

Submission Template

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

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Contents

Section A: The right to interpretation and translation in criminal proceedings	3
1. Right to interpretation	3
2. Right to translation of documents	16
3. Rights concerning both interpretation and translation	23
Section B: Right to information in criminal proceedings	34
1. Provision of information on the procedural rights	34
2. Letter of Rights	37
3. Right to information about the accusation	40
4. Right of Access to Case Materials	42
5. Cross-cutting issues: Languages, complaint mechanisms, recording & special measures	45

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).

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>b) How it works in practice for the various stages of the proceedings to ascertain whether suspected or accused persons speak and understand the language of the proceedings?</p> <p>c) Who bears the cost of interpretation at each stage?</p> <p>d) What is the timeframe (deadline) for providing interpretation at each stage of the proceedings?</p> <p>.Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.</p>
	<ul style="list-style-type: none"> • police questioning; 	<p>a) Article 29a, (paragraph 2) of the Code of Criminal Procedure stipulates that the police officer interviewing the suspect is the one who calls on an interpreter.² Article 27 (paragraph 4) of the Code of Criminal Procedure entitles the suspect who has no sufficient command of the Dutch</p>

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

² Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 29a, paragraph 2, available at, http://wetten.overheid.nl/BWBR0001903/EersteBoek/Titell/Artikel29a/geldigheidsdatum_05-03-2015

1.1.1		<p>language to call on an interpreter. This article relates to the whole criminal proceedings, from the first arrest to the last conviction when appeal is no longer possible.³</p>
		<p>b) In all cases where the suspect has no sufficient command of the Dutch language, the service of an interpreter are supposed to be called upon.⁴ This is a duty of the police officer. The relevant Directive of the Public Prosecution Service states that it is the police officer interviewing the suspect who, in the first instance, assesses whether the suspect has a sufficient command of the Dutch language. If the suspect has no sufficient command of the Dutch language the police officer calls on an interpreter.⁵ The Directive of of the Public Prosecution Service specifies the criteria by which to assess the need for an interpreter: the suspect understands the questions asked and the statements communicated to him, the suspect is capable of expressing in his own words about the events he is interviewed about, the suspect is capable of expressing nuances.⁶ If the suspect can only express himself in the Dutch language by using 'yes', he or she clearly has no sufficient command of the Dutch language.</p> <p>The suspect has the right to call an interpreter. Article 27 (paragraph 4) of the Code of Criminal Procedure entitles the suspect who has no sufficient command of the Dutch language to call on an interpreter.⁷ The letter of rights that is given to suspect when arrested indicates that when the suspect speaks or understands Dutch, or only a little bit, then he is entitled to get assistance from an interpreter during the (police) interrogations. The letter of rights is available in many languages.⁸ The relevant Directive of the Public Prosecution Service states that the police officer</p>

³ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 27, paragraph 4, available at, http://wetten.overheid.nl/BWBR0001903/EersteBoek/Titell/Artikel27/geldigheidsdatum_05-03-2015

⁴ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 29a, paragraph 2, available at, http://wetten.overheid.nl/BWBR0001903/EersteBoek/Titell/Artikel29a/geldigheidsdatum_05-03-2015

⁵ Netherlands, Public Prosecution Service (*Openbaar Ministerie*) (2013), *Aanwijzing bijstand van tolken en vertalers in het opsporingsonderzoek in strafzaken (Directive on the aid of interpreters and translators during the investigation in criminal cases ; Unofficial Translation)*, available at: www.om.nl/organisatie/beleidsregels/overzicht-0/algemeen/@86196/aanwijzing-bijstand/

⁶ Netherlands, Public Prosecution Service (*Openbaar Ministerie*) (2013), *Aanwijzing bijstand van tolken en vertalers in het opsporingsonderzoek in strafzaken (Directive on the aid of interpreters and translators during the investigation in criminal cases ; Unofficial Translation)*, available at: <https://www.om.nl/organisatie/beleidsregels/overzicht-0/algemeen/@86196/aanwijzing-bijstand/>

⁷ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 27, paragraph 4, available at, http://wetten.overheid.nl/BWBR0001903/EersteBoek/Titell/Artikel27/geldigheidsdatum_05-03-2015

⁸ Netherlands, Ministry of the Interior and Kingdom Relations & Ministry of Security and Justice (*Ministry of the Interior and Kingdom Relations & Ministerie van Veiligheid en Justitie*) (2014), *you have been apprehended as a suspect and taken to the (police) station or another place for interrogation. What are your rights?[version for adults]*, available

interviewing the suspect may know from previous contacts with the suspect that the suspect is in sufficient command of the Dutch language.⁹ In this case the interviewing officer can refuse the assistance of an interpreter. In cases of doubt the police officer always calls on the assistance of an interpreter. The motivation to refuse an interpreter have to be specified in the records of the interview.

There is no information about whether these guidelines are adhered to in all cases in practice.

We have received feedback from the Ministry of Security and Justice, Bureau for Sworn Interpreters and Translators (*Bureau beëdigde tolken en vertalers or Bureau Wbtv*),¹⁰ and the Police (*Sectie Tolkencoördinatoren / Coordinator Interpreters*).¹¹ They have confirmed the framework described here.

According to an official of Ministry of Security and Justice, it is mandatory that police call on the assistance of sworn or certified interpreters, but it happens that police officers call on the assistance of interpreters who are not certified because they happen to be available.¹² It is an old habit among police officers which still exists.

According to the police respondent, in this phase of a case the police mostly makes use of interpretation by telephone.

c) The state bears the costs of the interpreter. Article I (paragraph 4) of the Act on Fees in Criminal Cases (*Wet tarieven in strafzaken*) stipulates that the states bears the costs of the assistance provided by the interpreter.¹³

at: www.rijksoverheid.nl/bestanden/documenten-en-publicaties/brochures/2011/05/11/u-bent-als-verdachte-aangehouden-en-meeegenomen-naar-het-politie-bureau-of-naar-een-andere-verhoorlocatie-wat-zijn-uw-rechten-engels/l-24364-mededeling-van-rechten-volwassenen-eng.pdf

⁹ Netherlands, Public Prosecution Service (*Openbaar Ministerie*) (2013), *Aanwijzing bijstand van tolken en vertalers in het opsporingsonderzoek in strafzaken* (Directive on the aid of interpreters and translators during the investigation in criminal cases ; Unofficial Translation), available at: <https://www.om.nl/organisatie/beleidsregels/overzicht-0/algemeen/@86196/aanwijzing-bijstand/>

¹⁰ Netherlands, representative of the Bureau for Sworn Interpreters and Translators (*Bureau beëdigde tolken en vertalers or Bureau Wbtv*).

¹¹ Netherlands, representative of the Dutch Police (*Sectie Tolkencoördinatoren / Section coordinators Interpreters*).

¹² Netherlands, representative of the Ministry of Security and Justice.

¹³ Netherlands, Act on Fees in Criminal Cases (*Wet tarieven in strafzaken*), Article 1, paragraph 4, available at: http://wetten.overheid.nl/BWBR0002406/geldigheidsdatum_16-03-2015#EersteTite

		<p>d) The relevant Directive of the Public Prosecution Service states that at the first moment of the interview the police officer interviewing the suspect assesses whether the suspect has a sufficient command of the Dutch language.¹⁴ If this is not the case the assistance of an interpreter is called upon. The Directive also states that if a suspect is not interviewed immediately after his arrest, that at the moment of the arrival at the police station the suspect should be informed in a language he understands about the reasons of his arrest. The means that at the arrival of the police station an assessment takes place whether the suspect speaks or understands the Dutch language and if this is not the case, which language he does understand. There is no information about the extent to which these mandatory steps are taken in practice.</p> <p>We have received feedback from the Ministry of Security and Justice, Bureau for Sworn Interpreters and Translators (<i>Bureau beëdigde tolken en vertalers or Bureau Wbtv</i>),¹⁵ and the Police (section <i>Tolkencoördinatoren / Coordinator Interpreters</i>).¹⁶ They confirm the information provided here. They had no specific information on how it works in practice. The police officers and the official of the Ministry of Security and Justice¹⁷ added that from their experience in general police officers work according to the existing legislation.</p>
1.1.2	<ul style="list-style-type: none"> • court hearings; 	<p>a) The legal framework states three actors who play a key role in determining the need of interpretation: the Public Prosecutor, the Court and the accused. Article 275 (paragraph 1) of the Code of Criminal Procedure stipulates that if an accused has no sufficient command of the Dutch language, the hearing at the court session shall not be continued without the assistance of an interpreter.¹⁸ Article 275 (paragraph 2) adds that in cases where the assistance of an interpreter is requested, that which has been said or read out and has not been interpreted for the accused will not be taken into account to his detriment.¹⁹ This article does not</p>

¹⁴ Netherlands, Public Prosecution Service (*Openbaar Ministerie*) (2013), Aanwijzing bijstand van tolken en vertalers in het opsporingsonderzoek in strafzaken (*Directive on the aid of interpreters and translators during the investigation in criminal cases ; Unofficial Translation*), available at: www.om.nl/organisatie/beleidsregels/overzicht-0/algemeen/@86196/aanwijzing-bijstand

¹⁵ Netherlands, representative of the Bureau for Sworn Interpreters and Translators (*Bureau beëdigde tolken en vertalers or Bureau Wbtv*).

¹⁶ Netherlands, representative of the Dutch Police (*Sectie Tolkencoördinatoren / Section coordinators Interpreters*).

¹⁷ Netherlands, representative of the Ministry of Security and Justice.

¹⁸ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 275, paragraph 1, available at, http://wetten.overheid.nl/BWBR0001903/TweedeBoek/TitelVI/Eersteafdeling/Artikel275/geldigheidsdatum_30-03-2015

¹⁹ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 275, paragraph 1, available at, http://wetten.overheid.nl/BWBR0001903/TweedeBoek/TitelVI/Eersteafdeling/Artikel275/geldigheidsdatum_30-03-2015

		<p>specify which actor has to request an interpreter. However, the following legal provisions show that several actors can request interpretation at various stages of the court proceedings. Article 27 (paragraph 4) of the Code of Criminal Procedure entitles the accused who has no sufficient command of the Dutch language to call on an interpreter. This article relates to the entire criminal proceedings, from the first arrest to the last conviction when appeal is no longer possible.²⁰ In addition article 263 (paragraph 1) of the Code of Criminal Procedure stipulates that the accused who has no sufficient command of the Dutch language, may apply to the public prosecutor for the assistance of an interpreter at the court session before the court session has started.²¹</p> <p>Article 260 (paragraph 1) of the Code of Criminal Procedure stipulates that while bringing the case before the Court the public prosecutor gives a written notice to an interpreter to appear at the court session.²²</p> <p>Article 276 (paragraph 1) of the Code of Criminal Procedure stipulates the court shall order that an interpreter be called if it appears at a court session that the assistance of an interpreter is required.²³ When the interpreter fails to appear, the court may issue an order to forcibly bring him.</p> <hr/> <p>b) The public prosecutor assesses the need for an interpreter during the court hearing. Article 260 (paragraph 1) of the Code of Criminal Procedure stipulates that while bringing the case before the Court the public prosecutor may give a written notice to an interpreter to appear at the court session.²⁴ When it turns out that an interpreter may be needed during the court session, it is up to the court to assess the situation and to call on the assistance of an interpreter.²⁵ When the interpreter fails to appear, the court may issue an order to forcibly bring him. The accused may</p>
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²⁰ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 27, paragraph 4, available at, http://wetten.overheid.nl/BWBR0001903/EersteBoek/TitelIII/Artikel27/geldigheidsdatum_05-03-2015

²¹ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 263, paragraph 1, available at, http://wetten.overheid.nl/BWBR0001903/TweedeBoek/TitelV/Artikel263/geldigheidsdatum_05-03-2015

²² Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 260, paragraph 1, available at, http://wetten.overheid.nl/BWBR0001903/TweedeBoek/TitelV/Artikel260/geldigheidsdatum_05-03-2015

²³ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 276, paragraph 1, available at http://wetten.overheid.nl/BWBR0001903/TweedeBoek/TitelVI/Eersteafdeling/Artikel276/geldigheidsdatum_05-03-2015

²⁴ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 260, available at, http://wetten.overheid.nl/BWBR0001903/TweedeBoek/TitelV/Artikel260/geldigheidsdatum_05-03-2015

²⁵ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 276, available at http://wetten.overheid.nl/BWBR0001903/TweedeBoek/TitelVI/Eersteafdeling/Artikel276/geldigheidsdatum_05-03-2015

also apply for an interpreter, as explained under section (a) above. Again, there is no additional information about the extent to which these obligations are adhered to in practice.

We have received feedback from the Ministry of Security and Justice, Bureau for Sworn Interpreters and Translators (*Bureau beëdigde tolken en vertalers* or *Bureau Wbtv*),²⁶ and the Police (*Tolkencoördinator* or *Coordinators Interpreters*).²⁷ They confirmed the information provided, but they had no information on how the framework works in practice.

c) The state bears the costs of the interpreter. Article I (paragraph 4) of the Act on Fees in Criminal Cases (*Wet tarieven in strafzaken*) stipulates that the states bears the costs of the assistance provided by the interpreter.²⁸

d) The public prosecutor assesses the need for an interpreter before the court session. Article 260 (paragraph 1) of the Code of Criminal Procedure stipulates that while bringing the case before court the prosecutor beforehand gives a written notice to an interpreter to appear at the court session.²⁹ The accused who has no sufficient command of the Dutch language may also request to the public prosecutor for the assistance of an interpreter according to article 263 (paragraph 1) of the Code of Criminal Procedure.³⁰ This must take place 10 day before the court session starts (article 263 paragraph 2 of the Code of Criminal Procedure). In this case the interpreter is present from the beginning of the court session. If it becomes evident during a court session that the assistance of an interpreter is required, the court shall order that an interpreter be called.³¹ The law does not specify any timeline.

²⁶ Netherlands, representative of the Bureau for Sworn Interpreters and Translators (*Bureau beëdigde tolken en vertalers* or *Bureau Wbtv*).

²⁷ Netherlands, representative of the Dutch Police (*Sectie Tolkencoördinatoren / Section coordinators Interpreters*).

