

Submission template

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 ¹	Brief Description
1.1		<p>Please provide answers to the following for each stage of proceedings as indicated below:</p> <p>a) Who has the responsibility for determining the need of interpretation at each stage of the proceedings?</p> <p>The need for interpretation is established once for all at the beginning of the proceedings (stage of accusation and/or pre-trial detention order) by judicial authorities in charge of that procedure, as established by Article 143, paragraph 4 of the Italian Criminal Procedure Code²³. . Even when the accused/suspected person is detained by the police, it must be the judge to assess the need for an interpreter or translator. Moreover, pursuant to Article 143 of the Italian Criminal Procedure Code, an interpreter has to be appointed even when police authorities and judicial authorities know the language of the accused/suspected person.</p>

¹ See in particular Arts. 2 and 4 and related recitals of Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings.

² Italy, Decree of the President of the Republic No. 447 of 22 of September 1988 Approval of the Criminal Procedure Code, (Decreto del Presidente della Repubblica 22 Settembre 1988, n. 447 Approvazione del Codice di Procedura Penale")

³ Recchione, S. (2014), 'L'impatto della direttiva 2010/64/UE sulla giurisdizione penale: problemi, percorsi interpretativi, prospettive', *Diritto penale contemporaneo*, 15 July 2014, p. 14, available at:

http://www.penalecontemporaneo.it/materia/-/-/3213-l_impatto_della_direttiva_2010_64_ue_sulla_giurisdizione_penale_problemi_percorsi_interpretativi_prospettive/.

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?

The accused/suspected person's knowledge of the Italian language is assessed empirically by the authorities (judge) by all possible means, i.e. by asking him/her questions in Italian and evaluating his/her ability to answer properly⁴, as well as by using all the elements that might prove the language proficiency, such as the length of residence in Italy, the possession of Italian documents, working activity in Italy, and past criminal records⁵. The evaluation also includes an assessment of the ability of the accused/suspected person to follow and understand all the different stages of the proceedings. As a result, basic knowledge of the Italian language is very often considered to be reason enough not to appoint an interpreter even though this level does not allow the person to actually understand and participate in the proceedings⁶.

c) Who bears the cost of interpretation at each stage?

According to Article 143, paragraph 1 of the Italian Criminal Procedure Code, the costs of interpretation are borne by the State during all stages of criminal proceedings. It is important to outline that even in the case of conviction of the accused/suspected person, the costs of interpretation are expected to be borne by the State⁷.

However, some of the lawyers and interpreters interviewed have reported a different situation about cost bearing: some of them have reported that the costs of interpretation are borne by the accused/suspected person in the case of conviction⁸; others, that the costs are borne by the State only when it can be proved that the accused/suspected person does not have the financial means to bear them⁹.

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

⁴ Italy, representative of the Association for Legal Studies on Immigration (*Associazione per gli Studi Giuridici sull'Immigrazione*, ASGI).

⁵ Milan Judicial and Appellate Courts' Guidelines Concerning Interpretation and Translation in Criminal Proceedings (*Le linee guida del Tribunale e della Corte di Appello di Milano in materia di interpretazione e traduzione nei procedimenti penali*), available at: http://www.penalecontemporaneo.it/upload/1403011532A_3768.pdf.

⁶ Italy, representative of the ASG.

⁷ Gialuz, M. (2014), 'Il decreto legislativo di attuazione della direttiva sull'assistenza linguistica (n. 32 del 2014): un'occasione sprecata per modernizzare l'ordinamento italiano', *Diritto Penale Contemporaneo*, 10 April 2014.

⁸ Italy, representative of the ASGI.

⁹ Italy, representative of the Italian Association of Judicial Translators and Interpreters (*Associazione Italiana Traduttori e Interpreti Giudiziari*, AssITIG).

	<p>Interpretation is assured since the first moment when the accused/suspected person gets in contact with the judicial authorities in charge of the case¹⁰. If the interpreter is not available – e.g. in the case of rare languages –, the hearing in front of the court or questioning have to be postponed until an interpreter is found¹¹. It is not possible to determine clearly if an interpreter is assured in case of police questioning which take place before the first Court hearing: considering that police questionings should not take place before the Court decides for pre-trial detention, it is possible that if they do actually take place the right to interpretation might not be properly assured.</p> <p>.Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.</p>
<p>1.1.1</p> <ul style="list-style-type: none"> • police questioning; 	<p>a) Police questioning: if the judicial authorities recognise that the accused/suspected person is entitled to an interpreter, police authorities as well have to respect this right. For this reason, police questioning is not possible without the assistance of an interpreter. Nonetheless, it is difficult to determine how it works in practice for police questionings which take place before the first Court hearing, when the need of interpretation and translation is assessed by the Judge: it cannot be excluded that police questionings, in this stage, might happen without an interpreter even though the accused/suspected person does not have a sufficient knowledge of Italian language. In fact, a report by Qualitas¹² explains that the Ministry of the Interior can avail itself of 250 language experts, tasked with both legal translation and police interpreting, covering 11 languages (Albanian, Arabic, Chinese, French, English, Portuguese, Russian, Slovenian, Spanish, German and Turkish). Nonetheless, the overall number of experts is too low to fully meet the need for interpretation and translation at the police questioning stage throughout the whole Italian territory. Moreover, none of the associations of experts that have been interviewed for this report (the National Associations of Translators and Interpreters of the Ministry of the Interior – Associazione Nazionale dei Traduttori e degli Interpreti del Ministero dell’Interno ANTIMI, the National Association of Judicial Translators and Interpreters – Associazione Italiana Traduttori e Interpreti Giudiziari AssITIG) have reported about this point.</p>

¹⁰ Italy, representatives of the ASGI and AssITIG.

¹¹ Recchione, S. (2014), ‘L’impatto della direttiva 2010/64/UE sulla giurisdizione penale: problemi, percorsi interpretativi, prospettive’, *Diritto penale contemporaneo*, 15 July 2014, pp. 14–15, available at:

http://www.penalecontemporaneo.it/materia/-/-/3213-l_impatto_della_direttiva_2010_64_ue_sulla_giurisdizione_penale_problemi_percorsi_interpretativi_prospettive/

¹² QUALITAS (2014), “EU Member States Profiles: The Current State of Affairs in Europe”, available at: http://www.qualitas-project.eu/sites/qualitas-project.eu/files/Final%20Country%20Profile%20Report_0.pdf.

		<p>b) Police authorities are not responsible to assess the accused/suspected person's knowledge of Italian language: it is the Judge who, during the first hearing, assesses it and provides an interpreter if needed.</p>
		<p>c) The State does (art. 143, paragraph 1 of the Italian Criminal Procedure Code).</p>
		<p>d) The need of interpretation and translation is assessed during the first hearing in front of the Court. It is difficult to know what happens in police questionings which might take place before the first Court hearing.</p>
1.1.2	<ul style="list-style-type: none"> • court hearings; 	<p>a) Court hearings: during the first hearing, the court assesses the need for an interpreter, as explained above. Once an interpreter has been appointed, s/he has to be present at all court hearings.</p>
		<p>b) As explained above, the Judge in charge of the case, is responsible to assess the accused/suspected person's knowledge of Italian language by all means (i.e. asking questions, using additional elements such as the length of residence in Italy etc.).</p>
		<p>c) The State does (art. 143, paragraph 1 of the Italian Criminal Procedure Code).</p>
		<p>d) The need of interpretation and translation is assessed during the first hearing in front of the Court: if an interpreter is not available, the hearing has to be postponed until an interpreter is found.</p>
	<ul style="list-style-type: none"> • any necessary interim hearings; 	<p>a) Any necessary interim hearings: if the judicial authorities recognise that the accused/suspected person is entitled to an interpreter, the appointed interpreter has to be present as well during interim hearings.</p>

