of Justice.

<sup>343</sup> Finland, representative of the National Police Board.

<sup>344</sup> Finland, legal councillor at the Ministry of Justice.

<sup>345</sup> Finland, representative of the National Police Board.

<sup>346</sup> Finland, legal councillor at the Ministry of Justice.

	d) access to case materials		(X)	According to the National Police Board, the matter can be appealed to the administrative court. <sup>347</sup> Moreover, the accused can in matter pending (in the matter s/he is being accused of) present a request to the court for the criminal investigation authority to provide a document in court. <sup>348</sup>
5.3	Is any official record kept to note the provision of information about the following?  <b>If yes, briefly describe where relevant.</b>			The Government Decree on the criminal investigation, coercive measures and covert collection of intelligence <sup>349</sup> regulates the notation.
	a) information on procedural rights	X		A notation is made in the record of the criminal investigation or the record of the questioning <sup>350</sup>  According to the National Police Board, as a rule, the suspect only has to sign his/her own “questioning report” (kuulustelukertomus) in Finland. <sup>351</sup> However, in a (guiding) letter of the National Police Board it is stated that when the suspect is informed about the rights in the “information for the suspect” form it is recommendable that the suspect signs the form. Nevertheless, in another guiding letter it is specified that this is only a recommendation.
	b) letter of rights	X		The deprivation of liberty is registered in the police data base (Patja). <sup>352</sup>

<sup>347</sup> Finland, representative of the National Police Board.

<sup>348</sup> Finland, legal councillor at the Ministry of Justice.

<sup>349</sup> Available in Finnish at: [www.finlex.fi/fi/laki/ajantasa/2014/20140122](http://www.finlex.fi/fi/laki/ajantasa/2014/20140122).

<sup>350</sup> Finland, representative of the National Police Board.

<sup>351</sup> Finland, representative of the National Police Board.

<sup>352</sup> Finland, representative of the National Police Board.



				According to the National Police Board, as a rule in Finland the suspect only has to sign his/her own “questioning report” ( <i>kuulustelukertomus</i> ). <sup>353</sup> However, in a (guiding) letter of the National Police Board it is stated that when the suspect is informed about the rights in the “information for the suspect” form it is recommendable that the suspect signs the form. Nevertheless, in another guiding letter it is specified that this is only a recommendation.
	c) information about the accusation	X		A notation is made in “the questioning report” ( <i>kuulustelukertomus</i> ) of the record of the criminal investigation. <sup>354</sup>  The complaint (application for a summons) is provided to the accused in accordance with the Code of Judicial Procedure and a written certificate of the providing of information is made in accordance with Chapter 11, Section 17 <sup>355</sup> .
	d) access to case materials		X	There are no instructions on how this should be recorded, and a notation might be made in the “investigation diary” if it is considered relevant. If the access to this material is denied, then a written decision must be made. <sup>356</sup>  A copy of all the material that has been presented to the court by the prosecution is sent to the defendant (principle of contradiction). <sup>357</sup>
5.4	Are there special procedures designed to take into account the special needs of vulnerable suspects or vulnerable accused persons (e.g. because		X	In accordance with The Government Bill HE (71/2014) on the amendment of the Criminal Procedure Act and other acts <sup>358</sup> , the suspected person must be informed of the rights set in section 16 either orally or in writing, in a clear and accessible language. (A reference is made to the recital (38)). When informing on the rights special attention should be paid on the

<sup>353</sup> Finland, representative of the National Police Board.

<sup>354</sup> Finland, representative of the National Police Board.

<sup>355</sup> (1) A written certificate of the service of a summons shall be issued, indicating the date and place of the service and the person who received the service. If the service was performed as referred to in section 7, the certificate shall also indicate the reason for this and the date when the notice was given for delivery by post. The recipient of the service shall be provided with a copy of the certificate. The person performing the service shall sign the certificate.

(2) If service is performed as referred to in section 3, subsection 1(2), the recipient of the service shall fill in the certificate delivered to him or her for the purpose of receiving service, so that it contains his or her signature and the information referred to in subsection 1. The recipient of the service shall be provided with a copy of the certificate. The person performing the service shall sign the certificate.

<sup>356</sup> Finland, representative of the National Police Board.