²⁸ Netherlands, Act on Fees in Criminal Cases (*Wet tarieven in strafzaken*), Article 1, available at: http://wetten.overheid.nl/BWBR0002406/geldigheidsdatum_16-03-2015#EersteTitel

²⁹ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 260, paragraph 1, available at, http://wetten.overheid.nl/BWBR0001903/TweedeBoek/TitelV/Artikel260/geldigheidsdatum_05-03-2015

³⁰ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 263, paragraph 1, available at, http://wetten.overheid.nl/BWBR0001903/TweedeBoek/TitelV/Artikel263/geldigheidsdatum_05-03-2015

³¹ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 276, available at http://wetten.overheid.nl/BWBR0001903/TweedeBoek/TitelVI/Eersteafdeling/Artikel276/geldigheidsdatum_05-03-2015

<p>1.1.3</p>	<p>• any necessary interim hearings;</p>	<p>a) Article 27 (paragraph 4) of the Code of Criminal Procedure entitles the suspect who has no sufficient command of the Dutch language to call on an interpreter. This article relates to the entire criminal proceedings, not only the interim hearings.³² During the investigation the Examining Judge (<i>rechter-commissaris</i>) can call on the assistance of an interpreter on the basis of article 191 (paragraph 1) of the Code of Criminal Procedure when the suspect has no sufficient command of the Dutch language.³³ In Dutch criminal law the council chamber (<i>raadkamer</i>) decides on the continuation of the detention order (<i>bevel tot gevangenhouding</i>) for a period up to 90 days. During a session of the council chamber the assistance of an interpreter is called upon if the suspect has no sufficient command of the Dutch language on basis of article 23 paragraph 4, of the Code of Criminal Procedure.³⁴</p> <p>b) The Examining Judge (<i>rechter-commissaris</i>) decides whether to call on the assistance of an interpreter when the suspect has no sufficient command of the Dutch language.³⁵ During the session of the council chamber (<i>raadkamer</i>) the public prosecutor is the actor who invokes the assistance of an interpreter.³⁶</p> <p>c) The state bears the costs of the interpreter. Article I (paragraph 4) of the Act on Fees in Criminal Cases (<i>Wet tarieven in strafzaken</i>) stipulates that the state bears the costs of the assistance provided by the interpreter.³⁷</p> <p>d) The Code of Criminal Procedure specifies no time frame.</p>
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³² Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 27, paragraph 4, available at, http://wetten.overheid.nl/BWBR0001903/EersteBoek/TitelIII/Artikel27/geldigheidsdatum_05-03-2015

³³ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 191, paragraph 1, available at, http://wetten.overheid.nl/BWBR0001903/TweedeBoek/TitelIII/Tweedeafdeling/Artikel191/geldigheidsdatum_16-03-2015

³⁴ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 23, paragraph 4, available at, http://wetten.overheid.nl/BWBR0001903/EersteBoek/TitelIII/Zesdeafdeling/Artikel23/geldigheidsdatum_14-04-2015

³⁵ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 191, available at, http://wetten.overheid.nl/BWBR0001903/TweedeBoek/TitelIII/Tweedeafdeling/Artikel191/geldigheidsdatum_16-03-2015

³⁶ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 23, paragraph 4, available at, http://wetten.overheid.nl/BWBR0001903/EersteBoek/TitelIII/Zesdeafdeling/Artikel23/geldigheidsdatum_14-04-2015

³⁷ Netherlands, Act on Fees in Criminal Cases (*Wet tarieven in strafzaken*), Article 1, paragraph 4, available at: http://wetten.overheid.nl/BWBR0002406/geldigheidsdatum_16-03-2015#EersteTite

<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) The general right for the suspect to call on an interpreter during the entire proceedings (Article 27 (paragraph 4) of the Code of Criminal Procedure) includes the right to an interpreter in the communication with his/her lawyer.³⁸ Article 28 (paragraph 3) of the Code of Criminal Procedure states that if between the suspect and his legal counsel an interpreter is needed, the legal counsel has the responsibility to call on interpreter.³⁹</p> <p>b) The legal counsel decides whether an interpreter is needed for the communication. There is also the possibility that the suspect calls on the assistance of an interpreter, though it is not entirely clear how this right can be applied in practice.⁴⁰</p> <p>c) The state bears the costs of the interpreter. Article I (paragraph 4) of the Act on Fees in Criminal Cases (<i>Wet tarieven in strafzaken</i>) stipulates that the states bears the costs of the assistance provided by the interpreter.⁴¹</p> <p>According to the Bureau for Sworn Interpreters and Translators (<i>Bureau beëdigde tolken en vertalers or Bureau Wbtv</i>),⁴² article 26 of Decree Compensation Legal Aid (<i>Besluit Vergoedingen Rechtsbijstand</i>) stipulates that a legal counsel who works on a legal aid scheme is entitled to financial compensation for the costs he has made calling on the assistance of an interpreter.⁴³</p> <p>d) The law does not specify any timeframe. Standard practice is as quickly as possible. The legal counsel can make use of interpretation by telephone.⁴⁴</p>
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³⁸ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 27, paragraph 4, available at, http://wetten.overheid.nl/BWBR0001903/EersteBoek/TitelIII/Artikel27/geldigheidsdatum_05-03-2015

³⁹ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 28, paragraph 3, available at, http://wetten.overheid.nl/BWBR0001903/EersteBoek/TitelIII/Artikel28/geldigheidsdatum_16-03-2015

⁴⁰ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 28, available at, http://wetten.overheid.nl/BWBR0001903/EersteBoek/TitelIII/Artikel28/geldigheidsdatum_16-03-2015

⁴¹ Netherlands, Act on Fees in Criminal Cases (*Wet tarieven in strafzaken*), Article 1, paragraph 4, available at: http://wetten.overheid.nl/BWBR0002406/geldigheidsdatum_16-03-2015#EersteTite

⁴² Netherlands, representative of the Bureau for Sworn Interpreters and Translators (*Bureau beëdigde tolken en vertalers or Bureau Wbtv*).

⁴³ Netherlands, Decree Compensation Legal Aid (*Besluit Vergoedingen Rechtsbijstand*), Art. 26, available at: http://wetten.overheid.nl/BWBR0011018/geldigheidsdatum_18-06-2015#HoofdstukIII_Artikel26

⁴⁴ Police Netherlands (2013), *Recht op vertolking en vertaling in strafprocedures*, Nieuwsbrief Vol. 30. October 2013, [Newsletter Knowledge Centre of Unit Amsterdam of Dutch Police], Vol 20, October 2013, available at: www.natuurtoezicht.nl/wp/wp-content/uploads/2013/11/Nieuwsbrief_Tolken.pdf

<p>1.2</p>	<p>How do authorities ensure interpretation into rare/lesser known languages where no certified interpreters exist? Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.</p>	<p>There are several legal provisions to ensure the interpretation of lesser known languages. Article 28 (paragraph 1) of the Sworn Interpreters and Translators Act (<i>Wet beëdigde tolken en vertalers</i>) states that authorities should make use of a sworn interpreter or translator who is registered in the Official Register.⁴⁵ This same article (paragraph 3) makes it possible that the authorities make use of an interpreter who is not a sworn interpreter if there is no registration in the register of a sworn interpreter of the target language in question. Next to the Official Register of Sworn (or certified) interpreters there is an Alternative List (<i>Uitwijklijst</i>) of interpreters. The conditions for inclusion on the Alternative List are easier to meet than those for registration in the Register. The legal basis of the Alternative List is provided by the Decree Alternative List Wbtv (<i>Besluit Uitwijklijst Wbtv</i>).⁴⁶ Interpreters who are on the Alternative List are not sworn interpreters. They have to be sworn in by a special procedure. The Code of Criminal Procedure makes it possible that an interpreter who is not a sworn or certified interpreter can be sworn in by the Examining Judge (<i>rechter-commissaris</i>) during the preliminary and interim investigations⁴⁷ and the president of the court during the court sessions.⁴⁸ The authorities also make use of relay-interpreting, a method in which two interpreters are used.⁴⁹ For example: the first interpreter translates the message from a rare language in English or vice versa, the second interpreter translates from English to Dutch or vice versa.</p>
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⁴⁵ Netherlands, Sworn Interpreters and Translators Act (*Wet beëdigde tolken en vertalers*), Article 29, paragraph 1, available at: http://wetten.overheid.nl/BWBR0022704/geldigheidsdatum_06-03-2015#HoofdstukV

⁴⁶ Netherlands, Government Gazette (*Staatscourant*) (2013), 'Besluit Uitwijklijst Wbtv', Vol. 2013, No. 17541, available at: <https://zoek.officielebekendmakingen.nl/stcrt-2013-17541.pdf>

⁴⁷ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 191, paragraph 3, available at, http://wetten.overheid.nl/BWBR0001903/TweedeBoek/TitelIII/Tweedeafdeling/Artikel191/geldigheidsdatum_16-03-2015

⁴⁸ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 276, paragraph 3, available at, http://wetten.overheid.nl/BWBR0001903/TweedeBoek/TitelVI/Eersteafdeling/Artikel276/geldigheidsdatum_16-03-2015

⁴⁹ Netherland Minister of Security and Justice (*Minister van Veiligheid en Justitie*) (2012), Memorie van Toelichting. Implementatie van richtlijn nr. 2010/64/EU van het Europees Parlement en de Raad van 20 oktober 2010 betreffende het recht op informatie in strafprocedures (PbEU L 280), available at <https://zoek.officielebekendmakingen.nl/kst-33355-3.pdf>

		<p>We have received feedback from the Ministry of Security and Justice, Bureau for Sworn Interpreters and Translators (<i>Bureau beëdigde tolken en vertalers or Bureau Wbtv</i>),⁵⁰ and the Police (section Coordinator Interpreters).⁵¹ They have read this and agreed with the content. They had no specific information on how it works in practice but added that from their experience in general police officers work according to the existing legislation.</p> <p>According to the Association of SIGV Court Interpreters and Legal Translators (<i>Vereniging SIGV Gerechtstolken en Juridisch Vertalers</i>)⁵² the Official Register of Sworn (or certified) interpreters contains a substantial number of interpreters who have not met the official criteria but are on the list because of acquired right under the old regulation. An interpreter from the alternative list should only be used when a sworn interpreter from the official register is not available.</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</p>	<p>The suspect has the right to call on an interpreter. Article 27 (paragraph 4) of the Code of Criminal Procedure entitles the suspect who has no sufficient command of the Dutch language to call on an interpreter.⁵³ The relevant Directive of the Public Prosecution Service states that the police officer interviewing the suspect may know from previous contacts with the suspect that the suspect is in sufficient command of the Dutch language.⁵⁴ In this case the interviewing officer can refuse the assistance of an interpreter. In cases of doubt the police officer should always call on the assistance of an interpreter. The motivation to refuse an interpreter are laid down in the records of the interview. Whether these obligations are adhered to in practice is not known. The suspect can challenge the decision made by the interviewing police officer to invoke the assistance of an interpreter by appealing to the Assistant Public Prosecutor.⁵⁵ The Directive states that the suspect should always receive the benefit of the doubt. Only when it is reasonable to assume that the suspect has a sufficient command of the Dutch language the Assistant Public Prosecutor can decide not to call on the assistance of an interpreter.</p>

⁵⁰ Netherlands, representative of the Bureau for Sworn Interpreters and Translators (*Bureau beëdigde tolken en vertalers or Bureau Wbtv*).

⁵¹ Netherlands, representative of the Dutch Police (*Sectie Tolkencoördinatoren / Section coordinators Interpreters*).

⁵² Netherlands, representative of the Association of SIGV Court Interpreters and Legal Translators (*Vereniging SIGV Gerechtstolken en Juridisch Vertalers*).

⁵³ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 27, paragraph 4, available at, http://wetten.overheid.nl/BWBR0001903/EersteBoek/Titell/Artikel27/geldigheidsdatum_05-03-2015

⁵⁴ Netherlands, Public Prosecution Service (*Openbaar Ministerie*) (2013), *Aanwijzing bijstand van tolken en vertalers in het opsporingsonderzoek in strafzaken* (Directive on the aid of interpreters and translators during the investigation in criminal cases ; Unofficial Translation), available at: <https://www.om.nl/organisatie/beleidsregels/overzicht-0/algemeen/@86196/aanwijzing-bijstand/>

⁵⁵ Netherlands, Public Prosecution Service (*Openbaar Ministerie*) (2013), *Aanwijzing bijstand van tolken en vertalers in het opsporingsonderzoek in strafzaken* (Directive on the aid of interpreters and translators during the investigation in criminal cases ; Unofficial Translation), available at: <https://www.om.nl/organisatie/beleidsregels/overzicht-0/algemeen/@86196/aanwijzing-bijstand/>

	organisations and/or practitioners.	We have received feedback from the Ministry of Security and Justice ⁵⁶ , Bureau for Sworn Interpreters and Translators (<i>Bureau beëdigde tolken en vertalers</i> or Bureau Wbtv), ⁵⁷ and the Police (<i>Tolkencoördinator</i> or Coordinators Interpreters). ⁵⁸ . They have read this and agreed with the content. They had no specific information on how it works in practice but added that from their experience in general police officers work according to the existing legislation
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?	The relevant Directive of the Public Prosecution Service states that telephone can be used for interpreting during the police interviews when the situation demands it (for example when an interpreter cannot arrive on time). ⁵⁹ The explanatory memorandum to the bill implementing Directive 2010/64/EU indicates that telephone and video conferencing can be used during criminal proceedings for the purpose of interpretation. ⁶⁰ Article 131a of the Code of Criminal Proceedings enables the use of videoconferencing during the entire course of criminal proceeding (police interviews, interviews by Public Prosecution, court sessions, interim hearings). ⁶¹

⁵⁶ Netherlands, representative of the Ministry of Security and Justice.

⁵⁷ Netherlands, representative of the Bureau for Sworn Interpreters and Translators (*Bureau beëdigde tolken en vertalers* or Bureau Wbtv).

⁵⁸ Netherlands, representative of the Dutch Police (*Sectie Tolkencoördinatoren / Section coordinators Interpreters*).

