

Submissive Template

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

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QUESTIONS

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

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>
1.1.1	<ul style="list-style-type: none"> • police questioning; 	<p>a)The Code of Criminal Procedure (CCP)(<i>Legea nr. 135/2010 privind Noul Cod de Procedură Penală</i>, CPP) does not specify who has responsibility for determining the need for interpretation. The legislation does not provide for a special procedure to determine if a suspect or an accused person needs interpretation. In practice, it is left to the judge or prosecutor to ensure that the suspect's or accused person's right to interpretation is respected.²</p>

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

² Romania, representative of the Prosecutor's Office attached to the Supreme Court (*Parchetul de pe lângă Înalta Curte de Casație și Justiție*).

	<p>Article 105 (1) of the CPP³ mentions only that questioning will be conducted through an interpreter whenever a suspect or accused person does not speak or understand Romanian, or cannot express themselves properly in Romanian.</p> <p>b) At the beginning of questioning, suspects and accused persons will be asked if they require an interpreter, in case they do not speak or understand Romanian, or cannot express themselves in Romanian.⁴</p> <p>c) The costs of interpretation are borne by the state from a special fund for judicial expenses.⁵ During criminal investigations, interpretation and translation costs are covered by the prosecutor's office.⁶</p> <p>d) No deadline for providing interpretation at each stage of the proceedings is specified in the CPP. When required, interpretation is provided during questioning.⁷ In exceptional cases only, when certain procedural measures are urgently required and no authorised interpreter can be found in good time, interpretation can be provided by any person (not necessarily an authorised interpreter) who is able to communicate with the defendant. In such cases, questioning will resume once an authorised interpreter is available.⁸</p>
<ul style="list-style-type: none"> • court hearings; 	<p>a) The CPP does not specify who has responsibility for determining the need for interpretation during court hearings. In practice, however, the supervising judicial authority ensures that these rights are properly respected.⁹</p>

³Romania, Law no. 135/2010 on the Code of Criminal Procedure (*Legeanr. 135/2010 privind Noul Cod de Procedură Penală*), 1 July 2010, Article 105 (1).

⁴Romania, Law no. 135/2010 on the Code of Criminal Procedure (*Legeanr. 135/2010 privind Noul Cod de Procedură Penală*), 1 July 2010, Article 107 (1).

⁵Romania, Law no. 135/2010 on the Code of Criminal Procedure (*Legeanr. 135/2010 privind Noul Cod de Procedură Penală*), 1 July 2010, Article 273 (5).

⁶ According to a response from the Ministry of Justice to an FOI request by FRANET experts, no. 19874/2005, 10 April 2015.

⁷Romania, Law no. 135/2010 on the Code of Criminal Procedure (*Legeanr. 135/2010 privind Noul Cod de Procedură Penală*), 1 July 2010, Article 105 (1).

⁸Romania, Law no. 135/2010 on the Code of Criminal Procedure (*Legeanr. 135/2010 privind Noul Cod de Procedură Penală*), 1 July 2010, Article 105 (2).

⁹ Romania, representative of the Prosecutor's Office attached to the Supreme Court (*Parchetul de pe lângă Înalta Curte de Casație și Justiție*).

1.1.2		<p>b) If a judge considers that a defendant does not speak or understand Romanian, then the hearing is adjourned and another hearing, for which an interpreter's presence is required, is set.¹⁰ There is no provision in the CPP on whether the judge should or should not take into account whether during police questioning an interpreter was assigned to the defendant. Consequently, the judge can take this circumstance into account but the judge is not bound by it.</p> <p>c) During the trial phase interpretation costs are borne by the court.¹¹</p> <p>d) No deadline is specified in the CPP for interpretation to be provided during court hearings. The CPP only specifies that interpreters have to be present when requested, otherwise they can be fined if they unjustifiably fail to appear when legally summoned (Article 283 (4) b). If an interpreter is not present, the court adjourns the hearing and sets a new date.¹²</p>
1.1.3	<ul style="list-style-type: none"> • any necessary interim hearings; 	<p>a) The CPP does not specify who has responsibility for determining the need for interpretation during any necessary interim hearings. In practice, however, the supervising judicial authority ensures that these rights are properly respected.¹³</p> <p>b) If the persons conducting the hearing consider that a suspect or an accused person does not speak Romanian, they will postpone the hearing and ask for an interpreter to be present.¹⁴</p> <p>c) The costs of interpretation during any necessary interim hearings are borne by the state from a special fund for judicial expenses.¹⁵ Depending on which body requests the interpretation, the</p>

¹⁰ Romania, criminal defense lawyer.

¹¹ Romania, representative of the Ministry of Justice.

¹² See for example case no. 1335/236/2011 before the Giurgiu Court (*Judecătoria Giurgiu*) available at <http://infodosar.ro/d.php?dosar=1335/236/2011&submit=Cauta>. All hyperlinks were accessed on 8 May 2015.

¹³ Romania, representative of the Prosecutor's Office attached to the Supreme Court (*Parchetul de pe lângă Înalta Curte de Casație și Justiție*).

¹⁴ Romania, criminal defence lawyer.