<sup>357</sup> Finland, legal councillor at the Ministry of Justice.

<sup>358</sup> Finland, the Government Bill 71/2014 (*Hallituksen esitys eduskunnalle laiksi esitutkintalain muuttamisesta ja eräiksi siihen liittyviksi laeiksi / Proposition till riksdagen med förslag till lag om ändring av förundersökningslagen och till vissa lagar som har samband med den*, HE 71/2014), available in Finnish at (accessed 16 June 2015):

[www.finlex.fi/fi/esitykset/he/2014/20140071](http://www.finlex.fi/fi/esitykset/he/2014/20140071).

<p>of any physical impairments which affect their ability to communicate effectively (persons with hearing, sight or speech 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>		<p>informing of suspects who have difficulty to understand the content and meaning of the rights, for example due to young age or mental state. Moreover, the rights in section 17 (letter of rights) should be informed in a clear and accessible language.</p> <p>These are only general procedures which are are not specially designed for this purpose.</p>
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	<ul style="list-style-type: none"> <li>information on procedural rights</li> </ul>	a)	<p>In accordance with the Criminal Procedure Act (<i>laki oikeudenkäynnistä rikosasioissa/ lag om rättegång i brottmål, 689/1997</i>)<sup>359</sup>, Chapter 6a, Section 2, the court shall ensure interpretation to persons using sign language or when interpretation is necessary due to a sensory or speaking impediment of the person.</p> <p>In accordance with the Criminal Investigation Act, Chapter 4, Section 12, persons using sign language have the right to use sign language in the criminal investigation. The criminal investigation authority shall ascertain whether or not the party needs translation. The criminal authority shall ensure that the party receives the interpretation that he or she needs. Moreover, the interpretation shall be arranged also when this is necessary due to a sensory or speaking impediment of the person to be heard.</p> <p>In accordance with the Criminal Investigation Act (<i>esitutkintalaki/förundersökningslag, 805/2011</i>)<sup>360</sup>, Chapter 4, Section 10, A party has the right in a criminal investigation <b>to retain counsel of his or her own choice. A suspected person has to be informed of this right</b> in accordance with the Section 16 and 17. [...]The criminal investigation authority shall also otherwise, with consideration to the offence under investigation and to <b>the circumstances connected with the investigation of the offence and the party himself or herself, ensure that the right of a party to retain counsel is in fact realised when he or she wants this or when the ensuring of due process requires this.</b></p> <p>According to the National Police Board, a counsel and/or guardian/trustee is provided after an assessment of the disability of the person. Moreover, professional interpreters are used and, as a general rule, the questioning is conducted by an investigator with special training.<sup>361</sup></p>
		b)	

<sup>359</sup> Available in Finnish at (accessed 16 June 2015): [www.finlex.fi/fi/laki/ajantasa/1997/19970689](http://www.finlex.fi/fi/laki/ajantasa/1997/19970689).

<sup>360</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf](http://www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf).

<sup>361</sup> Finland, representative of the National Police Board.

		<p>In accordance with the Criminal Investigation Act (<i>esitutkintalaki/förundersökningslag</i>, 805/2011)<sup>362</sup>, Chapter 4, Section 10, A party has the right in a criminal investigation <b>to retain counsel of his or her own choice. A suspected person has to be informed of this right</b> in accordance with the Section 16 and 17. [...]The criminal investigation authority shall also otherwise, with consideration to the offence under investigation and to <b>the circumstances connected</b> with the investigation of the offence <b>and the party himself or herself, ensure that the right of a party to retain counsel is in fact realised</b> when he or she wants this or when the ensuring of due process requires this.</p> <p>According to the National Police Board a counsel and/or guardian/trustee provided depending on the disability of the person. Moreover, professional interpreters are used and, as a general rule, the questioning is conducted by an investigator with special training.<sup>363</sup></p>
	c)	<p>In accordance with the Criminal Investigation Act (<i>esitutkintalaki/förundersökningslag</i>, 805/2011)<sup>364</sup>, Chapter 4, Section 10, A party has the right in a criminal investigation <b>to retain counsel of his or her own choice. A suspected person has to be informed of this right</b> in accordance with the Section 16 and 17. [...]The criminal investigation authority shall also otherwise, with consideration to the offence under investigation and to <b>the circumstances connected</b> with the investigation of the offence <b>and the party himself or herself, ensure that the right of a party to retain counsel is in fact realised</b> when he or she wants this or when the ensuring of due process requires this.</p> <p>In accordance with the Criminal Investigation Act, Chapter 4, Section 7, Treatment of a child in criminal investigation:</p> <p>“(1) In the criminal investigation, a person under the age of 18 years shall be treated in the manner required by his or her age and level of development. Particular care shall be taken so that criminal investigation measures do not cause him or her unnecessary inconvenience at school, at work or in other environments important to him or her.</p>