⁵⁹ Netherlands, Public Prosecution Service (*Openbaar Ministerie*) (2013), *Aanwijzing bijstand van tolken en vertalers in het opsporingsonderzoek in strafzaken (Directive on the aid of interpreters and translators during the investigation in criminal cases ; Unofficial Translation)*, available at: www.om.nl/organisatie/beleidsregels/overzicht-0/algemeen/@86196/aanwijzing-bijstand

⁶⁰ Netherlands, Minister of Security and Justice (*Minister van Veiligheid en Justitie*) (2012), *Memorie van Toelichting. Implementatie van richtlijn nr. 2010/64/EU van het Europees Parlement en de Raad van 20 oktober 2010 betreffende het recht op vertolking en vertaling in strafprocedures (PbEU L 280)*, available at <https://zoek.officielebekendmakingen.nl/kst-33355-3.pdf>

⁶¹ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 131a, available at, http://wetten.overheid.nl/BWBR0001903/EersteBoek/TitelVI/Artikel131a/geldigheidsdatum_12-03-2015

<p>b) Which technologies are used, if any (videoconference, telephone, internet, etc.)</p>	<p>Telephone / Video conferencing.</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)? Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.</p>	<p>The explanatory memorandum to the bill implementing Directive 2010/64/EU does mention two projects by which the Netherlands participate in the European e-Justice programme: Both projects aim at stimulating the use of videoconferencing.⁶² Videoconferencing is an established practice in the Dutch criminal justice system as indicated on the website of the Dutch government.⁶³ There are no figures on how many times it's used. Videoconferencing is used for interpretation, but not exclusively.</p> <p>We have received feedback from the Ministry of Security and Justice⁶⁴, Bureau for Sworn Interpreters and Translators (<i>Bureau beëdigde tolken en vertalers</i> or <i>Bureau Wbtv</i>)⁶⁵, and the Police (<i>Tolkencoördinator</i> or <i>Coördinatoren Interpreters</i>).⁶⁶ They have confirmed the information provided here. The official of the Ministry of Security and Justice added that use of videoconferencing is on the rise also for interpreters in the court room.</p>

⁶² Netherlands, Minister of Security and Justice (*Minister van Veiligheid en Justitie*) (2012), *Memorie van Toelichting. Implementatie van richtlijn nr. 2010/64/EU van het Europees Parlement en de Raad van 20 oktober 2010 betreffende het recht op vertolking en vertaling in strafprocedures (PbEU L 280)*, available at <https://zoek.officielebekendmakingen.nl/kst-33355-3.pdf>

⁶³ Ministry of Security and Justice (*Ministerie van Veiligheid en Justitie*) (2015). 'Videoconferentie in rechtszaken', Web page, available at: <http://www.rijksoverheid.nl/onderwerpen/rechtspraak-en-geschiloplossing/videoconferentie-in-rechtszaken>

⁶⁴ Netherlands, representative of the Ministry of Security and Justice.

⁶⁵ Netherlands, representative of the Bureau for Sworn Interpreters and Translators (*Bureau beëdigde tolken en vertalers* or *Bureau Wbtv*).

⁶⁶ Netherlands, representative of the Dutch Police (*Sectie Tolkencoördinatoren / Section coordinators Interpreters*).

	TRAINING⁶⁷	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.	Yes.		The Training and Study Centre for the Judiciary (<i>Studiecentrum Rechtspleging, SSR</i>), pays attention on how to communicate with an interpreter in its course on “Court Hearing Competences” (<i>Zittingsvaardigheden</i>). ⁶⁸ The SSR trains law graduates as judges and public prosecutors. The Police Academy, the centre for training, knowledge and research for the Dutch National Police, offers special courses on how to work with interpreters. ⁶⁹

⁶⁷ See in particular Article 6 and relevant recitals of Directive 2010/64/EU.

⁶⁸ Netherlands, Minister of Security and Justice (Minister van Veiligheid en Justitie) (2012), Memorie van Toelichting. Implementatie van richtlijn nr. 2010/64/EU van het Europees Parlement en de Raad van 20 oktober 2010 betreffende het recht op informatie in strafprocedures (PbEU L 280), available at <https://zoek.officielebekendmakingen.nl/kst-33355-3.pdf>

⁶⁹ Netherlands, Dutch National Police (*Nationale Politie*) (2015), 'Werken met tolken', Web page, available at: www.politieacademie.nl/onderwijs/onderwijsaanbod/Pages/opleiding.aspx?code=9300864

2.	RIGHT TO TRANSLATION OF DOCUMENTS ⁷⁰	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"> • police questioning; 	<p>a) The Code of Criminal of Procedure specifies several documents that have to be translated into a foreign language intelligible to the suspect when the suspect has no sufficient command of the Dutch language. A suspect may be held for six hours before a police custody order is issued or before the suspect is arraigned for the examining magistrate (<i>rechter-commissaris</i>). Article 61 of the Code of Criminal Procedure makes it possible to extend the detention by another six hours by a written extension order. Paragraph 8 of article 61 stipulates that the suspect shall be informed orally of the content of this extension order in a language that is intelligible to him.⁷¹ When this extension order is expired the suspect will be released unless a police custody order (<i>bevel tot inverzekeringstelling</i>) is issued. Article 59 (paragraph 7) states that a translation should be provided of four elements of the police custody order (<i>bevel tot inverzekeringstelling</i>) or for the extension of its term for validity: the criminal offence of which the accused is charged, the grounds on which it is issued, the date of the order, and the time of expiry of the order.⁷² When the term of the police custody order is expired the suspect is released unless a pre-trial detention order (<i>bevel</i></p>

⁷⁰ See in particular Articles 3 and 4 and relevant recitals of Directive 2010/64/EU.

⁷¹ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 61, paragraph 8, available at, http://wetten.overheid.nl/BWBR0001903/EersteBoek/TitellV/Eersteafdeeling/Artikel61/geldigheidsdatum_06-03-2015

⁷² Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 59, paragraph 7, available at http://wetten.overheid.nl/BWBR0001903/EersteBoek/TitellV/Eersteafdeeling/Artikel59/geldigheidsdatum_05-03-2015

		<p><i>tot voorlopige hechtenis</i>) is issued. Article 78 (paragraph 6) states that a translation should be provided of four elements of the pre-trial detention order (<i>bevel tot voorlopige hechtenis</i>) or the order for extension of its term of validity: the criminal offence of which the accused is charged, the grounds on which it is issued, the date of the order, and the time of expiry of the order.⁷³ Article 32a of the Code of Criminal Procedure entitles the suspect or defendant to make a request for the translation of those case documents considered to be essential for the defence.⁷⁴ The suspect should send his request to the Public Prosecutor during the pre-trial investigation and to the Court during the court session. The request shall be made in writing and shall be reasoned.</p> <p>b) The state bears the costs of the translation. Article I (paragraph 4) of the Act on Fees in Criminal Cases (<i>Wet tarieven in strafzaken</i>) stipulates that the states bears the costs of the translations.⁷⁵</p> <p>c) Code of criminal procedure does not give any deadlines for the translations of the documents mentioned in 2.1.1.a above. The written extension order to detain a suspect for another six hours is given orally, i.e. right on the spot. The police custody order (<i>bevel tot inverzekeringstelling</i>) (that is: the elements that have to be translated) is to be translated as soon as possible according to Article 59 (paragraph 7) of the Code of Criminal Procedure.⁷⁶ The pre-trial detention order (<i>bevel tot voorlopige hechtenis</i>) (that is: the elements that have to be translated) is to be translated as soon as possible according to Article 78 (paragraph 6) of the Code of Criminal Procedure.⁷⁷</p>
	<ul style="list-style-type: none"> • court hearings; 	<p>a) The Code of Criminal of Procedure specifies several case documents that have to be translated into a foreign language intelligible to the suspect or defendant when he has no sufficient command of the Dutch language.</p>

⁷³ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 78, paragraph 6, available at, http://wetten.overheid.nl/BWBR0001903/EersteBoek/TitelIV/Tweedeafdeeling/3/Artikel78/geldigheidsdatum_05-03-2015

⁷⁴ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 32a, available at, http://wetten.overheid.nl/BWBR0001903/EersteBoek/TitelIII/Artikel32a/geldigheidsdatum_06-03-2015

⁷⁵ Netherlands, Act on Fees in Criminal Cases (*Wet tarieven in strafzaken*), Article 1, paragraph 4, available at: http://wetten.overheid.nl/BWBR0002406/geldigheidsdatum_16-03-2015#EersteTite

⁷⁶ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 59, available at http://wetten.overheid.nl/BWBR0001903/EersteBoek/TitelIV/Eersteafdeeling/Artikel59/geldigheidsdatum_05-03-2015

⁷⁷ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 78, available at, http://wetten.overheid.nl/BWBR0001903/EersteBoek/TitelIV/Tweedeafdeeling/3/Artikel78/geldigheidsdatum_05-03-2015

<p>2.1.2</p>	<p>Article 260 (paragraph 5) stipulates that the summons (<i>dagvaarding</i>) issued to the accused (or relevant parts) should be translated into a language intelligible to the suspect when he has no sufficient command of the Dutch language.⁷⁸ It specifies the following elements that always should be translated: date, time and place of the court session; short statement of the offence which is indicted; the calling of the victim or a surviving relative for the purpose of exercising the right to make a verbal statement at the court session of the injured party; the summons of an interpreter shall also be stated; the right to have written notice given to witnesses and expert witnesses to appear at the court session or to bring them with him to the court session.</p> <p>Article 370a (paragraph 1) states that an abridged summons may be delivered to the suspect who has been arrested for a criminal offence which will be brought before the police judge (<i>politierechter</i>) and that this abridged summons shall be translated when the accused has no sufficient command of the Dutch language.⁷⁹ Article 386 of the Code of Criminal Procedure states that a summons to appear before a sub-district judge (<i>kantonrechter</i>) shall be translated immediately when the accused has no sufficient command of the Dutch language.</p> <p>Article 314 (paragraph 1) of the Code of Criminal Procedure states that when the accused has no sufficient command of the Dutch language any change of the indictment (<i>tenlastelegging</i>) will be immediately translated for the accused.⁸⁰</p> <p>Article 365 (paragraph 6) of the Code of the Criminal Procedure states that the accused who has no sufficient command of the Dutch language has the right to a translation of a copy of the judgement.⁸¹</p> <p>Article 366 (paragraph 4) of the Code of Criminal Procedure states that when the accused is absent during the pronouncement of the verdict and the accused has no sufficient command of the Dutch language, the notification of the judgement will be translated in a language intelligible to the accused.</p>
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⁷⁸ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 260, paragraph 5, available at, http://wetten.overheid.nl/BWBR0001903/TweedeBoek/TitelV/Artikel260/geldigheidsdatum_26-03-2015

⁷⁹ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 370a, available at, http://wetten.overheid.nl/BWBR0001903/TweedeBoek/TitelVII/Artikel370a/geldigheidsdatum_26-03-2015

⁸⁰ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 314, paragraph 1, available at, http://wetten.overheid.nl/BWBR0001903/TweedeBoek/TitelVI/Eersteafdeling/Artikel314/geldigheidsdatum_20-03-2015

⁸¹ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 365, paragraph 6, available at, http://wetten.overheid.nl/BWBR0001903/TweedeBoek/TitelVI/Vierdeafdeeling/Artikel365/geldigheidsdatum_26-03-2015

		<p>Article 412 of the Code of Criminal Procedure states that when a case is brought in appeal the summons shall be translated as stipulated by article 260 of the same code.⁸²</p> <p>Article 32a of the Code of Criminal Procedure entitles the suspect or defendant to make a request for the translation of those case documents considered to be essential for the defence.⁸³ The suspect should send his request to the Public Prosecutor during the pre-trial investigation and to the Court during the court session. The request shall be made in writing and shall be reasoned.</p> <p>b) The state bears the costs of the translation. Article I (paragraph 4) of the Act on Fees in Criminal Cases (<i>Wet tarieven in strafzaken</i>) stipulates that the states bears the costs of the translations.⁸⁴</p> <p>c) The Code of Criminal Procedure does not provide a clear timeline for all cases. For the translation of court documents on the basis of article 32a no time frame is indicated. Translation of the summons to appear at court on basis of article 260 must be made immediately according to the same article.⁸⁵ The same (immediate translation) applies to an abridged summons to appear before the police judge (<i>politierechter</i>) or summons to appear before the single sub-district judge (<i>kantonrechter</i>). Any change of the indictment (<i>tenlastelegging</i>) will be immediately translated for the accused according to article 314 (paragraph 1).⁸⁶ When necessary a suspension of the court session is possible according to article 314 (paragraph 2).⁸⁷ Article 365 (paragraph 6) of the Code of the Criminal Procedure which states that the accused who has no sufficient command of the Dutch language has the right to a translation of a copy of the judgement provides no timeline.⁸⁸</p>
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⁸² Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 412, available at, http://wetten.overheid.nl/BWBR0001903/DerdeBoek/A/TitelIII/Artikel412/geldigheidsdatum_26-03-2015

⁸³ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 32a, available at, http://wetten.overheid.nl/BWBR0001903/EersteBoek/TitelIII/Artikel32a/geldigheidsdatum_06-03-2015

⁸⁴ Netherlands, Act on Fees in Criminal Cases (*Wet tarieven in strafzaken*), Article 1, paragraph 4, available at: http://wetten.overheid.nl/BWBR0002406/geldigheidsdatum_16-03-2015#EersteTite

⁸⁵ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 260, available at, http://wetten.overheid.nl/BWBR0001903/TweedeBoek/TitelV/Artikel260/geldigheidsdatum_26-03-2015

⁸⁶ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 314, paragraph 1, available at, http://wetten.overheid.nl/BWBR0001903/TweedeBoek/TitelVI/Eersteafdeling/Artikel314/geldigheidsdatum_20-03-2015

⁸⁷ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 31, paragraph 2, available at, http://wetten.overheid.nl/BWBR0001903/TweedeBoek/TitelVI/Eersteafdeling/Artikel314/geldigheidsdatum_20-03-2015

⁸⁸ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 365 available at, http://wetten.overheid.nl/BWBR0001903/TweedeBoek/TitelVI/Vierdeafdeeling/Artikel365/geldigheidsdatum_26-03-2015