<p>1.1.3</p>		<p>b) Once the knowledge of Italian language is assessed during the first hearing in front of the Court, it is not doubted in all other hearings.</p> <p>c) The State does (art. 143, paragraph 1 of the Italian Criminal Procedure Code).</p> <p>d) The need of interpretation and translation is assessed during the first hearing in front of the Court and this decision is valid for all hearing taking place afterwards.</p>
<p>1.1.4</p>	<ul style="list-style-type: none"> • Any communication between suspects and accused persons and their legal counsel in direct connection with any questioning or hearing during the proceedings? 	<p>a) All communication between the accused/suspected person and his/her lawyer(s) are facilitated by the interpreter, as set out in Article 104, paragraph 4a of the Italian Criminal Procedure Code. Article 143, paragraph 1 recognises the same possibility even for communications between the accused/suspected person and the lawyers concerning questionings, requests to the court, and other documents concerning the proceedings. . This legislation provides for even wider protection of the right to interpretation than what is set out in Directive 2010/64/EU, considering that the right to interpretation is assured even to communications with the legal counsel taking place after the first court hearing when the need for interpretation and translation is officially stated and before subsequent court hearing or questioning ;in order to put forward to the Court requests and documents relating the proceeding; and to communications between the accused/suspected person and his-her legal counsel in case of pre-trial detention (articles 104 paragraph 4a and 143 paragraph 1 of the Italian Criminal Procedure Code). Nonetheless, even if the costs of interpretation are borne by the State, it might happen that, in case of cuts to public financial resources – which is the case because of the current Italian financial and economic crisis – there will be not enough public funds to actually cover the expenses originating from the guarantee of the right to interpretation: it would maybe have been better to establish by law a maximum number of communications between the accused/suspected person and his-her legal counsel or a maximum length time during which the</p>

		<p>costs are borne by the State^{13, 14}. Moreover, some of those who have been interviewed have reported that the assistance of an interpreter in communicating between the accused/suspected person and his/her legal counsel is not actually guaranteed¹⁵.</p> <p>b) Legal counsel is not responsible to legally assess the accused/suspected person's knowledge of Italian language: however s-he might try to convince the Judge about the need of interpretation and translation during the first judicial hearing.</p> <p>c) The State does (art. 143, paragraph 1 of the Italian Criminal Procedure Code).</p> <p>d) The need of interpretation and translation is assessed during the first hearing in front of the Court: from that moment the accused/suspected person has the right to be assisted by an interpreter even during communications with his/her legal counsel.</p>
1.2	How do authorities ensure interpretation into rare/lesser known languages where no certified interpreters exist?	The Italian legislation does not specifically clarify what to do in the case of lesser known or rare languages, differently from what is set out in Directive 2010/64/EU ¹⁶ . The procedure in these cases does not seem to be the same all over the country: only in big or medium cities, courts can avail themselves of interpreters for rare

¹³ Gialuz, M. (2014), 'Il decreto legislativo di attuazione della direttiva sull'assistenza linguistica (n. 32 del 2014): un'occasione sprecata per modernizzare l'ordinamento italiano', *Diritto Penale Contemporaneo*, 10 April 2014, available at:

[http://www.penalecontemporaneo.it/materia/4-/64-/-/2968-](http://www.penalecontemporaneo.it/materia/4-/64-/-/2968-il-decreto-legislativo-di-attuazione-della-direttiva-sull-assistenza-linguistica-n-32-del-2014-un-occasione-sprecata-per-modernizzare-l-ordinamento-italiano/)

[il-decreto-legislativo-di-attuazione-della-direttiva-sull-assistenza-linguistica-n-32-del-2014-un-occasione-sprecata-per-modernizzare-l-ordinamento-italiano/](http://www.penalecontemporaneo.it/materia/4-/64-/-/2968-il-decreto-legislativo-di-attuazione-della-direttiva-sull-assistenza-linguistica-n-32-del-2014-un-occasione-sprecata-per-modernizzare-l-ordinamento-italiano/)

¹⁴ Gialuz, M. (2014), 'Il decreto legislativo di attuazione della direttiva sull'assistenza linguistica (n. 32 del 2014): un'occasione sprecata per modernizzare l'ordinamento italiano', *Diritto Penale Contemporaneo*, 10 April 2014, available at:

[http://www.penalecontemporaneo.it/materia/4-/64-/-/2968-](http://www.penalecontemporaneo.it/materia/4-/64-/-/2968-il-decreto-legislativo-di-attuazione-della-direttiva-sull-assistenza-linguistica-n-32-del-2014-un-occasione-sprecata-per-modernizzare-l-ordinamento-italiano/)

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¹⁵ Italy, representative of the ASGI.

¹⁶ Gialuz, M. (2014), 'Il decreto legislativo di attuazione della direttiva sull'assistenza linguistica (n. 32 del 2014): un'occasione sprecata per modernizzare l'ordinamento italiano', *Diritto Penale Contemporaneo*, 10 April 2014, available at:

[http://www.penalecontemporaneo.it/materia/4-/64-/-/2968-](http://www.penalecontemporaneo.it/materia/4-/64-/-/2968-il-decreto-legislativo-di-attuazione-della-direttiva-sull-assistenza-linguistica-n-32-del-2014-un-occasione-sprecata-per-modernizzare-l-ordinamento-italiano/)

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	<p>Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.</p>	<p>languages, whereas it seems to be impossible in small centres¹⁷. Moreover, when interpreters are actually appointed, they are very often not professional interpreters but cultural mediators or people coming from the same country as the accused/suspected person, and do not have a perfect knowledge of the Italian language¹⁸. If no interpreter is available for the language needed – even a not professional one - judicial authorities have to verify which the vehicular language of the accused/suspected person is, and to guarantee the assistance of an interpreter for that language¹⁹.</p>
<p>1.3</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 interpretation is needed? Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.</p>	<p>The decision that no interpretation is needed has to be clearly justified by judicial authorities in charge²⁰. Nonetheless, there are no legal means to immediately challenge this decision. The accused/suspected person, after the end of the trial, can challenge the decision of the court: the lack of interpretation can invalidate the whole trial²¹. However, that procedure does not guarantee immediate protection of the right to interpretation²².</p>

¹⁷ Italy, representative of the ASGI.

¹⁸ Italy, representative of the AssITIG.

¹⁹ Italy, representative of the National Association of Translators and Interpreters of the Ministry of the Interior (*Associazione Nazionale dei Traduttori e degli Interpreti del Ministero dell'Interno*, ANTIMI).

²⁰ Milan Judicial and Appellate Courts' Guidelines Concerning Interpretation and Translation in Criminal Proceedings, available at: http://www.penalecontemporaneo.it/upload/1403011532A_3768.pdf.

²¹ Italy, representative of the ASGI.

²² Recchione, S. (2014), 'L'impatto della direttiva 2010/64/UE sulla giurisdizione penale: problemi, percorsi interpretativi, prospettive', *Diritto penale contemporaneo*, 15 July 2014, p. 15, available at:

http://www.penalecontemporaneo.it/materia/-/-/3213-l_impatto_della_direttiva_2010_64_ue_sulla_giurisdizione_penale_problemi_percorsi_interpretativi_prospettive/

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?	No references are made to these tools in the Italian Criminal Procedure Code. In practice, lawyers have reported that interpretation is granted only verbally without using any communication technologies ²³ which are not even available at Judicial Courts and police stations.
	b) Which technologies are used, if any (videoconference, telephone, internet, etc.)	No technologies are used.
	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)? Please cross-check findings from the desk research by consulting relevant	No references are made to these tools in the Italian Criminal Procedure Code. Moreover, all the interpreters who have been asked questions about this have confirmed that Italian courts do not rely on the tools developed in the context of European e-Justice ²⁴ .

²³ Italy, representative of the ASGI.