¹⁵ Romania, Law no. 135/2010 on the Code of Criminal Procedure (*Legea nr. 135/2010 privind Noul Cod de Procedură Penală*), 1 July 2010, Article 273 (5).

		costs are borne either by the county court (tribunal), prosecutor's office attached to the county court, or the criminal investigation body. ¹⁶
		d) No deadline is specified in the CPP for providing interpretation during necessary interim hearings.
1.1.4	<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 CPP does not specify who has responsibility for determining the need for interpretation during any communication between suspects and accused persons and their legal counsel.</p> <p>b) In cases where a client does not speak or understand Romanian, either the lawyer or the client can ask either the prosecutor (during a criminal investigation) or the court (during a trial) for an interpreter.¹⁷ The CPP does not provide for any limitations on when a lawyer can ask for an interpreter except for when the interpreter costs would be covered by the state, in which case the lawyer can ask for an interpreter for meetings with a client to prepare for questioning, filing an appeal or for lodging any other request that is necessary to settle the case.¹⁸</p> <p>c) The costs for interpretation during any communication between suspects and accused persons and their legal counsel are borne by the state from a special fund for judicial expenses.¹⁹ The costs of the services of an interpreter are borne by the state only in cases where it is mandatory that a suspect or accused person be assisted by a lawyer, in order to allow the suspect or accused person to communicate with the lawyer to prepare for questioning, filing an appeal or for lodging</p>

¹⁶ Romania, Regulation of 27 July 2005 published in the Official Gazette, first part, no. 745 of 16 August 2005, on the application of Law no. 178/1997 on the authorisation and payment of interpreters and translators used by the Superior Council of Magistracy, Ministry of Justice, Prosecutor's Office attached to the Supreme Court, National Anticorruption Directorate, criminal investigation bodies, courts, public notary offices, lawyers and court enforcement officers, with subsequent modifications and updates (*Regulament din 27 iulie 2005 publicat in Monitorul Oficial, Partea I nr. 745 din 16 august 2005 de aplicare a Legii nr. 178/1997 pentru autorizarea și plata interpretorilor și traducătorilor folosiți de Consiliul Superior al Magistraturii., de Ministerul Justiției, Parchetul de pe lângă Înalta Curte de Casație și Justiție., Direcția Națională Anti-corupție., de organele de urmărire penală, de instanțele judecătorești, de birourile notarilor publici, de avocați și de executorii judecătorești, cu modificările și completările ulterioare*), Article 16(2).

¹⁷ Romania, criminal defence lawyer.

¹⁸ Romania, Law no. 135/2010 on the Code of Criminal Procedure (*Legea nr. 135/2010 privind Noul Cod de Procedură Penală*), 1 July 2010, Article 12 (3).

¹⁹ Romania, Law no. 135/2010 on the Code of Criminal Procedure (*Legea nr. 135/2010 privind Noul Cod de Procedură Penală*), 1 July 2010, Article 273 (5).

		<p>any other request that is necessary to settle the case.²⁰ Depending on when during criminal proceedings interpretation is provided, either the prosecutor's office or the court bears the costs. During criminal investigations the costs are borne by the prosecutor's office and during the trial phase the costs for interpretation are borne by the court.²¹</p> <p>d) No deadline for providing interpretation during any communication between suspects and accused persons and their legal counsel is specified in the CPP.</p>
1.2	<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>If there are no authorised interpreters who speak the language of suspects or accused persons, the authorities first of all try to determine if the suspects or accused persons know any other language for which an interpreter is available. If this is not the case, the authorities can use the services of a trustworthy person who speaks the language of the accused/suspect person, even if that person is not an authorised interpreter.²² Law 178/1997, which provides for the possibility of using a trustworthy person for interpretation does not specify any criteria on how to decide who is a trustworthy person or what credentials are needed in order to qualify for this status.²³ In theory such a person can be even a family member. The CPP specifies one limitation in Article 88 (2 - d) according to which the lawyer of the defendant or victim can't also be an interpreter in the same case.</p>
1.3	<p>Please describe procedures in place, if any, to ensure that suspects or accused persons have the right to challenge the decision that no</p>	<p>There is no special procedure for suspects or accused persons to complain about infringements of their rights to interpretation or translation.²⁴ When such cases occur, the general procedure for suspects or accused persons to complain about any breaches of their rights during criminal investigations applies. This procedure is set out in Articles 336–339 of the CPP. An accused person or suspect can file a complaint with the prosecutor if any of their rights or interests are breached, even by the police, (Article 336) and the prosecutor must issue a decision on the complaint within 20 days of receiving it (Article 337). If a breach of rights complaint is made</p>

²⁰Romania, Law no. 135/2010 on the Code of Criminal Procedure (*Legeanr. 135/2010 privind Noul Cod de Procedură Penală*), 1 July 2010, Article 12 (3).

²¹ Romania, representative of the Ministry of Justice.

²² Romania, representative of the Ministry of Justice.

²³Romania, Law no. 178/1997 on the authorisation and payment of interpreters and translators used by criminal investigation bodies, courts, public notary offices, lawyers and the Ministry of Justice (*Legenr. 178/1997 pentru autorizarea și plata interpretorilor și traducătorilor folosiți de organele de urmărire penală, de instanțele judecătorești, de birourile notariilor publice, de avocați și de Ministerul Justiției*), Article 15.

²⁴ Romania, representative of the Prosecutor's Office attached to the Supreme Court (*Parchetul de pe lângă Înalta Curte de Casație și Justiție*).

	<p>interpretation is needed? Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.</p>	<p>against a prosecutor, then the prosecutor hierarchically superior to the one against whom or whose acts the complaint is made issues a ruling on the complaint (Article 339). Suspects or accused persons can obtain the annulment of procedural acts carried out while their right to interpretation was infringed.²⁵ The annulment procedure is prescribed in Article 282 of the CPP and it applies for cases in which there was a breach of a procedural right of the defendant or accused, during the investigation phase or during the trial phase. If the breach occurred during the trial phase the annulment can be asked during the first court hearing following the breach, according to Article 282 (4-c) of the CPP.</p>
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?	There is no legal basis for the use of communication technologies for the purpose of remote interpretation. ²⁶
	b) Which technologies are used, if any (videoconference, telephone, internet, etc.)	There is no legal basis for the use of communication technologies for the purpose of remote interpretation. ²⁷

²⁵For example see decision no 33/P/ of 13 March 2008 of Constanta Appeal Court (*Curtea de Apel Constanța*), available at <http://portal.just.ro/36/Lists/Jurisprudenta/DispForm.aspx?ID=297>.