		Standard practice is that the translation is provided at the same time as the copy of the judgement itself. ⁸⁹
2.1.3	<ul style="list-style-type: none"> any necessary interim hearings; 	a) The provisions explained under 2.1.2 also apply for interim hearings, as do the different ways of application.
		b) The state bears the costs of the translation. Article I (paragraph 4) of the Act on Fees in Criminal Cases (<i>Wet tarieven in strafzaken</i>) stipulates that the states bears the costs of the translations. ⁹⁰
		c) The code of criminal procedure specifies no timeline for the translation of the punishment order (<i>strafbeschikking</i>). ⁹¹ Standard practice is that the translation is provided at the same time as the punishment order itself. ⁹²
2.1.4	<ul style="list-style-type: none"> any communication between suspects and accused persons and their legal counsel in direct connection 	<p>a) The Code of Criminal Procedure does not mention the right to translation with regard to any communication between suspect or accused and his legal counsel. It only mentions the right of interpretation.</p> <p>We have received feedback from the Ministry of Security and Justice⁹³, Bureau for Sworn Interpreters and Translators (<i>Bureau beëdigde tolken en vertalers or Bureau Wbtv</i>)⁹⁴, and the Police (section <i>Tolkencoördinator / Coordinators Interpreters</i>).⁹⁵ They have confirmed the</p>

⁸⁹ Netherlands, Minister of Security and Justice (*Minister van Veiligheid en Justitie*) (2012), Memorie van Toelichting. Implementatie van richtlijn nr. 2010/64/EU van het Europees Parlement en de Raad van 20 oktober 2010 betreffende het recht op vertolking en vertaling in strafprocedures (PbEU L 280), available at <https://zoek.officielebekendmakingen.nl/kst-33355-3.pdf>

⁹⁰ Netherlands, Act on Fees in Criminal Cases (*Wet tarieven in strafzaken*), Article 1, paragraph 4, available at: http://wetten.overheid.nl/BWBR0002406/geldigheidsdatum_16-03-2015#EersteTite

⁹¹ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 257a, available at, http://wetten.overheid.nl/BWBR0001903/TweedeBoek/TitelVa/Eersteafdeling/Artikel257a/geldigheidsdatum_13-03-2015

⁹² Netherlands, Minister of Security and Justice (*Minister van Veiligheid en Justitie*) (2012), Memorie van Toelichting. Implementatie van richtlijn nr. 2010/64/EU van het Europees Parlement en de Raad van 20 oktober 2010 betreffende het recht op vertolking en vertaling in strafprocedures (PbEU L 280), available at <https://zoek.officielebekendmakingen.nl/kst-33355-3.pdf>

⁹³ Netherlands, representative of the Ministry of Security and Justice.

⁹⁴ Netherlands, representative of the Bureau for Sworn Interpreters and Translators (*Bureau beëdigde tolken en vertalers or Bureau Wbtv*).

⁹⁵ Netherlands, representative of the Dutch Police (Sectie Tolkencoördinatoren / Section coordinators Interpreters).

	with any questioning or hearing during the proceedings?	<p>information provided here. They had no specific information on how it works in practice but added that from their experience in general police officers work according to the existing legislation. This concerns the information in the whole subsection 2.1.</p> <p>b) The state bears the costs of the interpreter. Article I (paragraph 4) of the Act on Fees in Criminal Cases (<i>Wet tarieven in strafzaken</i>) stipulates that the states bears the costs of the translations.⁹⁶</p> <p>c) There is no right concerning this aspect of the communication, so there is also no timeline specified.</p>
2.2	<p>How do the competent authorities ascertain whether oral translation or oral summary of essential documents may be provided instead of a written translation? Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.</p>	<p>The Code of Criminal Procedure indicates that of certain documents an oral translation should be provided. Article 61 of the Code of Criminal Procedure makes it possible to extend the detention by another six hours by a written extension order. Paragraph 8 of article 61 stipulates that suspects shall be informed orally of the content of this extension order in a language that is intelligible to them.⁹⁷</p> <p>This is the only case when an oral translation or oral summary of essential document may be provided as foreseen by Dutch legislation.</p> <p>This is because the document is delivered on the spot to the suspect and there is no time for a written translation.</p> <p>The Ministry of Security and Justice⁹⁸, Bureau for Sworn Interpreters and Translators (<i>Bureau beëdigde tolken en vertalers</i> or Bureau Wbtv)⁹⁹, and the Police (section <i>Tolkencoördinatoren / Coordinators Interpreters</i>)¹⁰⁰ have confirmed the information provided here. They have no specific information on how the framework is applied in practice.</p>

⁹⁶ Netherlands, Act on Fees in Criminal Cases (*Wet tarieven in strafzaken*), Article 1, paragraph 4, available at: http://wetten.overheid.nl/BWBR0002406/geldigheidsdatum_16-03-2015#EersteTite

⁹⁷ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 61, paragraph 8, available at, http://wetten.overheid.nl/BWBR0001903/EersteBoek/TitellV/Eersteafdeeling/Artikel61/geldigheidsdatum_06-03-2015

⁹⁸ Netherlands, representative of the Ministry of Security and Justice.

⁹⁹ Netherlands, representative of the Bureau for Sworn Interpreters and Translators (*Bureau beëdigde tolken en vertalers* or Bureau Wbtv).

¹⁰⁰ Netherlands, representative of the Dutch Police (*Sectie Tolkencoördinatoren / Section coordinators Interpreters*).

		According to the Association of SIGV Court Interpreters and Legal Translators (<i>Vereniging SIGV Gerechtstolken en Juridisch Vertalers</i>) ¹⁰¹ during court sessions the court interpreter can give a sight translation of shorts memos.		
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.	<p>Article 32a (paragraph 3) stipulates that the Public Prosecutor can reject the request of the suspect of defendant to translate case documents he deems to be essential for the defence.¹⁰² The accused will be notified in writing in a language intelligible to the suspect of the decision by the Public Prosecutor. This same paragraph entitles the suspect or accused to challenge the decision of the Public Prosecutor. The suspect or accused may submit a notice of objection to the Examining Judge (<i>rechter-commissaris</i>) within fourteen days after the date of the notification referred to. The Examining Judge shall hear both the suspect or defendant and the Public Prosecutor before making the decision whether or not to authorize the translation of the case document.</p> <p>The Ministry of Security and Justice ¹⁰³ , Bureau for Sworn Interpreters and Translators (Bureau beëdigde tolken en vertalers or Bureau Wbtv)¹⁰⁴ , and the Police (section <i>Tolkencoördinatoren / Coordinators Interpreters</i>) ¹⁰⁵ have confirmed the information provided here. They have no specific information on how the framework is applied in practice.</p>		
		Yes	No	Brief Description
2.4	Do all documents that the suspected or accused person has to sign during the	Yes.	.	The Code of Criminal Procedure mentions only one document that has to be signed by the suspect: suspects shall sign their statement, after it has been read out to them or they have read it, and have stated that they stand by it. ¹⁰⁶ In the absence of a

¹⁰¹ Netherlands, representative of the Association of SIGV Court Interpreters and Legal Translators (*Vereniging SIGV Gerechtstolken en Juridisch Vertalers*).

¹⁰² Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 32a, paragraph 3, available at, http://wetten.overheid.nl/BWBR0001903/EersteBoek/Titell/Artikel32a/geldigheidsdatum_06-03-2015

¹⁰³ Netherlands, representative of the Ministry of Security and Justice.

¹⁰⁴ Netherlands, representative of the Bureau for Sworn Interpreters and Translators (*Bureau beëdigde tolken en vertalers* or Bureau Wbtv).

¹⁰⁵ Netherlands, representative of the Dutch Police (*Sectie Tolkencoördinatoren / Section coordinators Interpreters*).

¹⁰⁶ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 174, paragraph 1, available at, http://wetten.overheid.nl/BWBR0001903/TweedeBoek/Titell/Artikel174/geldigheidsdatum_05-04-2015

	proceedings have to be translated?			signature, the refusal or the cause of the inability to sign shall be stated. ¹⁰⁷ The statement shall thus be read out to the suspect, implying that the statement is written in a language intelligible to the suspect.
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?		No.	In case where a translation of a document is mandatory the Code of Criminal Procedure does not mention the possibility to waive the right to translation.

3.	RIGHTS CONCERNING BOTH INTERPRETATION AND TRANSLATION¹⁰⁸			
3.1	With regard to use of registers of interpreters and translators in EU Member States:	Yes	No	Brief Description
	a) Do national databases or registers exist for legal translators and interpreters?	Yes.		A national database of registered interpreters and translators is provided on the website of The Bureau for Sworn Interpreters and Translators (<i>Bureau beëdigde tolken en vertalers</i> or Bureau Wbtv). ¹⁰⁹ The Bureau Wbtv is a department of Dutch Legal Aid Council (<i>Raad voor Rechtsbijstand</i>) and is entrusted by the Ministry of Security and Justice with various implementation tasks in respect of the Sworn Interpreters and Translators Act (<i>Wet beëdigde tolken en vertalers</i>). This database discloses the Official Register and the Alternative List of

¹⁰⁷ Netherlands, Code of Criminal Procedure (Wetboek van Strafvordering), Article 174, paragraph 2, available at http://wetten.overheid.nl/BWBR0001903/TweedeBoek/Titell/Artikel174/geldigheidsdatum_05-04-2015

¹⁰⁸ See in particular Article 5 and relevant recitals of Directive 2010/64/EU.

¹⁰⁹ Netherlands, Bureau for Sworn Interpreters and Translators (*Bureau beëdigde tolken en vertalers*) (2015), 'Consulting the Register & Alternative List', Webpage, available at: www.bureaubtv.nl/en/register/

			<p>interpreters and translators. Registration in the Register is subject to certain quality and integrity conditions as provided by the Sworn Interpreters and Translators Act. An interpreter or a translator who meets all these conditions but cannot prove the foreign language proficiency through lack of assessment opportunities can be included on the Alternative List. The conditions for inclusion on the Alternative List are easier to meet than those for registration in the Register. The legal basis of the Official Register and the Alternative List is provided by the Sworn Interpreters and Translators Act (<i>Wet beëdigde tolken en vertalers</i>).¹¹⁰ The legal basis of the Alternative List is provided by the Decree Alternative List Wtbv (<i>Besluit Uitwijkljst Wbtv</i>).¹¹¹ In the national database of registered interpreters and translators The searcher can limit his query to interpreters and translators with a specialisation in criminal cases.</p> <p>The situation described above is how the framework is applied in practice according to the Bureau for Sworn Interpreters and Translators (<i>Bureau beëdigde tolken en vertalers</i> or Bureau Wbtv) who has read the report.¹¹²</p>
	<p>b) Do translators and interpreters have to be listed in databases/registers for their services to be used? In other words, is membership/registration mandatory?</p>	Yes.	<p>In principle, during criminal procedures only the assistance of sworn interpreters and translators is invoked.</p> <p>These sworn interpreters and translators are registered in the Official Register, the management of which is entrusted to the Bureau for Sworn Interpreters and Translators (<i>Bureau beëdigde tolken en vertalers</i> or Bureau Wbtv) by the Minister of Security and Justice. Article 28 (paragraph 1) of the Sworn Interpreters and Translators Act (<i>Wet beëdigde tolken en vertalers</i>) specifies which authorities should make use of a sworn interpreter or translator who is registered in the Official Register.¹¹³ These include: the Police, the Royal Netherlands Marechaussee, the Courts, and the Public Prosecution Service. A regulation of the State Secretary of</p>

¹¹⁰ Netherlands, Sworn Interpreters and Translators Act (*Wet beëdigde tolken en vertalers*), 11 October 2007, available at: http://wetten.overheid.nl/BWBR0022704/geldigheidsdatum_06-03-2015#Opschrift

¹¹¹ Netherlands, Government Gazette (*Staatscourant*) (2013), 'Besluit Uitwijkljst Wbtv', Vol. 2013, No. 17541, available at: <https://zoek.officielebekendmakingen.nl/stcrt-2013-17541.pdf>

¹¹² Netherlands, representative of the Bureau for Sworn Interpreters and Translators (*Bureau beëdigde tolken en vertalers* or Bureau Wbtv).

¹¹³ Netherlands, Sworn Interpreters and Translators Act (*Wet beëdigde tolken en vertalers*), Article 28, paragraph 1, available at: http://wetten.overheid.nl/BWBR0022704/geldigheidsdatum_06-03-2015#HoofdstukV

			<p>Security and Justice extended, from 1 March 2015, the number of authorities or bodies that should make use of a sworn interpreter or translator.¹¹⁴ This means, among other things, that from 1 March 2015 lawyers who offer their services as part of the Legal Aid Act (<i>Wet op de Rechtsbijstand</i>) should use a sworn interpreter or translator.</p> <p>There are indications that this framework is not always applied in practice. In an item on the website of the Association of SIGV Court Interpreters and Legal Translators (<i>Vereniging van SIGV- Gerechtstolken en Juridisch Vertalers</i>), the board of this association states (in a message to its members) that it received signals from interpreters registered in the Official Register mandated by the Sworn Interpreters and Translators Act that they have been requested to translate only the (written) records of police hearings.¹¹⁵ The hearings of suspects by the police took place with the assistance of an unsworn interpreter or of a police colleague. The sworn interpreters are asked not only to translate the records but also to give their registration number confirming that they were present at the police hearing. The board warns its member that this constitutes fraud. The official Ministry of Security and Justice which has given feedback on our report made this comment: It happens that police officers call on the assistance of interpreters who are not certified because these interpreters happen to be available more quickly than a sworn interpreter. It is an old habit among police officers which still exists.</p> <p>Comment added by the Bureau for Sworn Interpreters and Translators (<i>Bureau beëdigde tolken en vertalers</i> or Bureau Wbtv): In urgent situations no Sworn Interpreters or Translators are available, the organisations concerned are allowed to use other providers. However they are obliged to document the reasons in writing.¹¹⁶</p>
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¹¹⁴ Netherlands, Government Gazette (*Staatscourant*) (2015), 'Regeling uitbreiding afnameplicht Wbtv', Vol. 2015, No. 4089, available at: <https://zoek.officielebekendmakingen.nl/stcrt-2015-4089.pdf>

¹¹⁵ Association of SIGV Court Interpreters and Legal Translators (*vereniging van SIGV- Gerechtstolken en Juridisch Vertalers*) (2015), News item 22-04-2015, available at: <https://sigv-vereniging.nl/register/?artikel=nieuws>

¹¹⁶ Netherlands, representative of the Bureau for Sworn Interpreters and Translators (*Bureau beëdigde tolken en vertalers* or Bureau Wbtv).