<sup>362</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf](http://www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf).

<sup>363</sup> Finland, representative of the National Police Board.

<sup>364</sup> Unofficial translation available at (accessed 17 June 2016): [www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf](http://www.finlex.fi/en/laki/kaannokset/2011/en20110805.pdf).

				<p>(2) To the extent possible, investigation measures directed at persons under the age of 18 years shall be assigned to investigators particularly trained in this function. When necessary, the criminal investigation authority shall consult with a physician or other expert on whether investigation measures may be directed at a person under the age of 18 years.”</p> <p>(See also Criminal Investigation Act, Chapter 7, Section 14 on the <i>presence in the questioning of the legal representative of a minor</i><sup>365</sup>, Section 15<sup>366</sup> <i>contact with the legal representative of a minor</i> and Section 16<sup>367</sup>, <i>participation of the representative of a social welfare authority in the questioning</i>.)</p> <p>According to the National Police Board, the investigators who have special training are used and children under 18 years of age are treated according to their age, if possible. Moreover, the presence of guardians or representatives of social services is guaranteed in accordance with the legislation. Furthermore, professional interpreters are used. <sup>368</sup></p>
	<ul style="list-style-type: none"> <li>• letter of rights</li> </ul>	a)		<ul style="list-style-type: none"> <li>• See above: information on procedural rights</li> </ul>

<sup>365</sup> (1) If the person being questioned is under the age of 15 years, the person responsible for his or her care and custody, or his or her trustee or other legal representative has the right to be present in the questioning.

(2) If the injured party or the person being questioned as a suspect is a minor over the age of fifteen years, his or her legal representative has the right to be present in the questioning if said legal representative may, in accordance with Chapter 12, section 1 or 2 of the Code of Judicial Procedure, speak on behalf of or in addition to the minor in the trial concerning the offence being investigated.

(3) The investigator may prohibit the presence of the legal representative in the questioning if this person is a suspect in the offence under investigation or if his or her presence may otherwise be assumed to hamper the clarification of the offence.

<sup>366</sup> (1) Advance notice of the questioning shall be made to the legal representatives of the minor referred to in section 14, subsections 1 and 2 as being entitled to be present and at least one of them shall be reserved an opportunity to be present at the questioning.

(2) An exception may be made to the obligation to give notice and to reserve an opportunity to be present only if it is not possible to contact the legal representative or if for reasons related to the criminal investigation it is not possible to give notice and reserve an opportunity to be present and if the suspect should be questioned without delay in order to clarify the offence or the criminal act.

(3) In the case referred to in subsection 2, notice of the questioning and the contents of the record of the questioning shall be given as soon as possible to the legal representative of the person being questioned.

<sup>367</sup> (1) When a person under the age of 18 years is suspected in an offence or a criminal act, the social welfare authority shall be informed of the act and be reserved an opportunity to send its representative to the questioning, unless this is clearly not necessary.

(2) The criminal investigation authority shall provide the record of the questioning to the social welfare authority without delay.

<sup>368</sup> Finland, representative of the National Police Board.

		b)		See above: information on procedural rights
		c)		See above: information on procedural rights
<ul style="list-style-type: none"> <li>• information about the accusation</li> </ul>		a)		See above: information on procedural rights
		b)		See above: information on procedural rights
		c)		See above: information on procedural rights
<ul style="list-style-type: none"> <li>• access to case materials</li> </ul>		a)		See above: information on procedural rights
		b)		See above: information on procedural rights
		c)		See above: information on procedural rights