²⁶ Romania, representative of the Ministry of Justice.

²⁷ Romania, representative of the Ministry of Justice.

<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 Prosecutor's Office attached to the Supreme Court (<i>Parchetul de pe lângă Înalta Curte de Casație și Justiție</i>) did not answer this question when asked through an FOI request by the FRANET experts.²⁸</p> <p>The Ministry of Justice specified that in two PHARE 2005 projects (Equipment for courts endowment – EuropeAid/122954/D/SUP/RO, implemented in 2007, and RO 2005/017-553.01.04.04.03 – Providing audio-video equipment to courts, implemented in 2008) the Ministry of Justice, together with 139 courts, were provided with video-conferencing equipment. Previously, five courts of appeal were provided with similar equipment through US TDA funds. The main objective of these projects was to facilitate hearings with protected witnesses without disclosing their identity. The other objective was to make it possible to organise long-distance hearings. The system is currently being used for these purposes.²⁹</p>		
<p>TRAINING³⁰</p>	<p>Yes</p>	<p>No</p>	<p>Brief Description</p>
<p>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.</p>	<p>x</p>		<p>Providers of judicial training discuss the particularities of communicating with the assistance of an interpreter so as to ensure efficient and effective communication, in classes on Criminal Law, Criminal Procedure Law and EU Law (which also covers Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings and Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings). Additionally, students are involved in mock hearings in which they also explore the particularities of communicating with the assistance of an interpreter.³¹</p>

²⁸ Romania, representative of the Prosecutor's Office attached to the Supreme Court (*Parchetul de pe lângă Înalta Curte de Casație și Justiție*).

²⁹ Romania, representative of the Ministry of Justice.

³⁰ See in particular Article 6 and relevant recitals of Directive 2010/64/EU.

³¹ Romania, representative of the National Institute of Magistracy (*Institutul Național al Magistraturii*).

2.	RIGHT TO TRANSLATION OF DOCUMENTS ³²	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 CPP only provides for the right to have indictments translated (in Article 344 (2))and the final court decision (Article 407(1)).No other documents which accused persons or suspects can have translated are expressly mentioned.³³</p> <p>b) Not applicable.</p> <p>c) Not applicable</p>
	<ul style="list-style-type: none"> • court hearings; 	<p>a)The CPP only provides for the right to have indictments translated (in Article 344 (2))and the final court decision (Article 407(1)). No other documents which accused persons or suspects can have translated are expressly mentioned.³⁴</p>

³² See in particular Articles 3 and 4 and relevant recitals of Directive 2010/64/EU.

³³ Romania, representative of the Prosecutor's Office attached to the Supreme Court (*Parchetul de pe lângă Înalta Curte de Casație și Justiție*).

³⁴ Romania, representative of the Prosecutor's Office attached to the Supreme Court (*Parchetul de pe lângă Înalta Curte de Casație și Justiție*).

2.1.2		
		b) The prosecutor's office carrying out the investigation bears the costs of translating the indictment and the courts bear the costs of translating the final court decision. ³⁵
		c) Once a case is registered at the competent court, a copy of the indictment should be sent to the defendant. ³⁶ The CPP provides no deadline by which the defendant should receive a translated copy of the final decisions, it only specifies that the copy should be sent in due time for the defendant to lodge an appeal (Article 407 (1)).
2.1.3	<ul style="list-style-type: none"> • any necessary interim hearings; 	a)The CPP only provides for the right to have indictments translated (in Article 344 (2))and the final court decision (Article 407(1)).No other documents which accused persons or suspects can have translated are expressly mentioned. ³⁷
		b)Not applicable.
		c) Not applicable.
	<ul style="list-style-type: none"> • any communication between suspects 	a) No translations are provided for communication between suspects and accused persons and their legal counsel in direct connection with any questioning or hearing during the proceedings.

³⁵ Romania, representative of the Prosecutor's Office attached to the Supreme Court (*Parchetul de pe lângă Înalta Curte de Casație și Justiție*).

³⁶ Romania, Law no. 135/2010 on the Code of Criminal Procedure (*Legea nr. 135/2010 privind Noul Cod de Procedură Penală*), 1 July 2010, Article 344 (2).

³⁷ Romania, representative of the Prosecutor's Office attached to the Supreme Court (*Parchetul de pe lângă Înalta Curte de Casație și Justiție*).

2.1.4	and accused persons and their legal counsel in direct connection with any questioning or hearing during the proceedings?	b) Not applicable.
		c) Not applicable
2.2	How do the competent authorities ascertain whether oral translation or oral summary of essential documents may be provided instead of a written translation? Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.	There is no special provision in place. The CPP only mentions the requirement to translate indictments (Article 344 (2)) and the final court decision (Article 407(1)). Otherwise, the supervising judicial authority determines how the right is to be best applied in practice. ³⁸ In practice, it seems that suspects or accused persons learn about documents from the case file through an interpreter or/and through their lawyer. ³⁹
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	There is no special procedure for suspects or accused persons to complain about infringements of their rights to interpretation or translation. ⁴⁰ When such cases occur, the general procedure for suspects or accused persons to complain about any breaches of their rights during criminal investigations applies. This procedure is set out in Articles 336–339 of the CPP. An accused person or suspect can file a complaint with the prosecutor if any of their rights or interests are breached, even by the police, (Article 336) and the prosecutor must issue a decision on the complaint within 20 days of receiving it (Article 337). If a breach of rights complaint is made against a prosecutor, then the prosecutor hierarchically superior to the one against whom or

³⁸ Romania, representative of the Prosecutor's Office attached to the Supreme Court (*Parchetul de pe lângă Înalta Curte de Casație și Justiție*).

³⁹ Romania, criminal defense lawyer.