²⁴ Italy, representatives of the AssITIG and ANTIMI.

	organisations and/or practitioners.			
	TRAINING²⁵	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	No references are made to these tools in the Italian Criminal Procedure Code, and no information about this has been reported through interviews, articles, etc.
2.	RIGHT TO TRANSLATION OF DOCUMENTS²⁶	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>			

²⁵ See in particular Art. 6 and relevant recitals of Directive 2010/64/EU.

²⁶ See in particular Arts. 3 and 4 and relevant recitals of Directive 2010/64/EU.

Please cross-check findings from the desk-research by consulting relevant organisations and/or practitioners.

- a) Judicial authorities can prescribe the translation of some documents considered essential to guaranteeing the right to self-defence in front of the court. Article 143, paragraph 2 of the Italian Criminal Procedure Code includes a list of documents that have to be translated: notice of investigation, notice on the right to counsel, preliminary injunctions directly affecting the accused person (e.g. pre-trial detention), notice of completion of preliminary investigations, decrees scheduling the preliminary hearing and court summons, and judgments and criminal convictions. The list of documents that must be translated, albeit wide and complete, seems to exclude some other documents that are essential to protecting the right to self-defense, such as the order to enforce preliminary injunctions, the decree scheduling the hearing in which the enforcement of a penalty is decided, and the order of approval of the motion to introduce evidence at the pre-trial stage²⁷.

Moreover, judicial authorities can decide to order the translation of other documents or parts of them in order to assure that the accused/suspected person exactly knows his/her charges: this additional translation can be requested by the judge or by the person's legal counsel (Article 143, paragraph 3 of the Italian Criminal Procedure Code). However, it does not seem to be an established practice as none of the organisations and lawyers interviewed have reported it to actually happen.

By all means, the list of documents that must be translated seems to be wider than what set out in Directive 2010/64/EU²⁸. The Italian Criminal Procedure Code has been amended by Legislative Decree No. 32 of 4 March²⁹ (which transposed into the Italian legal system

²⁷ Recchione, S. (2014), 'L'impatto della direttiva 2010/64/UE sulla giurisdizione penale: problemi, percorsi interpretativi, prospettive', *Diritto penale contemporaneo*, 15 July 2014, p. 8, available at:

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²⁸ Gialuz, M. (2014), 'Il decreto legislativo di attuazione della direttiva sull'assistenza linguistica (n. 32 del 2014): un'occasione sprecata per modernizzare l'ordinamento italiano', *Diritto Penale Contemporaneo*, 10 April 2014, available at:

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²⁹ Italy, Legislative Decree No. 32 of 4 March 2014 Implementation of Directive 2010/64/UE on the right to translation and interpretation in criminal proceedings (Decreto legislativo 4 Marzo 2014, n. 32, Attuazione della direttiva 2010/64/UE sul diritto all'interpretazione e alla traduzione nei procedimenti penali), 4 March 2014, available at:

<http://www.gazzettaufficiale.it/eli/id/2014/03/18/14G00041/sg>

Directive 2010/64/EU and, consequently, all the aspects concerning the right to translation and interpretation. Afterwards, all Public Prosecutor's Offices transmitted to the officially recognised judicial courts and associations of translators and interpreters (e.g. ANTIMI) the list of documents that have to be translated in order to comply with the new legislation. The list includes, besides what enumerated in Article 143 of the Italian Criminal Procedure Code, the letter of rights³⁰. In practice, it happens very often that judicial authorities, in case pre-trial detention is validated or preliminary injunctions are granted, or in the case of summary proceedings, use standard forms already translated into the accused/suspected person's language where the only blanks to fill in are those concerning the person's data and information: this procedure aims at speeding up the translation procedure³¹ and it is used for documents concerning the validation of pre-trial detention, preliminary injunctions and summary proceedings³².

b) Article 143, paragraphs 3 and 4 of the Italian Criminal Procedure Code sets forth that the costs concerning the translation of documents considered essential to protecting the person's right to self-defence are borne by the State.

c) Article 143, paragraph 2 of the Italian Criminal Procedure Code provides for the timely provision of the translation (*termine congruo*) in order to effectively guarantee the right to self-defence, and the enforcement of this provision seems to be confirmed by lawyers, associations, and translators³³. Nonetheless, this provision does not define clearly what 'timely' means, and does not fix an explicit deadline for the provision of the translation. This ambiguity, in addition to the obligation established by law, of a written translation, which cannot be replaced by sight translation or summary sight translation, risks lengthening translation times, to the detriment not only of the 'timely' provision, but also of the person's right to self-defence³⁴.

³⁰ Italy, representative of the ANTIMI.

³¹ Milan Judicial and Appellate Courts' Guidelines Concerning Interpretation and Translation in Criminal Proceedings, available at: http://www.penalecontemporaneo.it/upload/1403011532A_3768.pdf.

³² Milan Judicial and Appellate Courts' Guidelines Concerning Interpretation and Translation in Criminal Proceedings, available at: http://www.penalecontemporaneo.it/upload/1403011532A_3768.pdf.

³³ Italy, representatives of the AssITIG and ASGI.

³⁴ Recchione, S. (2014), 'L'impatto della direttiva 2010/64/UE sulla giurisdizione penale: problemi, percorsi interpretativi, prospettive', *Diritto penale contemporaneo*, 15 July 2014, p. 10, available at:

http://www.penalecontemporaneo.it/materia/-/-/3213-l_impatto_della_direttiva_2010_64_ue_sulla_giurisdizione_penale_problemi_percorsi_interpretativi_prospettive/

2.1.1	<ul style="list-style-type: none"> • police questioning; 	<p>a) The letter of rights, delivered to the accused/suspected person by police authorities, has to be translated in a language spoken and understood by the accused/suspected person.</p> <p>b) The State does (Art. 143, paragraphs 3 and 4 of the Italian Criminal Procedure Code).</p> <p>c) The letter of rights, delivered to the accused/suspected person by police authorities, has to be immediately available in a language understood and spoken by the accused/suspected person.</p>
2.1.2	<ul style="list-style-type: none"> • court hearings; 	<p>1</p> <p>a) Pursuant to article 143 paragraph 2 of the Italian Criminal Procedure Code documents that have to be translated are: notice of investigation, notice on the right to counsel, preliminary injunctions directly affecting the accused person (e.g. pre-trial detention), notice of completion of preliminary investigations, decrees scheduling the preliminary hearing and court summons, and judgments and criminal convictions.</p> <p>b) The State does (Art. 143, paragraphs 3 and 4 of the Italian Criminal Procedure Code).</p> <p>c) The judge in charge of the procedure can prescribe the translation of essential documents, as provided for by Art. 143, paragraph 2 of the Italian Criminal Procedure Code. This provision should be “timely”, according to the abovementioned disposition of law, even though it is not possible to define clearly what “timely” means.</p>
2.1.3	<ul style="list-style-type: none"> • any necessary interim hearings; 	<p>a) During interim hearings, judicial authorities can decide to order the translation of other documents or parts of them in order to assure that the accused/suspected person exactly know his/her charges (art. 143, paragraph 3 of the Italian Criminal Code Procedure).</p> <p>b) The State does (Art. 143, paragraphs 3 and 4 of the Italian Criminal Procedure Code).</p>

		c) During the following hearing, the Judge can prescribe the translation of additional documents or parts of them (art. 143, paragraph 3 of the Italian Criminal Procedure Code): there is not, however, a specific deadline for this translation because it is not considered necessary but optional.
2.1.4	• Any communication between suspects and accused persons and their legal counsel in direct connection with any questioning or hearing during the proceedings?	<p>a) Italian law does not include specific documents that has to be translated during communications between suspects and accused persons and their legal counsel: all official documents relating the criminal proceeding, once translated, can be used during these communications.</p> <p>b) The State does (Art. 143, paragraphs 3 and 4 of the Italian Criminal Procedure Code).</p> <p>c) Legal counsel has at his/her disposal the documents that the Judge has prescribed to translate. There is not a specific deadline to provide translated documents for communications between the accused/suspected person and his/her legal counsel.</p>
2.2	How do the competent authorities ascertain whether oral translation or oral summary of essential documents may be provided instead of a written translation? Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.	The Italian Criminal Procedure Code does not include the hypothesis of oral or sight translation. However, in practice the procedure seems to be slightly different. In some cases the translation is provided orally, and the written translation is ensured only upon request of the accused/suspected person's lawyer: this is the case of plea-bargaining decisions. Moreover, in case of a summary judgment and conviction, the translation is provided orally at first and then in writing in order to allow the accused/suspected person to challenge the court's judgment ³⁵ . Lawyers as well confirm that oral translation is considered to be sufficient when it comes to simple and additional documents and in the case of summary proceedings ³⁶ . These procedures, although not perfectly consistent with legislation, allow the possibility to avoid the imbalance between the right to translation and the promptness of judicial procedures ³⁷ .