	<p>c) Who has access to these databases?</p>	<p>The national database of registered interpreters and translators provided on the website of the Bureau for Sworn Interpreters and Translators (<i>Bureau beëdigde tolken en vertalers</i> or Bureau Wbtv) is in the public domain. This database discloses the Official Register and the Alternative List of interpreters and translators. No registration is needed in order to consult this database. But there are some restrictions to the database when it is consulted in the public domain. These restrictions concern address and contact data and aim to protect the safety of the interpreters and translators. The professionals can choose whether to restrict the data in the public domain.¹¹⁷ Employees of the authorities that by law are obliged to make use of a sworn interpreter or translator can ask for a special account which enables them to consult the database without any of these restrictions.¹¹⁸</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>Article 3 of the Sworn Interpreters and Translators Act (<i>Wet beëdigde tolken en vertalers</i>) enables the Minister of Security and Justice to set professional standards for interpreters and for translators by a governmental decree (<i>Algemene Maatregel van Bestuur</i>).¹¹⁹ The act stipulates the following conditions: proficiency of the source language; proficiency the target language; knowledge of the culture of the country or district where the source language is spoken; knowledge of the culture of the country or district where the target language is spoken; interpretation skills for an interpreter and attitude; and translation skills and attitude for a translator and integrity. The Sworn Interpreters and Translators Act does not specify which level of proficiency. The Act does indicate that the level/grade should further be specified by a special Decree. This is done by the Decree on Sworn Interpreters and Translators (<i>Besluit beëdigde tolken en vertalers</i>).¹²⁰ Article 8 of the Decree on Sworn Interpreters and Translators states that for an interpreter or translator to be registered in the Official Register he or she has to meet one or more of the following requirements:(a) the person has one or more of the following certificates from which it is apparent that he has successfully completed the examination at the end of an interpretation or translation course within the remit of the Higher Education and Research Act (<i>Wet op het hoger onderwijs en wetenschappelijk onderzoek</i>): (1)</p>

¹¹⁷ Netherlands, representative of the Bureau for Sworn Interpreters and Translators (*Bureau beëdigde tolken en vertalers* or Bureau Wbtv).

¹¹⁸ Netherlands, Bureau for Sworn Interpreters and Translators (*Bureau beëdigde tolken en vertalers*) (2015), 'Consulting the Register & Alternative List', Webpage, available at: www.bureaubtv.nl/en/register/

¹¹⁹ Netherlands, Sworn Interpreters and Translators Act (*Wet beëdigde tolken en vertalers*), Article 3, available at: http://wetten.overheid.nl/BWBR0022704/geldigheidsdatum_06-03-2015#HoofdstukII

¹²⁰ Netherlands, representative of the Bureau for Sworn Interpreters and Translators (*Bureau beëdigde tolken en vertalers* or Bureau Wbtv).

		<p>a certificate from which it is apparent that he has obtained the right to use the title baccalaureus; (2) a certificate from which it is apparent that he has been granted the Bachelor degree; or (3) a certificate from which it is apparent that he has been granted the Master degree; (b) he can otherwise prove that he has the statutory skills. To prove his or her integrity, the interpreter or translator have to provide a recent declaration that states that no criminal record exists. A special department of the ministry of Security and Justice provides these declarations after having researched all available criminal data over the ten years previous to the request.¹²¹</p> <p>Registration is valid for 5 years. Article 11 of the Decree on Sworn Interpreters and Translators stipulates that the registration of a sworn interpreter or translator will be renewed if it has been proven in writing that: (a) he has completed at least ten professional work assignments as a sworn interpreter or translator; and (b) he has maintained his professional competences by means of a course designated by the Minister of Security and Justice.¹²² Furthermore the interpreter or translator must provide a new integrity document.</p> <p>According to the Association of SIGV Court Interpreters and Legal Translators (<i>Vereniging SIGV Gerechtstolken en Juridisch Vertalers</i>),¹²³ the Official Register of Sworn (or certified) interpreters contains a substantial number of interpreters who have not met the official criteria but are on the list because of acquired rights under the old regulation. An interpreter from the alternative list should only be used when a sworn interpreter from the official register is not available.</p>		
	e) Are there any requirements in place to ensure the independence of interpreters and translators? If yes, provide	<table border="1"> <tr> <td data-bbox="653 888 730 1049">Yes</td> <td data-bbox="730 888 1906 1049">Article 13 of the Sworn Interpreters and Translators Act (<i>Wet beëdigde tolken en vertalers</i>) stipulates that an interpreter has to swear an oath to court promising or swearing that he performs his work as a sworn interpreter in an honest, accurate and unbiased manner.¹²⁴ The same applies to translators, pursuant to article 14 of the Act.¹²⁵ The Dutch Legal Aid Council (<i>Raad voor Rechtsbijstand</i>), which is part</td> </tr> </table>	Yes	Article 13 of the Sworn Interpreters and Translators Act (<i>Wet beëdigde tolken en vertalers</i>) stipulates that an interpreter has to swear an oath to court promising or swearing that he performs his work as a sworn interpreter in an honest, accurate and unbiased manner. ¹²⁴ The same applies to translators, pursuant to article 14 of the Act. ¹²⁵ The Dutch Legal Aid Council (<i>Raad voor Rechtsbijstand</i>), which is part
Yes	Article 13 of the Sworn Interpreters and Translators Act (<i>Wet beëdigde tolken en vertalers</i>) stipulates that an interpreter has to swear an oath to court promising or swearing that he performs his work as a sworn interpreter in an honest, accurate and unbiased manner. ¹²⁴ The same applies to translators, pursuant to article 14 of the Act. ¹²⁵ The Dutch Legal Aid Council (<i>Raad voor Rechtsbijstand</i>), which is part			

¹²¹ Netherlands, representative of the Bureau for Sworn Interpreters and Translators (*Bureau beëdigde tolken en vertalers* or Bureau Wbtv).

¹²² Netherlands, Decree on Sworn Interpreters and Translators (*Besluit beëdigde tolken en vertalers*), Article 11, available at: http://wetten.overheid.nl/BWBR0024896/geldigheidsdatum_09-03-2015

¹²³ Netherlands, representative of the Association of SIGV Court Interpreters and Legal Translators (*Vereniging SIGV Gerechtstolken en Juridisch Vertalers*).

¹²⁴ Netherlands, Sworn Interpreters and Translators Act (*Wet beëdigde tolken en vertalers*), Article 13, available at: http://wetten.overheid.nl/BWBR0022704/geldigheidsdatum_06-03-2015#HoofdstukIII

¹²⁵ Netherlands, Sworn Interpreters and Translators Act (*Wet beëdigde tolken en vertalers*), Article 14, available at:

	a brief overview (for both translators and interpreters).		<p>of the Ministry of Security and Justice, has issued a Decree establishing a special code of conduct for interpreters and translators on the Official Register and the Alternative list. Interpreters and translators ensure that their freedom, independence and impartiality in the exercise of their profession cannot be jeopardized. In the exercise of their profession, they are required to refrain from expressing a personal opinion.¹²⁶</p> <p>Anyone involved can file a complaint against a registered interpreter or translator when quality, integrity or independency are being questioned. The complaints are being handled by an independent committee, established by law¹²⁷. The committee can advise the Bureau Sworn Interpreters and Translators to strike the registration concerned. If done so a period up to ten years will be established, in which the interpreter or translator cannot be registered again.¹²⁸ The law is not specific regarding the groups or persons affected: anyone can file a complaint. An individual can also file a complaint about the way a registered interpreter of translator has behaved towards a third person.</p>
	f) Is access to existing databases provided through the European e-Justice portal ? ¹²⁹ How is this register available to legal counsel and relevant authorities?	Yes	<p>The European e-justice portal gives information on this database and refers to the website of The Bureau for Sworn Interpreters and Translators.¹³⁰</p> <p>The Bureau of Sworn Interpreters and Translators is partner in the European LIT Search project that investigates the possibilities to improve the access and uniformity of all national registers of Legal Interpreters and Translators through the E-justice portal.¹³¹</p>

http://wetten.overheid.nl/BWBR0022704/geldigheidsdatum_06-03-2015#HoofdstukIII

¹²⁶ Netherlands, Legal Aid Council (*Raad voor de Rechtsbijstand*)(2009), Besluit Gedragscode Wbtv, available at: http://wetten.overheid.nl/BWBR0026509/geldigheidsdatum_22-04-2015

¹²⁷ Netherlands, Sworn Interpreters and Translators Act (*Wet beëdigde tolken en vertalers*), Chapter IV, available at:

http://wetten.overheid.nl/BWBR0022704/geldigheidsdatum_06-03-2015#HoofdstukIII

¹²⁸ Netherlands, representative of the Bureau for Sworn Interpreters and Translators (*Bureau beëdigde tolken en vertalers* or Bureau Wbtv).

¹²⁹ <https://e-justice.europa.eu/home.do?plang=en&action=home>

¹³⁰ European Union (2014), 'Find a legal translator or an interpreter - Netherlands'. Web page available at:

https://e-justice.europa.eu/content_find_a_legal_translator_or_an_interpreter-116-NL-en.do?clang=en

¹³¹ Netherlands, representative of the Bureau for Sworn Interpreters and Translators (*Bureau beëdigde tolken en vertalers* or Bureau Wbtv).

	g) Are criminal justice institutions required to use interpreters and translators listed in these registers?	Yes.		Article 28 (paragraph 1) of the Sworn Interpreters and Translators Act (<i>Wet beëdigde tolken en vertalers</i>) specifies which authorities should make use of a sworn interpreter or translator who is registered in the Official Register. ¹³² These include: the Police, the Royal Netherlands Marechaussee, the Courts, and the Public Prosecution Service. The Bureau for Sworn Interpreters and Translators (<i>Bureau beëdigde tolken en vertalers</i> or <i>Bureau Wbtv</i>) is entrusted by the Minister of Security and Justice to manage the Official Register. A regulation of the State Secretary of Security and Justice extended, from 1 March 2015, the number of authorities or bodies that should make use of a sworn interpreter or translator. ¹³³ This means, among other things, that from 1 March 2015 lawyers who offer their services as part of the Legal Aid Act (<i>Wet op de Rechtsbijstand</i>) should use a sworn interpreter or translator.
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?		No.	We have consulted the legislation concerning interpretation and translation and the website of the Bureau for Sworn Interpreters and Translators (<i>Bureau beëdigde tolken en vertalers</i> or <i>Bureau Wbtv</i>), and the Police (section Coordinator Interpreters).

¹³² Netherlands, Sworn Interpreters and Translators Act (*Wet beëdigde tolken en vertalers*), Article 29, available at: http://wetten.overheid.nl/BWBR0022704/geldigheidsdatum_06-03-2015#HoofdstukV.

¹³³ Netherlands, Government Gazette (*Staatscourant*) (2015), 'Regeling uitbreiding afnameplicht Wbtv', Vol. 2015, No. 4089, available at: <https://zoek.officielebekendmakingen.nl/stcr-2015-4089.pdf>

	<p>b) Is there any procedure in place to ensure that suspects or accused persons have the possibility, when interpretation and translation has been provided, to complain about the quality and independence of the interpretation and translation?</p>	<p>Yes.</p>	<p>Articles 16 to 27 of the Sworn Interpreters and Translators Act (<i>Wet beëdigde tolken en vertalers</i>) provides for a complaint handling procedure for any person who wants to complain about the manner in which a sworn interpreter or translator has acted towards him or her or another person in a certain matter.¹³⁴ Complaints are dealt with by a special complaints committee that is established by the Minister of Security and Justice: the Sworn Interpreters and Translators Complaints Committee (<i>Klachtencommissie Wet beëdigde tolken en vertalers</i>). The committee has a minimum of 3 members and a maximum of 8 foreseen by article 3, paragraph 1 of the Regulation Complaints Committee Sworn Interpreters and Translators Act (<i>Reglement Klachtencommissie Wet beëdigde Tolken en Vertalers</i>).¹³⁵ The first and second chair of the committee must be lawyers and do not work as an interpreter or translator and are not employees of an organisation which offer translation and interpretation services and are not employees of the Ministry of Security and Justice.¹³⁶ The regulation does not envisage the background of the other members. No information is provided on how the exact number of committee members is decided upon. This Committee is hosted and supported by the Bureau for Sworn Interpreters and Translators (<i>Bureau beëdigde tolken en vertalers or Bureau Wbtv</i>). This Committee handles complaints about interpreters and translators who are registered in the Official Register or in the Alternative list.¹³⁷ A decision on the handling of a complaints is not subject to appeal, as stipulated by article 11, paragraph 5 of the Regulation Complaints Committee Sworn Interpreters and Translators Act (<i>Reglement Klachtencommissie Wet beëdigde Tolken en Vertalers</i>).¹³⁸</p>
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¹³⁴ Netherlands, Sworn Interpreters and Translators Act (*Wet beëdigde tolken en vertalers*), Articles 16-27, available at:

http://wetten.overheid.nl/BWBR0022704/geldigheidsdatum_06-03-2015#HoofdstukIV

¹³⁵ Netherlands, Regulation Complaints Committee Sworn Interpreters and Translators Act (*Reglement Klachtencommissie Wet beëdigde tolken envertalers*),

Article 3, paragraph 1, available at: [www.bureaubtv.nl/pdf/Reglement%20klachtencommissie%20Wbtv%20\(24-02-2012\).pdf](http://www.bureaubtv.nl/pdf/Reglement%20klachtencommissie%20Wbtv%20(24-02-2012).pdf)

¹³⁶ Netherlands, Regulation Complaints Committee Sworn Interpreters and Translators Act (*Reglement Klachtencommissie Wet beëdigde tolken envertalers*),

Article 3, paragraph 2, available at: [www.bureaubtv.nl/pdf/Reglement%20klachtencommissie%20Wbtv%20\(24-02-2012\).pdf](http://www.bureaubtv.nl/pdf/Reglement%20klachtencommissie%20Wbtv%20(24-02-2012).pdf)

¹³⁷ Netherlands, Bureau for Sworn Interpreters and Translators (*Bureau beëdigde tolken en vertalers*) (2015), 'Complaints regarding (whether or not sworn) interpreters and translators', Web page, available at: www.bureaubtv.nl/en/complaints/complaints_translators.cfm

¹³⁸ Netherlands, Regulation Complaints Committee Sworn Interpreters and Translators Act (*Reglement Klachtencommissie Wet beëdigde tolken envertalers*),

Article 11, paragraph 5, available at: [www.bureaubtv.nl/pdf/Reglement%20klachtencommissie%20Wbtv%20\(24-02-2012\).pdf](http://www.bureaubtv.nl/pdf/Reglement%20klachtencommissie%20Wbtv%20(24-02-2012).pdf)

	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.	Yes.		Article 276 of the Code of Criminal Procedure states that during court sessions the defendant may, in a reasoned application, object to the interpreter and request his or her replacement. ¹³⁹
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? ¹⁴⁰ If yes, briefly provide information on those mechanisms considering the following vulnerable groups:	Yes.		See below.
	a) suspect or accused persons with physical impairment or disability;	Yes.		Article 131b of the Code of Criminal Procedure specifies that assistance by interpreter for a suspect or accused who has no sufficient command of the Dutch language also includes the assistance of an interpreter for persons who cannot speak or hear at all or in a very deficient way because of a physical impairment. ¹⁴¹

¹³⁹ Netherlands, Code of Criminal Procedure (Wetboek van Strafvordering), Article 276, available at, http://wetten.overheid.nl/BWBR0001903/TweedeBoek/TitelVI/Eersteafdeling/Artikel276/geldigheidsdatum_13-03-2015

¹⁴⁰ See in particular recital 27 of Directive 2010/64/EU.