⁴⁰ Romania, representative of the Prosecutor's Office attached to the Supreme Court (*Parchetul de pe lângă Înalta Curte de Casație și Justiție*).

	translation is needed? Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.	whose acts the complaint is made issues a ruling on the complaint (Article 339). The defendant can further raise any exceptions or infringement of rights during the preliminary chamber procedure, when a judge can rule to exclude evidence obtained in breach of the law (Articles 345,346). Suspects or accused persons can obtain annulment of procedural acts carried out while their right to interpretation was infringed. ⁴¹ The annulment procedure is prescribed in Article 282 of the CPP and it applies for cases in which there was a breach of a procedural right of the defendant or accused, during the investigation phase or during the trial phase. If the breach occurred during the trial phase the annulment can be raised at the first court hearing following the breach, according to Article 282 (4-c) of the CPP.		
		Yes	No	Brief Description
2.4	Do all documents that the suspected or accused person has to sign during the proceedings have to be translated?		No	All procedural documents are written in Romanian. ⁴² Even when an accused person is making a statement, it is written in Romanian and both the accused person and the interpreter through which the statement was made have to sign the statement. ⁴³
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	The CPP does not provide for the possibility of waiving the right to translation of documents. ⁴⁴

⁴¹ For example see decision no 33/P/ of 13 March 2008 of Constanta Appeal Court (*Curtea de ApelConstanța*), available at <http://portal.just.ro/36/Lists/Jurisprudenta/DispForm.aspx?!ID=297>.

⁴² Romania, Law no. 135/2010 on the Code of Criminal Procedure (*Legeanr. 135/2010 privind Noul Cod de ProcedurăPenală*), 1 July 2010, Article 12 (2).

⁴³ Romania, Law no. 135/2010 on the Code of Criminal Procedure (*Legeanr. 135/2010 privind Noul Cod de ProcedurăPenală*), 1 July 2010, Article 110 (2) (4); representative of the Prosecutor's Office attached to the Supreme Court (*Parchetul de pe lângăÎnaltaCurte de CasațieșiJustiție*).

⁴⁴ Romania, representative of the Prosecutor's Office attached to the Supreme Court (*Parchetul de pe lângăÎnaltaCurte de CasațieșiJustiție*).

3.	RIGHTS CONCERNING BOTH INTERPRETATION AND TRANSLATION ⁴⁵			
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?	x		The Ministry of Justice (MJ) (<i>Ministerul Justiției</i> , MJ) is responsible for setting up, maintaining and updating a database with registered interpreters and translators. ⁴⁶
	b) Do translators and interpreters have to be listed in databases/registers for their services to be used? In other words, is membership/registration mandatory?	x		Only interpreters and translators authorised by the MJ can provide interpretation and translation services to courts, prosecutors, criminal investigators (including police), public notaries, lawyers and to the MJ. ⁴⁷
	c) Who has access to these databases?	Brief Description: The list of all authorised interpreters and translators is sent to all courts, prosecutor's offices, public notaries, local bar associations, and criminal investigation		

⁴⁵ See in particular Article 5 and relevant recitals of Directive 2010/64/EU.

⁴⁶ Romania, Law no. 178/1997 on the authorisation and payment of interpreters and translators used by criminal investigation bodies, courts, public notary offices, lawyers and the Ministry of Justice (*Legenr. 178/1997 pentru autorizarea și plata interpretilor și traducătorilor folosiți de organele de urmărire penală, de instanțele judecătorești, de birourile notarilor publici, de avocați și de Ministerul Justiției*), Article 5.

⁴⁷ Romania, Law no. 178/1997 on the authorisation and payment of interpreters and translators used by criminal investigation bodies, courts, public notary offices, lawyers and the Ministry of Justice (*Legenr. 178/1997 pentru autorizarea și plata interpretilor și traducătorilor folosiți de organele de urmărire penală, de instanțele judecătorești, de birourile notarilor publici, de avocați și de Ministerul Justiției*), Article 2.

		bodies. ⁴⁸ There is also an online list available on the website of the MJ and this list is available to everyone. ⁴⁹	
d) Which professional qualifications are needed by:	<ul style="list-style-type: none"> • translators and • interpreters <p>in order to be registered in the database?</p>	Brief Description: In order to be authorised as an interpreter and/or translator, applicants must have a bachelor degree or equivalent, with a specialisation in the language/languages they want to be authorised for, or they must be authorised as a translator by the Ministry of Culture (MC) (<i>Ministerul Culturii</i> , MC). ⁵⁰ In order to be authorised as a translator by the MC, applicants must have at least a high school degree and pass an examination organised by this ministry. ⁵¹ Only those who pass the examination organised for legal subjects in a given language can then apply to be registered with the MJ as an authorised translator. ⁵²	
e) Are there any requirements in place to ensure the independence of interpreters and		x	There are no requirements regarding the independence of translators or interpreters. They have to respond to the requests of courts and criminal investigation bodies when they are asked for translation or interpretation services. Two unjustifiable refusals in a year will lead to them losing their authorisation. ⁵³

⁴⁸Romania, Law no. 178/1997 on the authorisation and payment of interpreters and translators used by criminal investigation bodies, courts, public notary offices, lawyers and the Ministry of Justice (*Legenr. 178/1997 pentru autorizarea și plata interpretilor și traducătorilor folosiți de organele de urmărire penală, de instanțele judecătorești, de birourile notariilor publice, de avocați și de Ministerul Justiției*), Article 5.

⁴⁹ The list is available at www.just.ro/MinisterulJusti%C8%9Biei/Listapersoanelorautorizate/Interpretisitraducatoriautorizati/tabid/129/Default.aspx

⁵⁰Romania, Law no. 178/1997 on the authorisation and payment of interpreters and translators used by criminal investigation bodies, courts, public notary offices, lawyers and the Ministry of Justice (*Legenr. 178/1997 pentru autorizarea și plata interpretilor și traducătorilor folosiți de organele de urmărire penală, de instanțele judecătorești, de birourile notariilor publice, de avocați și de Ministerul Justiției*), Article 3 (c).