³⁵ Milan Judicial and Appellate Courts' Guidelines Concerning Interpretation and Translation in Criminal Proceedings, available at: http://www.penalecontemporaneo.it/upload/1403011532A_3768.pdf.

³⁶ Italy, representative of the ASGI.

³⁷ Recchione, S. (2014), 'L'impatto della direttiva 2010/64/UE sulla giurisdizione penale: problemi, percorsi interpretativi, prospettive', *Diritto penale contemporaneo*, 15 July 2014, p. 11, available at:

http://www.penalecontemporaneo.it/materia/-/-/3213-l_impatto_della_direttiva_2010_64_ue_sulla_giurisdizione_penale_problemi_percorsi_interpretativi_prospettive/

2.3	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? Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.	There is no specific procedure to challenge the decision that no translation is needed: the accused/suspected person can challenge the court's judgment for several invalidity grounds, and the lack of translation might be one of them. Art. 178 of the Italian Criminal Procedure Code states that the lack of assistance to the accused person is a reason to challenge the validity of the Court's decision and the guarantee of an interpreter/translator is a form of assistance to the accused person during a criminal proceedings. Nonetheless, this kind of procedure does not offer an immediate tool to protect the right to translation, but is a way to challenge court decisions at a later stage ³⁸ . Art. 185 paragraph 3 states that a declaration of invalidity causes the criminal proceeding to go back at the moment when the invalid act has been perpetrated: in case translation/interpretation has been considered unnecessary by judicial authorities and this decision is considered invalid, the proceeding has to go back to the beginning when the Court judge about the need of translation/interpretation.		
		Yes	No	Brief Description
2.4	Do all documents that the suspected or accused person has to sign during the proceedings have to be translated?	X		Theoretically speaking, all documents mentioned in art. 143 paragraph 2 have to be translated, but there is not a specific disposition about the documents that the accused/suspected person is asked to sign. Consequently if the document the accused/suspected person has to sign is not included in the list provided for by article 143 paragraph 2, it may happen that an oral or summary translation is provided, instead of a written one.
2.5	Is it possible to waive the right to translation of documents and if so, what			It is possible to waive the right to translation, although no legal provision states it clearly: in this case, judicial authorities have to explain to the accused/suspected person the consequences of this

³⁸ Italy, representative of the ASGI; Recchione, S. (2014), 'L'impatto della direttiva 2010/64/UE sulla giurisdizione penale: problemi, percorsi interpretativi, prospettive', *Diritto penale contemporaneo*, 15 July 2014, p. 11, available at: http://www.penalecontemporaneo.it/materia/-/-/3213-l_impatto_della_direttiva_2010_64_ue_sulla_giurisdizione_penale_problemi_percorsi_interpretativi_prospettive/

	form can it have and under which conditions can it be accepted?			choice, and assess the effective knowledge of the Italian language. In case the person chooses to waive the right to translation, a specific formula has to be included: “The accused person explicitly declares to renounce the written translation of document(s), being aware of the contents of the oral translation provided by the interpreter during the hearing.” ³⁹ No specific reference to oral translation is included, as oral translation is a tool used in the praxis for additional documents not mentioned in art. 143 paragraph 2 of the Italian Criminal Procedure Code ⁴⁰ , but it is not legally envisaged, Nonetheless, if the accused/suspected person waives the right to translation it is likely that no interpreter will be in charge either for that procedure, or for oral translation. Moreover, the accused/suspected person has to declare in front of the court that s/he has a perfect knowledge of the Italian language ⁴¹ . Generally, the decision about the need for translation and the possible waiver of this right take place during the first hearing in front of the court, i.e. the bail hearing ⁴² . By all means, the choice to waive the right to translation is generally discouraged by the accused/suspected person’s legal counsellor ⁴³ .
3.	RIGHTS CONCERNING BOTH INTERPRETATION AND TRANSLATION⁴⁴			
3.1	With regard to use of registers of interpreters and translators in EU Member States:	Yes	No	Brief Description

³⁹ Milan Judicial and Appellate Courts’ Guidelines Concerning Interpretation and Translation in Criminal Proceedings, available at: http://www.penalecontemporaneo.it/upload/1403011532A_3768.pdf.

⁴⁰ Italy, representative of the ASGI.

⁴¹ Italy, representative of the ASGI.

⁴² Italy, representative of the ASGI.

⁴³ Italy, representative of the AssITIG.

⁴⁴ See in particular Art. 5 and relevant recitals of Directive 2010/64/EU.

	a) Do national databases or registers exist for legal translators and interpreters?		X	Italy does not have official databases or registers for legal translators and interpreters: each judicial court has its own register of consultants/experts who work for the court and can be appointed by the judge when their competence is needed in a proceeding. These registers are at the disposal of the judge and are not generally public. Pursuant to Article 2 of Legislative Decree No. 32/2014, which amended Article 67 of the implementing provisions of the Italian Criminal Procedure Code, legal translators and interpreters are included in this register. Only the President of each court is responsible for these registers and no other criminal authorities, such as Police authorities and Public Prosecutors. However, these registers are compiled by a committee chosen by the President, including the Public Prosecutor in charge within that court and, in relation to interpreters and translators, national associations of translators and interpreters whose membership is not mandatory, e.g. the Italian Associations of Translators and Interpreters (<i>Associazione Italiana Traduttori e Interpreti</i> , AITI) (Article 68 of the implementing provisions of the Italian Criminal Procedure Code).
	b) Do translators and interpreters have to be listed in databases/registers for their services to be used? In other words, is		X	No, they don't. The main problem of the Italian legislation is that Article 2 of Legislative Decree No. 32/2014 has not amended Article 146 of the Italian Criminal Procedure Code which does not compel the Judge to choose experts from the register available in each court ⁴⁵ . That is the reason why the interpreter/translator is very often chosen from unofficial registers available to the judge, which are composed by people who know foreign languages and are known by the Judge or the Public

⁴⁵ Gialuz, M. (2014), 'Il decreto legislativo di attuazione della direttiva sull'assistenza linguistica (n. 32 del 2014): un'occasione sprecata per modernizzare l'ordinamento italiano', *Diritto Penale Contemporaneo*, 10 April 2014, available at: <http://www.penalecontemporaneo.it/materia/4-64-/-/2968-il-decreto-legislativo-di-attuazione-della-direttiva-sull-assistenza-linguistica-n-32-del-2014-un-occasione-sprecata-per-modernizzare-l-ordinamento-italiano/>
Gialuz, M. (2014), 'L'assistenza linguistica nella prassi giudiziaria e la difficile attuazione della Direttiva 2010/64/UE', in Falbo, C., Viezzi, M. (2014), *Traduzione e interpretazione per la società e le istituzioni*, pp. 83–95, available at: <http://www.openstarts.units.it/dspace/handle/10077/9839>.