¹⁴¹ Netherlands, Code of Criminal Procedure (Wetboek van Strafvordering), Article 131b, available at,

				<p>In most cases this means an interpreter in sign language.¹⁴² Article 191 (paragraph 2) of the Code of Criminal Procedure states that the Examining Judge (<i>rechter-commissaris</i>) can call on the assistance of an interpreter when the suspect is deaf or mute or has very defective hearing.¹⁴³ It is also possible that the answers will be given in writing and/or the questions will be posed in writing.¹⁴⁴ Article 274 (paragraph 1) of the Code of Criminal Procedure states that during court sessions, if the accused is deaf or mute or has very defective hearing, he or she shall receive assistance from an interpreter.¹⁴⁵ Article 274 (paragraph 2) of the Code of Criminal Procedure states that during court sessions if the accused is not able to speak, he or she will receive assistance from an interpreter or the questions will be posed in writing or the answers will be given in writing. The presiding judge shall verbally state the results of this questioning.¹⁴⁶</p> <p>For suspects with auditive disabilities the Register of Sworn Interpreters and Translators provides interpreters in Dutch Sign Language. The criteria for registration are identical to those for other language pairs.¹⁴⁷</p>
	b) suspect or accused persons with intellectual impairment or disability;		No.	<p>The explanatory memorandum to the bill implementing Directive 2010/64/EU does not mention recital 27 of the directive and does not indicate any special provisions for the translation and interpretation for suspects or accused with an intellectual impairment or disability.¹⁴⁸</p>

http://wetten.overheid.nl/BWBR0001903/EersteBoek/TitelVI/Artikel131b/geldigheidsdatum_13-03-2015

¹⁴² Police Netherlands (2013), *Recht op vertolking en vertaling in strafprocedures*, Nieuwsbrief Vol. 30. October 2013, [Newsletter Knowledge Centre of Unit Amsterdam of Dutch Police], Vol 20, October 2013, available at: www.natuurtoezicht.nl/wp/wp-content/uploads/2013/11/Nieuwsbrief_Tolken.pdf

¹⁴³ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 191, paragraph 2, available at,

http://wetten.overheid.nl/BWBR0001903/TweedeBoek/TitelIII/Tweedeafdeling/Artikel191/geldigheidsdatum_30-03-2015

¹⁴⁴ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 191, paragraph 2, available at,

http://wetten.overheid.nl/BWBR0001903/TweedeBoek/TitelIII/Tweedeafdeling/Artikel191/geldigheidsdatum_30-03-2015

¹⁴⁵ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 274, paragraph 1, available at,

http://wetten.overheid.nl/BWBR0001903/TweedeBoek/TitelVI/Eersteafdeling/Artikel274/geldigheidsdatum_13-03-2015

¹⁴⁶ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 274, paragraph 2, available at,

http://wetten.overheid.nl/BWBR0001903/TweedeBoek/TitelVI/Eersteafdeling/Artikel274/geldigheidsdatum_13-03-2015

¹⁴⁷ Email correspondence with Bureau for Sworn Interpreters and Translators (Bureau beëdigde tolken en vertalers or Bureau Wbtv), 25 June 2015

¹⁴⁸ Netherlands, Minister of Security and Justice (*Minister van Veiligheid en Justitie*) (2012), *Memorie van Toelichting. Implementatie van richtlijn nr. 2010/64/EU van het Europees Parlement en de Raad van 20 oktober 2010 betreffende het recht op vertolking en vertaling in strafprocedures* (PbEU L 280), available at

<https://zoek.officielebekendmakingen.nl/kst-33355-3.pdf>

	c) i) children who are suspects/defendants, and/or ii) holders of parental responsibility (please distinguish between the two).		No.	The Dutch Code of Criminal Procedure has a special part devoted to minors (children between 12 and 23). This section contains no provisions for translation or interpretation. This means that the general provisions regarding translation and interpretation also apply for children and/holders of parental responsibility who are suspect or accused. ¹⁴⁹
3.4	Is there any recording procedure to note that interpretation and translation have occurred and in which form? ¹⁵⁰ If yes, briefly provide information on how this procedure is organised in practice.	Yes.		Article 29a (paragraph 3) of the Code of Criminal Procedure stipulates that the records of the interview the police or Public Prosecutor has held with the suspect, contain a notification that an interpreter was present at the interview. ¹⁵¹ Reports of court sessions are made by the clerk of the court as stipulated by article 326 of the Code of Criminal Procedure. This article is not very specific and does not mentions whether the presence of the assistance of an interpreter at a court session should be notified. ¹⁵² Consultation of the website the Netherlands Judiciary (rechtspraak.nl) which contains the reports of large number of court verdicts shows that the presence of an interpreter is notified in these reports.

¹⁴⁹ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Articles 488-509, available at, http://wetten.overheid.nl/BWBR0001903/VierdeBoek/TitelIII/Tweedeafdeling/geldigheidsdatum_13-04-2015

¹⁵⁰ See in particular Article 7 and relevant recitals of Directive 2010/64/EU.

¹⁵¹ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 29a, available at, http://wetten.overheid.nl/BWBR0001903/EersteBoek/TitelIII/Artikel29a/geldigheidsdatum_05-03-2015

¹⁵² Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 326, available at, http://wetten.overheid.nl/BWBR0001903/TweedeBoek/TitelVI/Eersteafdeling/Artikel326/geldigheidsdatum_22-06-2015

SECTION B: RIGHT TO INFORMATION IN CRIMINAL PROCEEDINGS

1. PROVISION OF INFORMATION ON THE PROCEDURAL RIGHTS ¹⁵³	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>We have received feedback from the Ministry of Security and Justice ¹⁵⁴ , Bureau for Sworn Interpreters and Translators (<i>Bureau beëdigde tolken en vertalers or Bureau Wbtv</i>),¹⁵⁵ and the Police (sectie <i>Tolkencoördinatoren / Coordinator Interpreters</i>)¹⁵⁶ . They have confirmed the information provided in this section. They had no specific information on how it works in practice but added that from their experience in general police officers work according to the existing legislation.</p>
<ul style="list-style-type: none"> • police questioning; 	<p>a) Article 27c (paragraph 1) of the Code of Criminal Procedure states that the suspect will be informed during an arrest of the criminal act the suspect is suspected of having committed.¹⁵⁷ In cases when the suspect is not arrested, information about the accusation is provided before the initial interrogation. This takes place orally. Article 27c (paragraph 2) stipulates that suspects who are not arrested will be informed before the initial interrogation of the right on legal aid and right to interpretation and</p>

¹⁵³ See in particular Article 3 and relevant recitals of Directive 2012/13/EU.

¹⁵⁴ Netherlands, representative of the Ministry of Security and Justice.

¹⁵⁵ Netherlands, representative of the Bureau for Sworn Interpreters and Translators (*Bureau beëdigde tolken en vertalers or Bureau Wbtv*).

¹⁵⁶ Netherlands, representative of the Dutch Police (*Sectie Tolkencoördinatoren / Section coordinators Interpreters*).

¹⁵⁷ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 27c, paragraph 1, available at, http://wetten.overheid.nl/BWBR0001903/EersteBoek/Titell/Artikel27c/geldigheidsdatum_19-03-2015

		<p>translation.¹⁵⁸ This takes place orally. Article 29 (paragraph 2) stipulates that suspects will be informed before the interrogation of their right to remain silent.¹⁵⁹ This also takes place orally. Article 27c (paragraph 3) stipulates that a suspect will be informed of a great number of rights in writing immediately after the arrest and always before the initial interrogation, including the right to see the case files.¹⁶⁰ This happens by giving the suspect a leaflet (letter of rights).¹⁶¹</p> <p>b) Orally or in writing. See above under a.</p> <p>c) The provision of information happens at the moment of arrest or immediately after the arrest. In cases when the suspect is not arrested, but invited to the police station or appearing voluntarily, information will be provided before the initial interrogation.</p>
	<ul style="list-style-type: none"> • court hearings; 	<p>a) Article 260 of the Code of Criminal Procedure stipulates that the court summons to the accused states the name, the profession and the place of residence or abode, or if unknown, a description of the witnesses and expert witnesses who have been called by the public prosecutor. The calling of the victim or a surviving relative for the purpose of exercising the right to make a verbal statement at the court session, of the injured party, insofar this will also be stated. The summons also informs the accused he has the right to have written notice given to witnesses and expert witnesses to appear at the court session or to bring them with him to the court session. Article 261 of the Code of Criminal Procedure stipulates that the court summons to appear at court (<i>dagvaarding</i>) that is sent to the accused will contain a statement of the offence which is indicted, stating at approximately which time and at which place it was allegedly committed; in addition, it will state the statutory provisions under which the offence is punishable.¹⁶² It also states the circumstances under which the offence was allegedly committed.</p>

¹⁵⁸ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 27c, paragraph 2, available at, http://wetten.overheid.nl/BWBR0001903/EersteBoek/Titell/Artikel27c/geldigheidsdatum_19-03-2015

¹⁵⁹ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 29, paragraph 2, available at, http://wetten.overheid.nl/BWBR0001903/EersteBoek/Titell/Artikel29/geldigheidsdatum_19-03-2015

¹⁶⁰ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 27c, paragraph 3, available at, http://wetten.overheid.nl/BWBR0001903/EersteBoek/Titell/Artikel27c/geldigheidsdatum_19-03-2015

¹⁶¹ See for content leaflet here: Netherlands, Ministry of the Interior and Kingdom Relations & Ministry of Security and Justice (*Ministry of the Interior and Kingdom Relations & Ministerie van Viligheid en Justitie*) (2014), you have been apprehended as a suspect and taken to the (police) station or another place for interrogation. What are your rights?[version for adults], available at: www.rijksoverheid.nl/bestanden/documenten-en-publicaties/brochures/2011/05/11/u-bent-als-verdachte-aangehouden-en-meegenomen-naar-het-politie-bureau-of-naar-een-andere-verhoorlocatie-wat-zijn-uw-rechten-engels/j-24364-mededeling-van-rechten-volwassenen-eng.pdf

¹⁶² Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 261, available at,

		b) In writing.
		c) No timeline is specified in the law.
	<ul style="list-style-type: none"> any necessary interim hearings; 	a) Article 27c (paragraph 3) of the Code of Criminal Procedure states the suspect will be informed about the date at which he will have to appear before the Examining Judge (<i>rechter-commissaris</i>). ¹⁶³ The law does not say anything about later sessions before
		b) In writing.
		c) Information is provided immediately after the arrest or at least before the first interrogation. ¹⁶⁴
	<ul style="list-style-type: none"> any communication between suspects and accused persons and their legal counsel in direct connection with any questioning or 	a) Article 27c (paragraph 3) stipulates that a suspect will be informed of a great number of rights in writing immediately after his arrest and always before the initial interrogation. ¹⁶⁵ This happens by giving the suspect a leaflet (letter of rights). ¹⁶⁶ This letter of rights informs the suspect that he has the right to talk confidentially to a lawyer before the initial interrogation. The letter of rights informs the suspect that in case of a very serious criminal offence a lawyer is routinely summoned before the initial interrogation, free of charge. In cases of a serious criminal offence the suspect may choose to speak to a lawyer before the initial interrogation, free of charge. In case of a less serious criminal offence, the suspect may choose a lawyer and the suspect has to pay for the costs. The Legal Aid Police Interrogations Directive (<i>Aanwijzing Rechtsbijstand politieverhoor</i>) of the Public Prosecution Services states that the suspect shall be informed of the right to consult a lawyer. It does not explicitly mention how this happens, orally or in writing.

http://wetten.overheid.nl/BWBR0001903/TweedeBoek/TitelV/Artikel261/geldigheidsdatum_20-03-2015

¹⁶³ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 27c, paragraph 3, available at,

http://wetten.overheid.nl/BWBR0001903/EersteBoek/TitelIII/Artikel27c/geldigheidsdatum_19-03-2015

¹⁶⁴Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 27c, paragraph 3, available at,

http://wetten.overheid.nl/BWBR0001903/EersteBoek/TitelIII/Artikel27c/geldigheidsdatum_19-03-2015

¹⁶⁵ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 27c, paragraph 3, available at,

http://wetten.overheid.nl/BWBR0001903/EersteBoek/TitelIII/Artikel27c/geldigheidsdatum_19-03-2015