⁵¹Romania, Regulations on organising the examination for obtaining the certificate for translators of a foreign language (*Regulamentul privind organizarea și desfășurarea examenului de obținere a certificatelor de traducători înși din limbi străine*), Article 12, available at www.examentraducator.ro/regulament_examen_traducatori.pdf.

⁵²Romania, Regulations on organising the examination for obtaining the certificate for translators of a foreign language (*Regulamentul privind organizarea și desfășurarea examenului de obținere a certificatelor de traducători înși din limbi străine*), Article 2 (2), available at www.examentraducator.ro/regulament_examen_traducatori.pdf.

⁵³Romania, Regulation of 27 July 2005 published in the Official Gazette, first part, no. 745 of 16 August 2005, on the application of Law no. 178/1997 on the authorisation and payment of interpreters and translators used by the Superior Council of Magistracy, Ministry of Justice, Prosecutor's Office attached to the Supreme Court, National Anticorruption Directorate, criminal investigation bodies, courts, public notary offices, lawyers and court enforcement officers, with subsequent modifications and updates (*Regulament din 27/07/2005 Publicat in Monitorul Oficial, Partea I nr. 745 din 16/08/2005 de aplicare a Legii nr. 178/1997 pentru autorizarea și plata interpretilor și traducătorilor folosiți de C.S.M., de*

	translators? If yes, provide a brief overview (for both translators and interpreters).			
	f) Is access to existing databases provided through the European e-Justice portal ? ⁵⁴ How is this register available to legal counsel and relevant authorities?	x		The list of all authorised interpreters and translators is sent to all courts, prosecutor's offices, public notaries, local bar associations, and criminal investigation bodies. ⁵⁵ There is also an online list available on the website of the MJ and this list is available to everyone. ⁵⁶
	g) Are criminal justice institutions required to use interpreters and translators listed in these registers?	x		Only interpreters and translators authorised by the MJ and listed in the register can provide interpretation and translation services to courts, prosecutors, criminal investigators (including police), public notaries, lawyers and to the MJ. ⁵⁷
3.2	With regard to other mechanisms/procedures:	Yes	No	Brief Description
	a) Are there other mechanisms or procedures in place to ensure the	x		If the prosecutor's office, court or police office which contracted a translator/interpreter is not satisfied with their services, the prosecutor's office, court or police office can make a written complaint to the MJ claiming professional

Ministerul Justiției, Parchetul de pe lângă Î.C.C.J., D.N.A., de organele de urmărire penală, de instanțele judecătorești, de birourile notarilor publici, de avocați și de executorii judecătorești, cu modificările și completările ulterioare), Article 4(2).

⁵⁴<https://e-justice.europa.eu/home.do?plang=en&action=home>.

⁵⁵Romania, Law no. 178/1997 on the authorisation and payment of interpreters and translators used by criminal investigation bodies, courts, public notary offices, lawyers and the Ministry of Justice (*Legenr. 178/1997 pentru autorizarea și plata interpretelor și traducătorilor folosiți de organele de urmărire penală, de instanțele judecătorești, de birourile notarilor publici, de avocați și de Ministerul Justiției*), Article 5.

⁵⁶ The list is available at: www.just.ro/MinisterulJusti%C8%9Biei/Listapersoanelorautorizate/Interpretisitraducatoriiautorizati/tabid/129/Default.aspx.

⁵⁷Romania, Law no. 178/1997 on the authorisation and payment of interpreters and translators used by criminal investigation bodies, courts, public notary offices, lawyers and the Ministry of Justice (*Legenr. 178/1997 pentru autorizarea și plata interpretelor și traducătorilor folosiți de organele de urmărire penală, de instanțele judecătorești, de birourile notarilor publici, de avocați și de Ministerul Justiției*), Article 2.

	<p>quality and independence of interpretation and translation during the course of the proceedings? Are there any quality checks? Who is responsible for carrying them out?</p>			<p>incompetence of the translator/interpreter. Based on this complaint, the translator/interpreter can lose their authorisation.⁵⁸</p>
	<p>b) Is there any procedure in place to ensure that suspects or accused persons have the possibility, when interpretation and translation has been provided, to complain about the quality and independence of the interpretation and translation?</p>		<p>x</p>	<p>There is no special complaint mechanism for suspects or accused persons to use in regard to the quality of the interpretation or translation. Suspects or accused persons can obtain the annulment of procedural acts carried out while their right to interpretation was infringed.⁵⁹ The annulment procedure is prescribed in Article 282 of the CPP and it applies for cases in which there was a breach of a procedural right of the defendant or accused. If the breach occurred during the criminal investigation the annulment can be requested by the defendant the latest at the end of the preliminary chamber procedure phase and if the infringement occurred during the trial phase the annulment can be raised at the first court hearing following the breach, according to Article 282 (4) of the CPP.</p>
	<p>c) Are there any mechanisms in place that allow for the replacement of</p>		<p>x</p>	<p>There is no mechanism in place which allows for replacement of an appointed interpreter or a new translation when the quality of the interpretation or the independence of the interpreter is considered insufficient. Suspects or accused</p>

⁵⁸Romania, Law no. 178/1997 on the authorisation and payment of interpreters and translators used by criminal investigation bodies, courts, public notary offices, lawyers and the Ministry of Justice (*Legenr. 178/1997 pentru autorizarea și plata interpreților și traducătorilor folosiți de organele de urmărire penală, de instanțele judecătorești, de birourile notariilor publice, de avocați și de Ministerul Justiției*), Article 6 (1) c).

⁵⁹For example see decision no 33/P/ of 13 March 2008 of Constanta Appeal Court (*Curtea de Apel Constanța*), available at <http://portal.just.ro/36/Lists/Jurisprudenta/DispForm.aspx?ID=297>.