	membership/registration mandatory?		<p>Prosecutor, but are not professional interpreters/translators. That is the reason why the best quality of interpretation and translation is not always guaranteed: especially for rare languages, the court chooses naturalised citizens coming from the same country of the accused/suspected person who are not professional translators/interpreters⁴⁶. Moreover, the legitimacy of including national associations of translators and interpreters in the committee compiling the registers raises some doubts: this could force each interpreter/translator to become an affiliate of an association in order to be included in the register, thus violating Law No. 4 of 14 January 2013, Provisions governing professions without the obligation to be a member of a professional association (<i>Legge 14 Gennaio 2013, n. 4, Disposizioni in materia di professioni non organizzate</i>), which protects professional freedom and freedom of affiliation with professional associations⁴⁷. Moreover, the associations of translators/interpreters do not always set out strict criteria as to membership. Consequently, being a member is not a clear indication of professional quality⁴⁸. Finally, it is important to outline that up to now the associations interviewed have not been consulted by the courts in order to compile the registers⁴⁹. Consequently, it is not clear if new registers has been compiled after the approval of Legislative Decree No. 32/2014 and, if so, which associations of translators and interpreters have been consulted.</p>
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⁴⁶ Gialuz, M. (2014), 'Il decreto legislativo di attuazione della direttiva sull'assistenza linguistica (n. 32 del 2014): un'occasione sprecata per modernizzare l'ordinamento italiano', *Diritto Penale Contemporaneo*, 10 April 2014, available at: <http://www.penalecontemporaneo.it/materia/4-/64-/2968-il-decreto-legislativo-di-attuazione-della-direttiva-sull-assistenza-linguistica-n-32-del-2014-un-occasione-sprecata-per-modernizzare-l-ordinamento-italiano/>; Italy, representatives of the ASGI, AssiTIG and ASG.

⁴⁷ AssiTIG press release of 21 July 2014, available at: <http://www.interpretigiudiziari.org/index.php/portfolio-item/latest-news/>

⁴⁸ Italy, representative of the AssiTIG; Recchione, S. (2014), 'L'impatto della direttiva 2010/64/UE sulla giurisdizione penale: problemi, percorsi interpretativi, prospettive', *Diritto penale contemporaneo*, 15 July 2014, p. 17, available at:

<http://www.penalecontemporaneo.it/materia/-/-/3213-l-impatto-della-direttiva-2010-64-ue-sulla-giurisdizione-penale-problemi-percorsi-interpretativi-prospettive/>

⁴⁹ Italy, representative of the ANTIMI.

	c) Who has access to these databases?	<p>Brief Description: The judge in charge of the procedure concerning the accused/suspected person. Police authorities too can have access to these registers or use their own register of translators which includes 250 experts: this occurs in the case of rare languages not covered by police experts⁵⁰. Some associations and experts interviewed for this report have confirmed the information.⁵¹ Nonetheless, there is not specific legal provision which rules the case of police questioning, in relation to translation and interpretation, which take place before the first hearing.</p>		
	<p>d) Which professional qualifications are needed by:</p> <ul style="list-style-type: none"> • translators and • interpreters <p>In order to be registered in the database?</p>	<p>Brief Description: The Italian legislation does not clearly regulate which qualifications are needed to be included in the register. In the past, each court had its own system of recruitment: since no legal provision ruled this aspect of criminal proceeding a foreign person was considered <i>a priori</i> to be able to interpret and translate from and into his/her own language, whereas for Italians a university degree in foreign languages was required⁵².</p> <p>With the new system, introduced with Legislative Decree No. 32/2014, from 2014 on, associations cooperate with the Court in the selection of professional legal translators and interpreters for the Court registers. Associations are included in the Committee responsible for this (art. 68 of the implementing provisions of the Italian Criminal Procedure Code). However, as no official criteria valid at national level to cooperate with associations for compiling these registers have been introduced, every Court choose how this cooperation is implemented. So cooperation may regard the selection of professional legal translators and interpreters or just the criteria according to which the selection is made.</p>		
	e) Are there any requirements in place to ensure the independence of interpreters and	X		<p>Article 144 of the Italian Criminal Procedure Code sets out that the interpreter/translator who assists the accused/suspected person cannot be a witness, court consultant, and technical expert in the same proceeding or in a related one. The same incompatibility is set out in Article 222 of the Italian</p>

⁵⁰ QUALITAS (2014), "EU Member State Profiles: The Current State of Affairs in Europe", p. 15 available at: http://www.qualitas-project.eu/sites/qualitas-project.eu/files/Final%20Country%20Profile%20Report_0.pdf (p. 15).

⁵¹ Italy, representative of the ANTIMI.

⁵² Italy, representative of the AssITIG.

	translators? If yes, provide a brief overview (for both translators and interpreters).			Criminal Procedure Code for all the other experts working for judicial courts. However, most associations of interpreters and translators have drafted their own ethics code in order to guarantee the independence of the services provided ⁵³ however, since membership to these association is not mandatory, breaching these ethic codes does not lead to the exclusion of the interpreter/translator from the proceeding he/she is in charge for. Some of those interviewed, however, are sceptical about the effective independence of translators and interpreters since in practice no effective mean to guarantee the independence is effective ⁵⁴ .
	f) Is access to existing databases provided through the European e-Justice portal ? ⁵⁵ How is this register available to legal counsel and relevant authorities?		X	It is not possible to access to registers through the European e-Justice portal ⁵⁶ : each court has its own register of translators and interpreters, and once the need for translation/interpretation has been assessed, the court appoints an interpreter/translator for the accused/suspected person to assist him/her from the very first moment s/he gets in contact with judicial authorities.
	g) Are criminal justice institutions required to use interpreters and translators listed in these registers?		X	No, they don't. Article 146 of the Italian Criminal Procedure Code does not clearly mandate that judicial authorities have to choose an interpreter/translator from the official register available to each judicial court. That is the reason why interpreters/translators are very often chosen from among people who already work for the court or those who enjoy the trust of judges, even though they are not interpreters/translators but just people who know the language of the accused/suspected person ⁵⁷ .

⁵³ Italy, representatives of the AssITIG and ANTIMI.

⁵⁴ Italy, representative of the ASGI.

⁵⁵ <https://e-justice.europa.eu/home.do?plang=en&action=home>

⁵⁶ Italy, representative of the ASGI and AssITIG.

⁵⁷ Italy, representative of the AssITIG.

3.2	With regard to other mechanisms/procedures :	Yes	No	Brief Description
	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?		X	There are neither quality checks of interpretation/translation services during the proceedings, nor people being responsible for monitoring the interpretation/translation activity.
	b) Is there any procedure in place to ensure that suspects or accused persons have the possibility, when interpretation and translation has been provided, to complain about the quality and independence of the interpretation and translation?			Article 145 of the Italian Criminal Procedure Code enumerates all the possible cases of challenge to an interpreter/translator: none of them include the poor quality of interpretation/translation. However, the poor quality of the translation/interpretation service might be used as a ground to challenge the court judgment and invalidate the proceeding ⁵⁸ this is the case, already explained above, of lack of assistance for the accused/suspected person ruled by art. 178 of the Italian Criminal Procedure Code. This procedure, however, does not offer an immediate tool to protect the right to translation/interpretation but only permits to consider invalid the proceeding and start it again from the beginning. Moreover, the interpreter/translator is replaced when s/he does not comply with

⁵⁸ Italy, representative of the ASGI.

				his/her assignments in accordance with the deadline according to art. 147 paragraph 1 of the Italian Criminal Procedure Code ⁵⁹ .
	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.			It may happen that the judge, after assessing the lack of competence of the translator/interpreter, decides to replace him/her with another expert by means of a reasoned order ⁶⁰ : no details about how this assessment takes place have, however, been traced. The request to replace the interpreter/translator can be submitted by the accused/suspected person's legal counsel as well, but it is always the judge in charge of the proceeding to decide ⁶¹ .
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? ⁶² <u>If yes, briefly provide information on those mechanisms</u>		X	The Italian legislation does not envisage special procedures in order to protect the right to translation and interpretation of vulnerable accused/suspected people: they are protected if involved in criminal proceedings but there are no tools to guarantee an adequate translation/interpretation service ⁶³ . Consequently, when a vulnerable person is involved in a criminal proceeding and s/he does not speak Italian very well, judicial authorities rely on the registers as they do for any other accused/suspected person ⁶⁴ . <u>Only when it comes to an accused/suspected person being deaf, s/he seems to have the right to an interpreter who knows sign language and, preferably, who is accustomed in dealing with the accused/suspected person (Article 119 of the Italian Criminal</u>

⁵⁹ Italy, representative of the ASGI.