¹⁶⁶ See for content leaflet here: Netherlands, Ministry of the Interior and Kingdom Relations & Ministry of Security and Justice (Ministry of the Interior and Kingdom Relations & Ministerie van Viligheid en Justitie) (2014), you have been apprehended as a suspect and taken to the (police) station or another place for interrogation. What are your rights?[version for adults], available at: www.rijksoverheid.nl/bestanden/documenten-en-publicaties/brochures/2011/05/11/u-bent-als-verdachte-aangehouden-en-meegenomen-naar-het-politie-bureau-of-naar-een-andere-verhoorlocatie-wat-zijn-uw-rechten-engels/j-24364-mededeling-van-rechten-volwassenen-eng.pdf

	hearing during the proceedings?	<p>b) In writing and orally.</p> <p>c) In case a lawyer is summoned before the initial interrogation, the suspect has to wait for 2 hours at most at the police station. When the lawyer arrives the suspect may speak to the lawyer for 30 minutes.¹⁶⁷ The suspects have to be informed of their rights immediately after the arrest and always before the initial interrogation.¹⁶⁸</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.	No. We have consulted existing legislation and other regulations. We have also consulted the websites of the Ministry of Security and Justice, the Public Prosecution Service and they the Bureau for Sworn Interpreters and Translators (<i>Bureau beëdigde tolken en vertalers</i> or Bureau Wbtv)
2.	LETTER OF RIGHTS¹⁶⁹	Brief Description
2.1	What rights does the letter of rights provide information about? What information is included in the letter of rights when	The letter of rights (in the form of a leaflet) provides information on a great number of rights including: the right to remain silent, the right to know which criminal offence you are suspected of having committed, the right to talk confidentially to a lawyer before the initial interrogation, the right to the assistance from an interpreter during the interrogations, the right to inform a family member or fellow resident of having been detained, the right to inform the consulate or the embassy of the country of origin of having been detained, the right to medical care, the right to inspect case documents, the

¹⁶⁷ Netherlands, Ministry of the Interior and Kingdom Relations & Ministry of Security and Justice (Ministry of the Interior and Kingdom Relations & Ministerie van Veiligheid en Justitie) (2014), you have been apprehended as a suspect and taken to the (police) station or another place for interrogation. What are your rights?[version for adults], available at: www.rijksoverheid.nl/bestanden/documenten-en-publicaties/brochures/2011/05/11/u-bent-als-verdachte-aangehouden-en-meeegenomen-naar-het-politie-bureau-of-naar-een-andere-verhoorlocatie-wat-zijn-uw-rechten-engels/j-24364-mededeling-van-rechten-volwassenen-eng.pdf

¹⁶⁸ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 27c, paragraph 3, available at, http://wetten.overheid.nl/BWBR0001903/EersteBoek/TitelIII/Artikel27c/geldigheidsdatum_19-03-2015

¹⁶⁹ See in particular Article 4 and relevant recitals of Directive 2012/13/EU.

	children are arrested or detained?	right to translation of case documents. ¹⁷⁰ For children (12-17 years) there is a special leaflet containing the same information as the brochure for adults but in a more simple language. ¹⁷¹
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.	<p>The letter of rights (in the form of a leaflet) is supposed to be provided immediately after the arrest, according to Article 27c (paragraph 3) of the Code of Criminal Procedure.¹⁷² There is no information about whether this is applied in practice.</p> <p>We have received feedback from the Ministry of Security and Justice¹⁷³, Bureau for Sworn Interpreters and Translators (<i>Bureau beëdigde tolken en vertalers or Bureau Wbtv</i>)¹⁷⁴, and the Police (<i>Sectie Tolkencoördinatoren/ Coordinator Interpreters</i>)¹⁷⁵. They have confirmed the information provided. They had no specific information on how it works in practice but added that from their experience in general police officers work according to the existing legislation.</p>
2.3	Is the letter of rights drafted in simple and	As far as we can judge, the letter of rights is written in a simple language. The explanatory memorandum to the bill implementing Directive 2012/13/EU indicates that the basis of the current Letter of Rights is the so-called «Salduz-folder» or Salduz leaflet, a letter of rights drafted in 2010 because of

¹⁷⁰ Netherlands, Ministry of the Interior and Kingdom Relations & Ministry of Security and Justice (*Ministry of the Interior and Kingdom Relations & Ministerie van Veiligheid en Justitie*) (2014), *you have been apprehended as a suspect and taken to the (police) station or another place for interrogation. What are your rights?*[version for adults], available at: www.rijksoverheid.nl/bestanden/documenten-en-publicaties/brochures/2011/05/11/u-bent-als-verdachte-aangehouden-en-meegenomen-naar-het-politie-bureau-of-naar-een-andere-verhoorlocatie-wat-zijn-uw-rechten-engels/j-24364-mededeling-van-rechten-volvassenen-eng.pdf

¹⁷¹ Netherlands, Ministry of the Interior and Kingdom Relations & Ministry of Security and Justice (*Ministry of the Interior and Kingdom Relations & Ministerie van Veiligheid en Justitie*) (2014), *you have been apprehended as a suspect and taken to the (police) station or another place for interrogation. What are your rights?*[version for 12-17 years old], available at: www.rijksoverheid.nl/bestanden/documenten-en-publicaties/brochures/2014/07/01/je-bent-als-verdachte-aangehouden-en-meegenomen-naar-het-politie-bureau-of-naar-een-andere-verhoorlocatie-wat-zijn-je-rechten-engels/je-bent-als-verdachte-aangehouden-en-meegenomen-naar-het-politie-bureau-of-naar-een-andere-verhoorlocatie-wat-zijn-je-rechten-engels.pdf

¹⁷² Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 27c, available at, http://wetten.overheid.nl/BWBR0001903/EersteBoek/Titell/Artikel27c/geldigheidsdatum_19-03-2015

¹⁷³ Netherlands, representative of the Ministry of Security and Justice.

¹⁷⁴ Netherlands, representative of the Bureau for Sworn Interpreters and Translators (*Bureau beëdigde tolken en vertalers or Bureau Wbtv*).

¹⁷⁵ Netherlands, representative of the Dutch Police (*Sectie Tolkencoördinatoren / Section coordinators Interpreters*).

<p>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? Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.</p>	<p>the arrest of the European Court of Human Rights in the case of <i>Salduz v Turkey</i>. It is not clear whether the makers of the Letter of Rights tested the content of the letter on its simple and accessible language.¹⁷⁶ There is no information about whether this is applied in practice.</p> <p>We have received feedback from the Ministry of Security and Justice¹⁷⁷, Bureau for Sworn Interpreters and Translators (<i>Bureau beëdigde tolken en vertalers</i> or <i>Bureau Wbtv</i>)¹⁷⁸, and the Police (<i>Sectie Tolkencoördinatoren/ Coordinator Interpreters</i>)¹⁷⁹. They have confirmed the information provided. They had no specific information on how it works in practice but added that from their experience in general police officers work according to the existing legislation.</p>
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¹⁷⁶ Netherlands, Minister of Security and Justice (*Minister van Veiligheid en Justitie*) (2014), Memorie van Toelichting. Implementatie van richtlijn nr. 2012/13/EU van het Europees Parlement en de Raad van 22 mei 2012 betreffende het recht op informatie in strafprocedures (PbEU L 142), available at <https://zoek.officielebekendmakingen.nl/kst-33871-3.pdf>

¹⁷⁷ Netherlands, representative of the Ministry of Security and Justice.

¹⁷⁸ Netherlands, representative of the Bureau for Sworn Interpreters and Translators (*Bureau beëdigde tolken en vertalers* or *Bureau Wbtv*).

¹⁷⁹ Netherlands, representative of the Dutch Police (*Sectie Tolkencoördinatoren / Section coordinators Interpreters*).

3.	RIGHT TO INFORMATION ABOUT THE ACCUSATION¹⁸⁰	Brief Description We have received feedback from the Ministry of Security and Justice ¹⁸¹ , Bureau for Sworn Interpreters and Translators (<i>Bureau beëdigde tolken en vertalers</i> or Bureau Wbtv) ¹⁸² and the Police (sectie <i>Tolkencoördinatoren/Coordinator Interpreters</i>). ¹⁸³ They have read this and agreed with the content.
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)	Article 27c (paragraph 1) of the Code of Criminal Procedure states that the suspect will be informed during his arrest of the criminal act he is suspected of having committed. ¹⁸⁴ In cases when the suspect is not arrested information about the accusation is provided before the initial interrogation. This takes place orally.
3.2	At which stage of the proceedings is the information provided? Please cross-check findings from the desk research by consulting relevant	During the arrest of the suspect or in the case when a suspect is not arrested, before the initial interrogation. ¹⁸⁵

¹⁸⁰ See in particular Article 6 and relevant recitals of Directive 2012/13/EU.

¹⁸¹ Netherlands, representative of the Ministry of Security and Justice.

¹⁸² Netherlands, representative of the Bureau for Sworn Interpreters and Translators (*Bureau beëdigde tolken en vertalers* or Bureau Wbtv).

¹⁸³ Netherlands, representative of the Dutch Police (*Sectie Tolkencoördinatoren / Section coordinators Interpreters*).

¹⁸⁴ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 27c, available at, http://wetten.overheid.nl/BWBR0001903/EersteBoek/Titell/Artikel27c/geldigheidsdatum_19-03-2015

¹⁸⁵ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 27c, available at, http://wetten.overheid.nl/BWBR0001903/EersteBoek/Titell/Artikel27c/geldigheidsdatum_19-03-2015

	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?	<p>The Public Prosecutor may withdraw the summons to appear at court as long as the court hearing has not yet started on the basis of Article 266 of the Code of Criminal Procedure.¹⁸⁶ He shall notify the suspect and the injured party thereof in writing. A Public Prosecutor may then issue a new summons. In this way the accused is informed of changes in the accusations.¹⁸⁷</p> <p>A change in the accusation during the court session is only possible on basis of Article 313 of the Code of Criminal Procedure.¹⁸⁸ If the public prosecutor wants to change the accusation during the court session, he shall submit the substantive amendments in writing to the court together with an application for permission to make said amendments. Article 314 of the Code of Criminal Procedure (paragraph 1) states that court shall provide a certified copy of the amended indictment to the defendant at the court session, unless the court considers that the clerk to the court may suffice with the issuance of a certified copy of the amendments.¹⁸⁹ Article 314 of the Code of Criminal Procedure (paragraph 2) states that the court shall adjourn the hearing if necessary for a definite period; with the consent of the accused or the defence counsel.</p>

¹⁸⁶ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 266, available at, http://wetten.overheid.nl/BWBR0001903/TweedeBoek/TitelV/Artikel266/geldigheidsdatum_05-03-2015

¹⁸⁷ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 265, available at, http://wetten.overheid.nl/BWBR0001903/TweedeBoek/TitelV/Artikel265/geldigheidsdatum_05-03-2015

¹⁸⁸ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 313, available at, http://wetten.overheid.nl/BWBR0001903/TweedeBoek/TitelVI/Eersteafdeling/Artikel313/geldigheidsdatum_20-03-2015

¹⁸⁹ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 314 available at, http://wetten.overheid.nl/BWBR0001903/TweedeBoek/TitelVI/Eersteafdeling/Artikel314/geldigheidsdatum_20-03-2015

4.	RIGHT OF ACCESS TO CASE MATERIALS ¹⁹⁰	Brief Description
4.1	What material evidence can be accessed by suspected or accused persons (e.g. documents, photographs, audio, video, summaries...)?	<p>We have received feedback from the Ministry of Security and Justice ¹⁹¹ , Bureau for Sworn Interpreters and Translators (<i>Bureau beëdigde tolken en vertalers</i> or <i>Bureau Wbtv</i>) ¹⁹² and the Police (Sectie <i>Tolkencoördinatoren</i>/ Coordinator Interpreters).¹⁹³ They have confirmed the information provided. They had no specific information on how it works in practice but added that from their experience in general police officers work according to the existing legislation.</p> <p>There is a difference between the rights of suspects during the preliminary investigation and the rights of the accused, once they received a summons to appear at court at first instance (<i>dagvaarding ter rechtzitting in eerste aanleg</i>) or a punishment order (<i>strafbeschikking</i>).</p> <p>Situation during preliminary investigations: Article 30 (paragraph 1) of the Code of Criminal Procedure stipulates that during the preliminary investigations the Public Prosecution Service shall permit the suspect, at request, to inspect the case documents. Inspection of the case documents is granted from the initial interrogation after the arrest of the suspect.¹⁹⁴ Article 31 of the Code of Criminal Procedure specifies the following documents that may not be withheld from the suspect: (a) the official records of the interrogations; (b) the official records pertaining to interrogations or investigative acts, at which the suspect or the defence counsel had the right to be present, unless and insofar as a circumstance which, in the interest of the investigation, should not be disclosed to the suspect for the time being, is mentioned in an official record; (c) the official records of questioning, the entire contents of which were verbally relayed to the suspect.¹⁹⁵ Article 34 of the Code of Criminal Procedure stipulates that the suspect may request the public prosecutor to add to the case documents specifically described in article 31 documents that the suspect considers relevant for the assessment of the case. The request shall be made in writing and</p>

¹⁹⁰ See in particular Article 7 and relevant recitals of Directive 2012/13/EU.

¹⁹¹ Netherlands, representative of the Ministry of Security and Justice.

¹⁹² Netherlands, representative of the Bureau for Sworn Interpreters and Translators (*Bureau beëdigde tolken en vertalers* or *Bureau Wbtv*).

¹⁹³ Netherlands, representative of the Dutch Police (*Sectie Tolkencoördinatoren* / Section coordinators Interpreters).