	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.			persons can obtain the annulment of procedural acts carried out while their right to interpretation was infringed. ⁶⁰
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? ⁶¹ If yes, briefly provide information on those mechanisms considering the following vulnerable groups:			
	a) suspect or accused persons with physical impairment or disability;	x		If a suspect or accused person has a hearing or speech impediment, any questioning will be conducted through a person who can communicate with the suspect/accused person, and it will be also carried out in writing, if possible. ⁶² If during questioning the suspect or accused person shows signs of excessive fatigue or illness which affects their physical or psychological ability to participate,

⁶⁰ Romania, Law no. 135/2010 on the Code of Criminal Procedure (*Legeanr. 135/2010 privind Noul Cod de ProcedurăPenală*), 1 July 2010, Article 282.

⁶¹ See in particular recital 27 of Directive 2010/64/EU

⁶² Romania, Law no. 135/2010 on the Code of Criminal Procedure (*Legeanr. 135/2010 privind Noul Cod de ProcedurăPenală*), 1 July 2010, Article 105 (3) (4).

				the questioning will be stopped and the suspect or accused person will be taken to a doctor for medical assistance. ⁶³
	b) suspect or accused persons with intellectual impairment or disability;		x ⁶⁴	
	c) i) children who are suspects/defendants, and/or ii) holders of parental responsibility (please distinguish between the two).	x		i) Children younger than 14 years of age must be accompanied during questioning by a parent or holder of parental responsibility. ⁶⁵ ii) No procedures are in place for holders of parental responsibility.
3.4	Is there any recording procedure to note that interpretation and translation have occurred and in which form? ⁶⁶ If yes, briefly provide information on how this procedure is organised in practice.	x		The fact that interpretation or translation occurred, and whether it was oral or in writing, is registered either by the court in a decision (<i>încheiere</i>) or by the criminal investigation body in a solution (<i>ordonanță</i>). ⁶⁷

⁶³ Romania, Law no. 135/2010 on the Code of Criminal Procedure (*Legeanr. 135/2010 privind Noul Cod de Procedură Penală*), 1 July 2010, Article 106.

⁶⁴ Romania, representative of the Ministry of Justice.

⁶⁵ Romania, Law no. 135/2010 on the Code of Criminal Procedure (*Legeanr. 135/2010 privind Noul Cod de Procedură Penală*), 1 July 2010, Article 124 (1).

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

⁶⁷ Romania, Regulation of 27 July 2005 published in the Official Gazette, first part, no. 745 of 16 August 2005, on the application of Law no. 178/1997 on the authorisation and payment of interpreters and translators used by the Superior Council of Magistracy, Ministry of Justice, Prosecutor's Office attached to the Supreme Court, National Anticorruption Directorate, criminal investigation bodies, courts, public notary offices, lawyers and court enforcement officers, with subsequent modifications and updates (*Regulament din 27/07/2005 Publicat in Monitorul Oficial, Partea I nr. 745 din 16/08/2005 de aplicare a Legii nr. 178/1997 pentru autorizarea și plata interpreților și traducătorilor folosiți de C.S.M., de Ministerul Justiției, Parchetul de pe lângă Î.C.C.J., D.N.A., de organele de urmărire penală, de instanțele judecătorești, de birourile notarilor publici, de avocați și de executorii judecătorești, cu modificările și completările ulterioare*), Article 16 (1).

SECTION B: RIGHT TO INFORMATION IN CRIMINAL PROCEEDINGS

1. PROVISION OF INFORMATION ON THE PROCEDURAL RIGHTS ⁶⁸	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 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>Suspects and accused persons are informed of their rights and of their obligations.⁶⁹ They are informed that they have the following rights:</p> <p><i>“a) not to give any statements during criminal proceedings, and their attention shall be drawn to the fact that their refusal to make any statements shall not cause them to suffer any unfavourable consequences, and that any statement they do make may be used as evidence against them;</i></p> <p><i>b) to be informed of the act for which they are under investigation and the charges against them;</i></p> <p><i>c) to consult the case file, under the law;</i></p> <p><i>d) to have a retained counsel and, if they cannot afford one, in cases of mandatory legal assistance the right to have a court-appointed counsel;</i></p> <p><i>e) to propose production of evidence under the terms set by law, to raise objections and to argue in court;</i></p> <p><i>f) to file any other applications related to the settlement of the criminal and civil part of the case;</i></p>

⁶⁸ See in particular Article 3 and relevant recitals of Directive 2012/13/EU.

⁶⁹ Romania, Law no. 135/2010 on the Code of Criminal Procedure (*Legeanr. 135/2010 privind Noul Cod de Procedură Penală*), 1 July 2010, Article 108 (2).

		<p>g) to an interpreter free of charge, when they cannot understand, cannot express themselves properly or cannot communicate in the Romanian language; h) to use a mediator, in cases permitted by law; i) the right to be informed of their rights; j) other rights set by law."⁷⁰</p> <p>According to a sample provided by the Prosecutor's Office attached to the Supreme Court (<i>Parchetul de pe lângă Înalta Curte de Casație și Justiție</i>) the letter of rights just reproduces the whole Article 83 of the CPP including the exact phrasing from letter j) mentioning in general terms "other rights set by law."⁷¹</p>
		<p>b) Suspects and/or accused persons are informed of their rights orally and they are also given a written note listing all of these rights.⁷² If suspects or accused persons do not understand Romanian they learn about their rights through an interpreter.⁷³</p>
		<p>c) Suspects and/or accused persons will be informed of their rights before the first questioning begins.⁷⁴</p>
<ul style="list-style-type: none"> • court hearings; 		<p>a) Accused persons are informed of the charges pressed against them and they are informed of their right not to make any statements and that any statements made can be used against them, as well as their right to ask questions from the other co-defendants, the victim, other people involved in the trial, witnesses, experts and to offer explanations throughout the judicial investigation, whenever they think it is necessary.⁷⁵</p>

⁷⁰ Romania, Law no. 135/2010 on the Code of Criminal Procedure (*Legeanr. 135/2010 privind Noul Cod de Procedură Penală*), 1 July 2010, Article 83. Translation available on the website of the Ministry of Justice, at www.just.ro/LinkClick.aspx?fileticket=uoJx07a1STU%3d&tabid=89.