⁶⁰ Italy, representative of the AssITIG and ASGI.

⁶¹ Italy, representative of the AssITIG.

⁶² See in particular recital 27 of Directive 2010/64/EU.

⁶³ Italy, representative of the ANTIMI.

⁶⁴ Italy, representative of the ASGI.

	<u>considering the following vulnerable groups:</u>			Procedure Code ⁶⁵ : no specific information has been found, neither in the doctrine nor during interviews, about the effective application of this procedure.
	a) suspect or accused persons with physical impairment or disability;			There is not specific legal provisions aimed at protecting the right to interpretation/translation for this category of vulnerable subjects.
	b) suspect or accused persons with intellectual impairment or disability;			There is not specific legal provisions aimed at protecting the right to interpretation/translation for this category of vulnerable subjects.
	c) i) children who are suspects/defendants, and/or ii) holders of parental responsibility (please distinguish between the two).			. There is not specific legal provisions aimed at protecting the right to interpretation/translation for this category of vulnerable subjects.
3.4	Is there any recording procedure to note that interpretation and translation have occurred and in which form? ⁶⁶ If yes, briefly provide information on how this procedure is organised in practice.			As concerns interpretation, judicial authorities, once the need for translation/interpretation has been assessed, have to officially appoint an interpreter/translator with a judicial decree which is included in the legal file. As the need to interpretation/translation is assessed by the judge during the first hearing, there is not a specific procedure of interpretation recording for investigation and police questioning taking place before the first hearing. As to translation, all the documents translated during the proceeding are included in the legal file, and are registered at the court: When oral translation replaces written translation, it is unlikely that it is recorded in a written legal document even though no information is available about this aspect.

⁶⁵ Italy, representative of the AssITIG.

⁶⁶ See in particular Art. 7 and relevant recitals of Directive 2010/64/EU.

SECTION B: RIGHT TO INFORMATION IN CRIMINAL PROCEEDINGS

1.	PROVISION OF INFORMATION ON THE PROCEDURAL RIGHTS ⁶⁷	Brief Description
1.1		<p>Please provide answers to the following for each stage of proceedings as indicated below:</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>Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.</p> <p>a) Two cases are possible. On the one hand, in the case of pre-trial detention order (Article 293 of the Italian Criminal Procedure Code), police authorities in charge of the execution of the order have to give the accused/suspected person a copy of the pre-trial detention order together with a document which lists all the rights s/he has. These rights are: the right to appoint a lawyer and to benefit from free legal aid if s/he cannot afford it; the right to information about the charges; the right to interpretation and translation; the right to remain silent; the right to have access to all documents concerning the proceeding; the right to inform diplomatic authorities and the family; the right to emergency medical assistance; the right to a court hearing within five days from the enforcement of the order of detention, if the accused/suspected person is detained in jail, or within 10 days if the person is subject to other measures; the right to a court hearing in order to challenge the pre-trial detention order and obtain its suspension, as well as the right to questioning.</p> <p>On the other hand, in the case of a detention order (Article 386 of the Italian Criminal Procedure Code), police authorities in charge of the enforcement of the order have to give the person a copy of the detention order together with a document listing all the above mentioned</p>

⁶⁷ See in particular Art. 3 and relevant recitals of Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings.

	<p>rights. It is basically the same document as in the previous case: the only difference between the two cases is that for the latter the accused/suspected person has the right to a court hearing within 96 hours from the enforcement of the detention order.</p> <p>In both cases, judicial authorities are responsible for ascertaining that the abovementioned notice has been given to the accused/suspected person, otherwise they are in charge of providing it (Articles 294 and 391 of the Italian Criminal Procedure Code).</p> <p>b) The information should be written in an official document. However, when this document is not available in the language spoken and understood by the accused/suspected person, the information might be provided orally on the spot with the assistance of an interpreter and then in writing as soon as possible (Articles 293 and 386 of the Italian Criminal Procedure Code). The number languages available for the document is different depending of the organisation of local Police authorities: there is not a legal standard valid on the whole Italian soil.</p> <p>c) This kind of information should be provided to the accused/suspected person in the same moment s-he gets in contact with Police authorities. Only if the judicial authorities, during the first hearing, assess that such information has not been provided, they are in charge to provide as soon as possible (Art. 294 and 391 of the Italian Criminal Procedure Code).</p>	
	<ul style="list-style-type: none"> • police questioning; 	<p>a) The information described above is provided by police authorities in the same moment of the arrest, both in case of pre-trial detention order and in case of detention order (articles 293 and 386 of the Italian Criminal Procedure Code).</p> <p>b) It should be provided in an official written document. Only if it is not available in the language spoken and understood by the accused/suspected person, the information can be provided orally and then in a written form immediately afterwards (Art. 293 and 386 of the Italian Criminal Procedure Code).</p> <p>c) The information should be provided as soon as the accused/suspected person gets in contact with police authorities.</p>
		<p>a) The first court hearing has to take place within five days from the enforcement of the order of detention if the accused/suspected person is detained in jail, or within 10 days if the person is subject to other measures, in case of pre-trial detention order. In case of detention order, the first hearing has to be within 96 hours. During the first</p>

	<ul style="list-style-type: none"> • court hearings; 	<p>hearing, the Judge in charge for the case has to ascertain that the accused/suspected person has been given all the information s/he needs otherwise the Court is responsible for providing it, according to articles 294 and 391 of the Italian Criminal Procedure Code.</p> <p>b) In case judicial authorities assess that the above described information has not been provided by Police authorities, they are responsible to provide it as soon as possible, even though the Law does not specify if it has to be provided in a written way (Articles 294 and 391 of the Italian Criminal Procedure Code).</p> <p>c) In case judicial authorities assess that the above described information has not been provided by Police authorities, they are responsible to provide it as soon as possible: Law does not specify the deadline to provide such information (Articles 294 and 391 of the Italian Criminal Procedure Code).</p>
	<ul style="list-style-type: none"> • any necessary interim hearings; 	<p>a) No specific information on procedural rights is given during interim hearings.</p> <p>b) No specific information on procedural rights is given during interim hearings.</p> <p>c) No specific information on procedural rights is given during interim hearings.</p>
	<ul style="list-style-type: none"> • Any communication between suspects and accused persons and their legal counsel in direct connection with any questioning or hearing during the proceedings? 	<p>a) Police authorities have to get immediately in contact with the legal counsel chosen by the accused/suspected person. On that occasion, the legal counsel is given the name of the accused/suspected person and the criminal charge s/he is accused for (articles 293 and 386 of the Italian Criminal Procedure Code).</p> <p>b) The Law does not specify if this communication has to be oral or written.</p>