¹⁹⁴ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 30, paragraph 1, available at,

http://wetten.overheid.nl/BWBR0001903/EersteBoek/Titell/Artikel30/geldigheidsdatum_13-03-2015

¹⁹⁵ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 31, available at,

http://wetten.overheid.nl/BWBR0001903/EersteBoek/Titell/Artikel31/geldigheidsdatum_13-03-2015

		<p>shall be reasoned.¹⁹⁶ If the public prosecutor fails to give a decision on the adding of the documents or their inspection, the examining judge (<i>rechter-commissaris</i>) may, on application of the suspect, set a period of time within which a decision has to be taken. The examining judge hears the public prosecutor and the suspect before taking a decision on the application.</p> <p>The public prosecutor may refuse to add the documents or provide them for inspection base on the opinion that the documents cannot be deemed to be case documents. The prosecutor shall require written authorisation for that purpose, to be granted by the examining judge on the application of the prosecutor.</p> <p>Situation after issuing of a summons to appear at court or a punishment order: Article 33 of the Code of Criminal Procedure stipulates that inspection of all original case documents or copies thereof may not be withheld from the suspect as soon as the summons to appear before the court of first instance has been served or a punishment order has been issued.¹⁹⁷ Article 149b of the Code states that the public prosecutor may exclude certain documents or parts thereof from the case documents, if this is considered necessary with a view to the interests referred to in article 187d (paragraph 1) of the Code Criminal Procedure.¹⁹⁸ The prosecutor shall require written authorisation for that purpose, to be granted by the examining judge on the application of the prosecutor. Article 187d (paragraph 1) of the Code Criminal Procedure specifies the following reasons for withholding case documents: disclosure will cause serious inconvenience to witnesses or seriously hinder them in the performance of their office or profession; disclosure will threaten a compelling investigative interest, or disclosure will threaten the interest of state security.¹⁹⁹ The examining judge may also prevent the public prosecutor, the suspect and the defence counsel from learning of the answers to questions concerning certain information ex officio or on application of the suspect or the defence counsel or the witness.</p>
4.2	At what stage of the proceedings is	Please refer to the answer provided above (4.1)

¹⁹⁶ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 34, available at, http://wetten.overheid.nl/BWBR0001903/EersteBoek/Titell/Artikel34/geldigheidsdatum_13-03-2015

¹⁹⁷ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 33, available at, http://wetten.overheid.nl/BWBR0001903/EersteBoek/Titell/Artikel33/geldigheidsdatum_19-03-2015

¹⁹⁸ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 149b, available at, http://wetten.overheid.nl/BWBR0001903/TweedeBoek/Titell/Tweedeafdeling/Artikel149b/geldigheidsdatum_19-03-2015

¹⁹⁹ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 187d, available at, http://wetten.overheid.nl/BWBR0001903/TweedeBoek/Titell/Tweedeafdeling/Artikel187d/geldigheidsdatum_19-03-2015

	<p>access to case materials granted? Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.</p>	
<p>4.3</p>	<p>Under what circumstances is access to material refused? Who takes the decision of refusal?</p>	<p>The public prosecutor may withhold certain case documents from the suspect, if required in the interest of the investigation on basis of Article 30 (paragraph 3) of the Code of Criminal Procedure.²⁰⁰ The suspect shall be notified in writing of the incompleteness of the documents provided for the inspection. The suspect may submit a notice of objection to the examining judge (<i>rechter-commissaris</i>) within fourteen days after the date of the notification referred to in subsection, and thereafter each time after periods of thirty days.²⁰¹ The examining judge hears the public prosecutor and gives the suspect the opportunity to present views before taking a decision.</p>

²⁰⁰ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 30, paragraph 3, available at, http://wetten.overheid.nl/BWBR0001903/EersteBoek/Titell/Artikel30/geldigheidsdatum_13-03-2015

²⁰¹ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 30, available at, http://wetten.overheid.nl/BWBR0001903/EersteBoek/Titell/Artikel30/geldigheidsdatum_13-03-2015

5.	CROSS-CUTTING ISSUES: LANGUAGES, COMPLAINT MECHANISMS, RECORDING & SPECIAL MEASURES ²⁰²	Brief Description
5.1	In which languages can information be provided for the following?	
	a) information on procedural rights	Article 27c (paragraph 5) of the Code of Criminal Procedure stipulates that if a suspect has no sufficient command of the Dutch language he will be informed of his right in a language intelligible to him. ²⁰³ The Code does not specify the languages. The letter of right that has to be given to the suspect is available in the following languages: English, German, French, Spanish, Italian, Portuguese, Romanian, Polish, Bulgarian, Estonian, Latvian, Lithuanian, Ukrainian, Chinese (Mandarin), Chinese (Cantonese), Turkish, Farsi, Sorani, and Arabic.
	b) letter of rights	The letter of rights is translated into the following languages: English, German, French, Spanish, Italian, Portuguese, Rumanian, Polish, Bulgarian, Estonian, Latvian, Lithuanian, Ukrainian, Chinese (Mandarin), Chinese (Cantonese), Turkish, Farsi, Sorani, and Arabic.
	c) information about the accusation	Article 260 (paragraph 5) of the Code of Criminal Procedure stipulates that the summons (<i>dagvaarding</i>) issued to the accused (or relevant parts) should be translated into a language intelligible to the suspect when he has no sufficient command of the Dutch language. ²⁰⁴ This summons contains a short statement of the offence which is indicted. The content of the accusation

²⁰² See in particular Articles 3 - 8 and relevant recitals of Directive 2012/13/EU.

²⁰³ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 27c, paragraph 5, available at, http://wetten.overheid.nl/BWBR0001903/EersteBoek/TitelIII/Artikel27c/geldigheidsdatum_19-03-2015

²⁰⁴ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 260, paragraph 5, available at, http://wetten.overheid.nl/BWBR0001903/TweedeBoek/TitelV/Artikel260/geldigheidsdatum_26-03-2015

		will depend on the case so there is no fixed text available as a letter of rights for example. So a list of languages cannot be provided.		
	d) case materials	Article 32a of the Code of Criminal Procedure entitles the suspect or accused to make a request for the translation of those case documents or case materials considered to be essential for the defence. ²⁰⁵ The suspect should sent the request to the Public Prosecutor during the pre-trial investigation and to the Court during the court session. The request shall be made in writing and shall be reasoned. Most case materials will be in Dutch they have to be translated in a language intelligible to the suspect or accused. So a list of languages cannot be provided.		
		Yes	No	Brief Description
5.2	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? If yes, briefly describe the procedure where relevant.	Yes.		
	a) information on procedural rights	.	No.	There is no special procedure. The explanatory memorandum to the bill implementing Directive 2012/13/EU indicates that the suspect or the legal counsel can have recourse to the normal procedures when challenging the failure or refusal to provide information on the rights of the suspect. ²⁰⁶ The court has to decide whether the rights of the suspect

²⁰⁵ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 32a, available at, http://wetten.overheid.nl/BWBR0001903/EersteBoek/TitelIII/Artikel32a/geldigheidsdatum_05-03-2015

²⁰⁶ Netherlands, Minister of Security and Justice (*Minister van Veiligheid en Justitie*) (2014), Memorie van Toelichting. Implementatie van richtlijn nr. 2012/13/EU van het Europees Parlement en de Raad van 22 mei 2012 betreffende het recht op informatie in strafprocedures (PbEU L 142), available at <https://zoek.officielebekendmakingen.nl/kst-33871-3.pdf>

				or accused on information has been violated. The Dutch Supreme Court decided in 2013 that a statement by a suspect cannot be used as evidence when the authorities have failed to inform the suspect about the rights, unless the interests of the suspect were not harmed by this non-compliance of the authorities. ²⁰⁷ By a statement we refer to what the suspect said during his interrogation. In this case the suspect was not notified of this right to remain silent before the interrogation started.
	b) letter of rights		No.	There is no special procedure. Same procedure as under (a).
	c) information about the accusation		No.	There is no special procedure. Same procedure as under (a).
	d) access to case materials	Yes		<p>During the preliminary investigations the public prosecutor may withhold certain case materials from the suspect, if required in the interest of the investigation based on Article 30 (paragraph 3) of the Code of Criminal Procedure.²⁰⁸ The suspect may submit a notice of objection to the examining judge fourteen days after the date of the notification, and thereafter again every thirty days.²⁰⁹ The examining judge (<i>rechter-commissaris</i>) magistrate hears the public prosecutor and gives suspects the opportunity to present their views before taking a decision.</p> <p>Article 33 of the Code of Criminal Procedure stipulates that inspection of all original case documents or copies thereof may not be withheld from the suspect as soon as the summons to appear before the court of first instance has been served on him or a punishment order has been issued.²¹⁰ Article 149b of the Code states that the public prosecutor may exclude certain documents or parts thereof from the case documents, if</p>

²⁰⁷ Netherlands, Supreme Court (Hoge Raad) (2013), Case no.11/04486, ECLI:NL:HR:2013:BY5706, 16 April 2013, available at: <http://deeplink.rechtspraak.nl/uitspraak?id=ECLI:NL:HR:2013:BY5706>

²⁰⁸ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 30, paragraph 3, available at, http://wetten.overheid.nl/BWBR0001903/EersteBoek/Titell/Artikel30/geldigheidsdatum_13-03-2015

²⁰⁹ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 30, available at, http://wetten.overheid.nl/BWBR0001903/EersteBoek/Titell/Artikel30/geldigheidsdatum_13-03-2015

²¹⁰ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 33, available at, http://wetten.overheid.nl/BWBR0001903/EersteBoek/Titell/Artikel33/geldigheidsdatum_19-03-2015

			the prosecutor considers it necessary with a view to the interests referred to in article 187d (paragraph 1) of the Code Criminal Procedure. ²¹¹ The prosecutor shall require written authorisation for that purpose, to be granted by the examining magistrate on application of the prosecutor. There is no appeal possible against the decision of the examining judge.
5.3	Is any official record kept to note the provision of information about the following? If yes, briefly describe where relevant.	Yes.	
	a) information on procedural rights	Yes.	Article 27c (paragraph 5) of the Code Criminal Procedure states that the records of the interrogation will contain a notification about the fact that the suspect has been informed about rights (including procedural rights). ²¹² The signature of the suspect of accused is not required. In fact the Code of Criminal Procedure does not contain any provision that a suspect or accused has to sign any document. Article 29 (paragraph 3) stipulates that the records of the interrogations should contain a notification about the fact that the suspect is informed about the right to be silent. ²¹³ The Legal Aid Police Interrogations Directive (<i>Aanwijzing Rechtsbijstand politieverhoor</i>) of the Public Prosecution Services states that a notification will be made in the records of the interrogations of the fact that

²¹¹ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 149b, available at, http://wetten.overheid.nl/BWBR0001903/TweedeBoek/Titell/Tweedeafdeeling/Artikel149b/geldigheidsdatum_19-03-2015

²¹² Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 27c, available at, http://wetten.overheid.nl/BWBR0001903/EersteBoek/TitelIII/Artikel27c/geldigheidsdatum_19-03-2015

²¹³ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 29, available at, http://wetten.overheid.nl/BWBR0001903/EersteBoek/TitelIII/Artikel29/geldigheidsdatum_19-03-2015

				the suspect is informed of this right to consult a lawyer. ²¹⁴ The records will also contain a notification of the fact that a suspect waives his right on legal aid (in case of a serious or less serious criminal offences the suspect can waive his right to consult a lawyer; this is not possible in case of very serious criminal offences).
	b) letter of rights	Yes.		Article 27c (paragraph 5) of the Code Criminal Procedure states that the records of the interrogation will contain a notification about the fact that the suspect has been informed about his rights (including the legal letter). ²¹⁵ The signature of the suspect of accused is not required. In fact the Code of Criminal Procedure does not contain any provision that a suspect or accused has to sign any document.
	c) information about the accusation	Yes.		Article 27c (paragraph 5) of the Code Criminal Procedure states that the records of the interrogation will contain a notification about the fact that the suspect has been informed about his rights (including the information to be provided about the accusation). ²¹⁶ The signature of the suspect of accused is not required. In fact the Code of Criminal Procedure does not contain any provision that a suspect or accused has to sign any document.
	d) access to case materials		No.	
5.4	Are there special procedures designed to take into account the special needs of vulnerable suspects or vulnerable accused persons (e.g. because of any	Yes.		

²¹⁴ Netherlands, Public Prosecution Service (2010), *Aanwijzing rechtsbijstand politieverhoor* (Directive on legal aid during police interrogations: Unofficial translation), available at: http://wetten.overheid.nl/BWBR0027381/geldigheidsdatum_24-03-2015

²¹⁵ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 27c, available at, http://wetten.overheid.nl/BWBR0001903/EersteBoek/TitelIII/Artikel27c/geldigheidsdatum_19-03-2015

²¹⁶ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 27c, available at, http://wetten.overheid.nl/BWBR0001903/EersteBoek/TitelIII/Artikel27c/geldigheidsdatum_19-03-2015

<p>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</p>			
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	on those mechanisms in relation to each of the listed vulnerable groups. Is this information in simple and accessible language?			
• information on procedural rights	a)		No.	
	b)		No.	
	c)	Yes.		Apart from a special letter for children (see below question 5.4.c) there is no special procedure or provision.
• letter of rights	a)	Yes.		There is a special webpage on the website of the Dutch government (www.rijksoverheid.nl/onderwerpen/rechtspraak-en-geschiloplossing/documenten-en-publicaties/brochures/2014/10/20/mededelingen-van-rechten-aan-de-verdachte.html) on which several versions of the letter of rights can be downloaded in several languages. Of the Dutch letter of rights (all three versions: for adults, for minors and with respect to the European arrest warrant) an audio file can be downloaded for persons with a visual impairment and for illiterate persons.
	b)	Yes.		There is a special webpage on the website of the Dutch government (www.rijksoverheid.nl/onderwerpen/rechtspraak-en-geschiloplossing/documenten-en-publicaties/brochures/2014/10/20/mededelingen-van-rechten-aan-de-verdachte.html) on which different versions of the letter of rights can be downloaded in several languages. Of the Dutch letter of rights (all three versions: for adults, for minors and with respect to the European arrest warrant) an audio file can be downloaded for persons with a visual impairment and for illiterate persons.
	c)	Yes.		There is a special letter of rights for children (12 to 17 years old). It has been translated into the following languages: English, German, French, Spanish, Italian, Portuguese, Romanian, Polish, Bulgarian, Estonian, Latvian, Lithuanian, Ukrainian, Chinese (Mandarin), Chinese (Cantonese), Farsi, Turkish, Sorani, and Arab.

	<ul style="list-style-type: none"> information about the accusation 	a)		No.	
		b)		No.	
		c)		No.	
	<ul style="list-style-type: none"> access to case materials 	a)		No.	
		b)		No.	
		c)		No.	