⁷¹ Romania, representative of the Prosecutor's Office attached to the Supreme Court (*Parchetul de pe lângă Înalta Curte de Casație și Justiție*).

⁷² Romania, Law no. 135/2010 on the Code of Criminal Procedure (*Legeanr. 135/2010 privind Noul Cod de Procedură Penală*), 1 July 2010, Article 108 (3).

⁷³ Romania, criminal defence lawyer and representative of the Ministry of Justice: Only suspects or accused persons are informed of their rights in a language they understand.

⁷⁴ Romania, Law no. 135/2010 on the Code of Criminal Procedure (*Legeanr. 135/2010 privind Noul Cod de Procedură Penală*), 1 July 2010, Article 108 (3).

⁷⁵ Romania, Law no. 135/2010 on the Code of Criminal Procedure (*Legeanr. 135/2010 privind Noul Cod de Procedură Penală*), 1 July 2010, Article 83.

		b)Accused persons are informed of their rights orally. ⁷⁶
		c)Accused persons are informed of their rights at the first court hearing when the judicial investigation phase begins. ⁷⁷
	<ul style="list-style-type: none"> • any necessary interim hearings; 	a)There is no obligation in the CPP to inform suspects or accused persons of their rights during any necessary interim hearings.
		b)
		c)
	<ul style="list-style-type: none"> • any communication between suspects and accused persons and their legal counsel in direct connection with any 	a)There is no obligation in the CPP to inform suspects or accused persons of their rights during communications with their legal counsel in direct connection with any questioning or hearing during the proceedings.
		b)

⁷⁶ Romania, Law no. 135/2010 on the Code of Criminal Procedure (*Legeanr. 135/2010 privind Noul Cod de ProcedurăPenală*), 1 July 2010,Article 108.

⁷⁷ Romania, Law no. 135/2010 on the Code of Criminal Procedure (*Legeanr. 135/2010 privind Noul Cod de ProcedurăPenală*), 1 July 2010, Article 108.

	questioning or hearing during the proceedings?	c)
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.	In addition to the rights established in Article 3 of Directive 2012/13/EU, authorities also have to inform suspects/accused persons of the following rights: a) <i>“to consult the case file, under the law;</i> b) <i>to propose production of evidence under the terms set by law, to raise objections and to argue in court;</i> c) <i>to file any other applications related to the settlement of the criminal and civil part of the case;</i> d) <i>to use a mediator, in cases permitted by law;</i> e) <i>to be informed of their rights;</i> f) <i>other rights set by law.”</i> ⁷⁸
2.	LETTER OF RIGHTS⁷⁹	Brief Description
2.1	What rights does the letter of rights provide information about? What information is included in the letter of rights when children are arrested or detained?	There are two letters of rights mentioned in the CPP. The first of these is the letter which accused persons are given before their first questioning. The second is the letter given upon arrest. The letter given upon arrest is discussed below as it best resembles the one provided for in Article 4 of Directive 2012/13/EU. The letter of rights provided before the first questioning is described in the previous answers, in Section 1.1 above. Article 209 (17) of the CPP provides that: <i>“A person taken in custody shall be informed, under signature, in writing, of the rights under Article 83 and by Article 210 par. (1) and (2) of the Code of Criminal Procedure, their right to access emergency medical assistance, the maximum term for which such custody may be ordered, as well as their right to file complaint against the ordered measure.”</i> ⁸⁰ Article 83 of the CPP lists the following rights:

⁷⁸ Romania, Law no. 135/2010 on the Code of Criminal Procedure (*Legeanr. 135/2010 privind Noul Cod de Procedură Penală*), 1 July 2010, Article 83. Translation available on the website of the Ministry of Justice, at www.just.ro/LinkClick.aspx?fileticket=uoJx07a1STU%3d&tabid=89.

⁷⁹ See in particular Article 4 and relevant recitals of Directive 2012/13/EU.

⁸⁰ Romania, Law no. 135/2010 on the Code of Criminal Procedure (*Legeanr. 135/2010 privind Noul Cod de Procedură Penală*), 1 July 2010, Article 209(17) and Article 83.

		<p><i>“a) not to give any statements during criminal proceedings, and their attention shall be drawn to the fact that their refusal to make any statements shall not cause them to suffer any unfavourable consequences, and that any statement they do make may be used as evidence against them;</i></p> <p><i>b) to be informed of the act for which they are under investigation and the charges against them;</i></p> <p><i>c) to consult the case file, under the law;</i></p> <p><i>d) to have a retained counsel and, if they cannot afford one, in cases of mandatory legal assistance the right to have a court-appointed counsel;</i></p> <p><i>e) to propose production of evidence under the terms set by law, to raise objections and to argue in court;</i></p> <p><i>f) to file any other applications related to the settlement of the criminal and civil part of the case;</i></p> <p><i>g) to an interpreter free of charge, when they cannot understand, cannot express themselves properly or cannot communicate in the Romanian language;</i></p> <p><i>h) to use a mediator, in cases permitted by law;</i></p> <p><i>i) the right to be informed of their rights;</i></p> <p><i>j) other rights set by law.”⁸¹</i></p> <p>Article 210 paragraph (1) of the CPP specifies:</p> <p><i>“immediately after being taken in custody, a person has the right to inform personally or to request judicial bodies having ordered the measure to announce a member of their family, or another person appointed by them, of their being taken in custody and of the location of their custody.”</i></p> <p>Paragraph (2) of the same article further specifies:</p> <p><i>“If a person taken in custody is not a Romanian citizen, they also have the right to inform or to request the informing of the diplomatic mission or consular office of the state they are a</i></p>
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⁸¹ Romania, Law no. 135/2010 on the Code of Criminal Procedure (*Legeanr. 135/2010 privind Noul Cod de Procedură Penală*), 1 July 2010, Article 83. Translation available on the website of the Ministry of Justice, at www.just.ro/LinkClick.aspx?fileticket=uoJx07a1STU%3d&tabid=89.