		c) This communication has to take place immediately (articles 293 and 386 of the Italian Criminal Procedure Code).
1.2	Do authorities provide information about any other procedural rights (apart from those established in Article 3 of the Directive)? If yes, briefly provide information.	Yes, they do. Besides what is included in Article 3 of the directive, authorities must abide by the following (articles 293 and 386 of the Italian Criminal Procedure Code): the right to inform diplomatic authorities and the accused/suspected person's family; the right to access all the documents concerning the proceeding; the right to emergency medical assistance; the right to challenge the pre-trial detention and detention orders; the schedule of court hearings.
2.	LETTER OF RIGHTS⁶⁸	Brief Description
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?	The letter of rights is a document including all the rights guaranteed to an accused/suspected person: these rights are those included in the Italian Criminal Procedure Code, already mentioned above. The letter of rights is written (articles 293 and 386 of the Italian Criminal Procedure Code) and translated, if necessary, into the language spoken and understood by the person: it might be translated orally when the necessary translation is not available, and then delivered in writing as soon as possible. This latter hypothesis is quite frequent considering that courts generally have the letter of rights already translated into the most frequent languages – European languages and Arabic – and do not have it translated into the rare ones ⁶⁹ . There is no template used throughout the country, as the abovementioned legal provisions only determine which rights have to be included in the document: each court has its own letter of rights which is not public and accessible ⁷⁰ ; as a consequence, there are no official translations of the letter of rights, and each court commissions its translators to translate the letter of rights used in that court ⁷¹ .

⁶⁸ See in particular Art. 4 and relevant recitals of Directive 2012/13/EU.

⁶⁹ Italy, representative of the AssITIG.

⁷⁰ Italy, representative of the ASGI and ANTIMI.

⁷¹ Italy, representative of the ANTIMI.

		Relating to children, the Italian legislation specifically regulates juvenile criminal proceedings (Decree of the President of the Republic No. 448 of 22 September 1988, Juvenile Criminal Proceeding Code – <i>Decreto del Presidente della Repubblica 22 settembre 1988, n. 448, Codice processo penale minorile</i>) which are substantially different from the ordinary ones, and guarantee special protection to the accused/suspected person: nonetheless, there are no special provisions to regulate children’s right to information ⁷² . In fact, art. 18 of the Juvenile Proceeding Code disposes that the police authorities who arrest an accused/suspected child have the obligation to inform immediately his/her parents or the appointed guardian and the children services by Judicial Court.
2.2	At what stage of the proceedings is the letter of rights provided? Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.	2 The letter of rights is provided by police authorities at the moment of the arrest of the accused/suspected person following a detention order or a pre-trial detention order ⁷³ .
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	The letter of rights simply lists the rights guaranteed to the accused/suspected person but these rights are not explained: : the document is just handed over to the accused/suspected person without further explanation which is generally provided by the legal counsel at the first contact with the accused/suspected person. Furthermore, the letter does not explain how to access them. This might be a problem if the accused/suspected person does not have high educational qualifications, is not Italian, or does not know any lawyer ⁷⁴ . However, considering that there is not a standard form for the letter of rights, it might be possible that in some places in Italy a model of letter of rights where the rights guaranteed to the accused/suspected person are properly and clearly explained has been formulated.

⁷² Italy, representative of the ASGI and ANTIMI.

⁷³ Italy, representative of the AssITIG.

⁷⁴ Italy, representative of the AssITIG.

	accused persons understand the language? Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.	
3.	RIGHT TO INFORMATION ABOUT THE ACCUSATION⁷⁵	Brief Description
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)	The accused/suspected person has the right to access all the documents concerning the proceeding, once preliminary investigations are over: in this case, the Public Prosecutor sends a notice to the accused/suspected person and his/her lawyer in order to inform them of the completion of the investigations and, if need be, of the beginning of the criminal proceeding. This notice also provides for information about the criminal act the person is suspected or accused of having committed. Moreover, with this notice the accused/suspected person and his/her lawyer are informed that all the documents about the proceeding are available to them at the Public Prosecutor's Administrative Office. Finally, this same notice warns the accused/suspected person that s/he is entitled to deliver additional documents or ask for a court hearing within 20 days. The notice is always given in writing. This procedure is ruled by Article 415a of the Italian Criminal Procedure Code.
3.2	At which stage of the proceedings is the information provided? Please cross-check findings from the desk research by consulting	The accused/suspected person is informed about the accusation once the preliminary investigations are over ⁷⁶ .

⁷⁵ See in particular Art. 6 and relevant recitals of Directive 2012/13/EU.

⁷⁶ Italy, representative of the ASGI.

	relevant organisations and/or practitioners.	
3.3	How are suspects or accused persons informed when, in the course of the criminal proceedings, the details of the accusation change?	It may happen that during criminal proceedings, the Public Prosecutor asks the court to change the accusation, e.g. by adding additional criminal charges. These cases are ruled by Articles 516–522 of the Italian Criminal Procedure Code: if during the proceeding additional charges are introduced, the President of the court must promptly inform (the Italian Criminal Procedure Code does not specify if this information has to be written or oral, however it is generally provided orally during the Court hearing and then officially recorded in a written document which is filed together with all the documents concerning the criminal proceeding) the accused/suspected person who can ask to suspend the judgment and have some more time to prepare his/her defence and introduce additional evidence. If the accused/suspected person is not present at the court hearing, the President of the court is in charge of registering the additional accusation in a specific document which is made available to the accused/suspected person and his/her lawyer.
4.	RIGHT OF ACCESS TO CASE MATERIALS⁷⁷	Brief Description
4.1	What material evidence can be accessed by suspected or accused persons (e.g. documents, photographs, audio, video, summaries...)?	When a suspected person is accused of a crime by the Public Prosecutor, s/he becomes an accused person: this happens at the end of preliminary investigations. In this case, s/he and his/her lawyer have access to all the materials concerning the criminal proceeding during the whole court hearing stage (article 415-bis of the Italian Criminal Procedure Code): at this purpose, the legal counsel of the accused/suspected person can have access to them sending a request to the Public Prosecutor's Administrative Office. Moreover, at the end of the preliminary investigations, the suspected person has the right to receive the abovementioned notice in which the specific

⁷⁷ See in particular Art. 7 and relevant recitals of Directive 2012/13/EU.

		accusations are described. However, the access to documents concerning the proceeding during the preliminary investigations stage is not legally envisaged either for the accused/suspected person, or for his/her legal counsel.
4.2	At what stage of the proceedings is access to case materials granted? Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.	When the Public Prosecutor finally accuses a person of a crime ⁷⁸ .
4.3	Under what circumstances is access to material refused? Who takes the decision of refusal?	The Italian legislation does not include cases of denial of access to criminal proceeding materials. During pre-trial investigations, the accused/suspected person cannot have access to the material concerning the proceeding; s/he can only ask the court to reconsider the pre-trial detention order (Article 309 of the Italian Criminal Procedure Code) and the requisition of property in order to have access thereto (Article 324 of the Italian Criminal Procedure Code). Once the Public Prosecutor communicates to the suspected person the criminal accusation, and upon completion of the pre-trial investigations, the accused person and his/her legal counsel can have access to all the documents concerning the proceeding with no exception.

⁷⁸ Italy, representative of the ASG.

5.	CROSS-CUTTING ISSUES: LANGUAGES, COMPLAINT MECHANISMS, RECORDING & SPECIAL MEASURES⁷⁹	Brief Description		
5.1	In which languages can information be provided for the following?	The letter of rights is the only document that is given to the accused/suspected person in the language s/he knows and understands: when such translation is not available, the communication can be given orally and then in writing. All other documents (e.g. information about the accusation and case-related materials) are drafted in Italian by judicial authorities (Public Prosecutors and courts) and can be translated if the court decides that translation and interpretation are needed, after assessing the accused/suspected person's knowledge of the Italian language, as described in the previous section of this report.		
	a) information on procedural rights	Information on procedural rights is included in the letter of rights. The letter of rights is the only document that is given to the accused/suspected person in the language s/he knows and understands: when such translation is not available, the communication can be given orally and then in writing.		
	b) letter of rights	The letter of rights is the only document that is given to the accused/suspected person in the language s/he knows and understands: when such translation is not available, the communication can be given orally and then in writing.		
	c) information about the accusation	Information about the accusation is drafted in Italian by Judicial authorities (Public Prosecutors and courts) and can be translated if the Court decides that translation and interpretation are needed, during the first Court hearing.		
	d) case materials	Case materials are drafted in Italian by Judicial authorities (Public Prosecutors and courts) and can be translated if the Court decides that translation and interpretation are needed, during the first Court hearing.		
		Yes	No	Brief Description

⁷⁹ See in particular Arts. 3–8 and relevant recitals of Directive 2012/13/EU.

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>If yes, briefly describe the procedure where relevant.</p>			<p>The only relevant procedure described by the Italian legislation is the one included in Article 116 of the Italian Criminal Procedure Code which consists in the right of the accused/suspected person or his/her legal counsel to obtain copies or abstracts of documents concerning the proceeding or judicial certificates, bearing the relative costs.. This right can be claimed only after the conclusion of pre-trial investigations, once a formal criminal accusation has been registered by the Public Prosecutor⁸⁰ and the responsibility to guarantee this right relies on the Judge in charge for the proceeding or the Public Prosecutor. This legislative provision does not, however, include the letter of rights and the information on procedural rights: in case the letter of rights and the information on procedural rights are not provided, the judge in charge for the proceeding is responsible to promptly guarantee them to the accused/suspected person (articles 294 paragraph 1-bis and 391 paragraph 2 of the Italian Criminal Procedure Code).</p>
	a) information on procedural rights			<p>In case information on procedural rights is not provided, the judge in charge for the proceeding is responsible to promptly guarantee them to the accused/suspected person (articles 294 paragraph 1-bis and 391 paragraph 2 of the Italian Criminal Procedure Code). However there is not a specific formal procedure to challenge the failure or refusal to provide such information.</p>
	b) letter of rights			<p>In case the letter of right is not provided, the judge in charge for the proceeding is responsible to promptly guarantee them to the accused/suspected person (articles 294 paragraph 1-bis and 391 paragraph 2 of the Italian Criminal Procedure Code). However there is not a specific formal procedure to challenge the failure or refusal to provide such information.</p>
	c) information about the accusation			<p>The information about the accusation is officially registered by the Public Prosecutor in a written document. The procedure described by the abovementioned article 116 of the Italian Criminal Procedure Code applies to this kind of document too.</p>
	d) access to case materials			<p>The only relevant procedure described by the Italian legislation is the one included in Article 116 of the Italian Criminal Procedure Code which consists in the right of the accused/suspected person or his/her</p>

⁸⁰ Explanation provided by the Milan Court, available at: https://www.tribunale.milano.it/index.phtml?ld_VMenu=433&daabstract=354

				legal counsel to obtain copies or abstracts of documents concerning the proceeding or judicial certificates, bearing the relative costs. This right can be claimed only after the conclusion of pre-trial investigations, once a formal criminal accusation has been registered by the Public Prosecutor and the responsibility to guarantee this right relies on the Judge in charge for the proceeding or the Public Prosecutor.
5.3	Is any official record kept to note the provision of information about the following? If yes, briefly describe where relevant.			All material concerning a criminal proceeding, including those collected during pre-trial investigation, is registered and filed by a court's Administrative Office, and so are the requests to have access to this material by the accused/suspected person or his/her legal counsel (article 415-bis of the Italian Criminal Procedure Code). There is not legislative provision which states the need for the accused/suspected person's signature in order to have access to the abovementioned material.
	a) information on procedural rights			It is officially recorded in the letter of rights. Generally speaking, when the letter of rights is delivered to the accused/suspected person along with the criminal charge (s) he is accused of, it has to be signed by the accused/suspected person at the delivery, both in the case of restrictive measures and when these are not envisaged.
	b) letter of rights			The letter of rights is a written official document at the disposal of police authorities that has to be delivered to the accused/suspected person when s-he gets in contact with the Police.
	c) information about the accusation			All material concerning a criminal proceeding, included the one collected during pre-trial investigation, is registered and filed by a court's Administrative Office, and so are the requests to have access to this material by the accused/suspected person or his/her legal counsel (article 415-bis of the Italian Criminal Procedure Code).
	d) access to case materials			All material concerning a criminal proceeding, included the one collected during pre-trial investigation, is registered and filed by a court's Administrative Office, and so are the requests to have access to this material by the accused/suspected person or his/her legal counsel (article 415-bis of the Italian Criminal Procedure Code).
5.4	Are there special procedures designed to take into account the special needs of			a) Article 119 of the Italian Criminal Procedure Code protects the rights of deaf or mute accused/suspected people during court hearings: there is not a legislative provision regulating the guarantee of comprehension of the letter of rights by deaf or mute accused/suspected people. Deaf people can receive questions, admonishments, and warnings in writing, and can answer orally; mute

<p>vulnerable suspects or vulnerable accused persons (e.g. because of any physical impairments which affect their ability to communicate effectively (persons with hearing, sight or speech 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>If yes, briefly provide information on those mechanisms in relation to each of the listed vulnerable groups. Is this</p>		<p>people can receive questions, admonishments, and warnings orally, and can answer in writing; people who are both deaf and mute can use only the written form. If they are not able to read, they are guaranteed the assistance of an interpreter able to communicate with them.</p> <p>b) The Italian legislation does not include special protection for these people involved in criminal proceedings.</p> <p>c) Criminal proceedings involving children are held pursuant to a specific procedure governed by the Juvenile Criminal Proceeding Code, which has been described above.</p>
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	information in simple and accessible language?			
• information on procedural rights	a)			There is not a legislative provision guaranteeing that the letter of rights and information about procedural rights are fully understood by suspected or accused people with physical impairment or disability.
	b)			There is not a legislative provision guaranteeing that the letter of rights and information about procedural rights are fully understood by suspected or accused people with intellectual impairment or disability.
	c)			There are no special provisions to regulate children's right to information ⁸¹ . In fact, article 18 of the Juvenile Proceeding Code sets out that police authorities who arrest an accused/suspected child have the obligation to immediately inform his/her parents or the appointed guardian and the children services by Judicial Court.
• letter of rights	a)			There is not a legislative provision guaranteeing that the letter of rights and information about procedural rights are fully understood by suspected or accused people with physical impairment or disability.
	b)			There is not a legislative provision guaranteeing the letter of rights and information about procedural rights are fully understood by suspected or accused people with intellectual impairment or disability.
	c)			There are no special provisions to regulate children's right to information ⁸² . In fact, article 18 of the Juvenile Proceeding Code sets out that police authorities who arrest an accused/suspected child have the obligation to immediately inform his/her parents or the appointed guardian and the children services by Judicial Court.
	a)			There is not a legislative provision guaranteeing that the information about the accusation are fully understood by suspected or accused persons with physical impairment or disability.

⁸¹ Italy, representative of the ASGI and ANTIMI.

⁸² Italy, representative of the ASGI and ANTIMI.

	<ul style="list-style-type: none"> information about the accusation 	b)			There is not a legislative provision guaranteeing that the information about the accusation are fully understood by suspected or accused persons with intellectual impairment or disability.
		c)			There are no special provisions to regulate children's right to information about the accusation.
	<ul style="list-style-type: none"> access to case materials 	a)			There is not a legislative provision regulating the access to case materials by suspected or accused people with physical impairment or disability.
		b)			There is not a legislative provision regulating the access to case materials by suspect or accused persons with intellectual impairment or disability.
		c)			There are no special provisions regulating children's right to access to case materials.