		<p><i>citizen of, or, as applicable, a humanitarian international organization, if they do not want to receive assistance from the authorities of their country of origin, or the representative office of the competent international organization, if they are a refugee or, for any other reason, are under the protection of such organization. The General Immigrations Inspectorate shall be informed in all situations of the ordering of preventive measures against this category of persons.</i>⁸²</p> <p>There are no special provisions on what the letter of rights should include in case the defendant or accused is a child.⁸³</p>
2.2	<p>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>	<p>Accused persons are given the letter of rights when they are placed in custody.⁸⁴ This letter is provided in written form in Romanian and if the accused persons do not understand Romanian they are informed of their rights through an interpreter.⁸⁵</p>
2.3	<p>Is the letter of rights drafted in simple and accessible language? How do competent</p>	<p>There is no standardised letter of rights.⁸⁶</p> <p>There are, however, several examples. One of these, provided by the Prosecutor's Office attached to the Supreme Court, describes the rights as they are set down in the CPP, using formalistic</p>

⁸² Romania, Law no. 135/2010 on the Code of Criminal Procedure (*Legeanr. 135/2010 privind Noul Cod de ProcedurăPenală*), 1 July 2010, Article 210 (1), (2).

⁸³ Romania, representative of the Ministry of Justice.

⁸⁴ Romania, Law no. 135/2010 on the Code of Criminal Procedure (*Legeanr. 135/2010 privind Noul Cod de ProcedurăPenală*), 1 July 2010, Article 209 (17) confirmed by a representative of the Ministry of Justice and criminal defence lawyers.

⁸⁵ Romania, criminal defence lawyers.

⁸⁶ Romania, representatives of the Prosecutor's Office attached to the Supreme Court (*Parchetul de pe lângă Înalta Curte de Casație și Justiție*) and of the Ministry of Justice.

<p>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>language.⁸⁷ There is also a template developed by the National Magistrates Institute (NMI) (<i>Institutul Național al Magistraturii</i>, INM) which just reproduces the articles from the CPP.⁸⁸</p>
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⁸⁷ Romania, representative of the Prosecutor's Office attached to the Supreme Court (*Parchetul de pe lângă Înalta Curte de Casație și Justiție*).

⁸⁸ Institutul Național al Magistraturii (2014), *Ghid practic. Modele de acte de procedura in materie penala*, Bucharest, Institutul Național al Magistraturii, p 319, available at: www.inm-lex.ro/displaypage.php?p=85&d=176.

3.	RIGHT TO INFORMATION ABOUT THE ACCUSATION ⁸⁹	Brief Description
3.1	<p>What information is provided to the suspects or accused persons regarding what they have been accused of and how is it provided (e.g. orally or in writing)</p>	<p>The CPP establishes what information is provided to suspects or accused persons, and how it is provided, as follows.</p> <p><i>“Any person placed under arrest has the right to be informed within the shortest delays, and in a language they understand, of the reasons they were arrested [...]”</i>⁹⁰</p> <p><i>The suspect has the right to be informed immediately, and before being interviewed, of the offense the criminal investigation is looking into and the charge for that offense. The defendant has the right to be informed immediately of the offense the prosecution against them has started for, and the charges for that offense..”</i>⁹¹</p> <p>Before ruling on a request to place someone under pre-trial detention, the Judge for Rights and Liberties (<i> judecătorul de drepturi și libertăți</i>) must inform them of the offence of which they are accused, after which the judge will proceed to hear the defendant.⁹²</p> <p><i>“A person who has acquired the capacity of suspect shall be informed, before their first hearing, of that capacity, of the actions they are a suspect for, of the charges for such actions, of their procedural rights under Article 83[of the Code of Criminal Procedure], and a report shall be written to that effect.”</i>⁹³</p>

⁸⁹ See in particular Article 6 and relevant recitals of Directive 2012/13/EU.

⁹⁰ Romania, Law no. 135/2010 on the Code of Criminal Procedure (*Legeanr. 135/2010 privind Noul Cod de ProcedurăPenală*), 1 July 2010, Article 9 (3).

⁹¹ Romania, Law no. 135/2010 on the Code of Criminal Procedure (*Legeanr. 135/2010 privind Noul Cod de ProcedurăPenală*), 1 July 2010, Article 10 (3).

⁹² Romania, Law no. 135/2010 on the Code of Criminal Procedure (*Legeanr. 135/2010 privind Noul Cod de ProcedurăPenală*), 1 July 2010, Article 225 (8).

⁹³ Romania, Law no. 135/2010 on the Code of Criminal Procedure (*Legeanr. 135/2010 privind Noul Cod de ProcedurăPenală*), 1 July 2010, Article 307.

<p>3.2</p>	<p>At which stage of the proceedings is the information provided? Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.</p>	<p>Persons are informed of the charges against them after they become a suspect and before the first hearing.⁹⁴</p>
<p>3.3</p>	<p>How are suspects or accused persons informed when, in the course of the criminal proceedings, the details of the accusation change?</p>	<p>Suspects or accused persons are informed of changes to the details of an accusation as provided for by the CPP, as follows.</p> <p><i>“In the situation where, after the criminal investigation started, the criminal investigation body finds new facts, new data concerning the involvement of other individuals or circumstances that can lead to changing the charges for the offense, that body shall order the widening of the criminal investigation scope or the changing of the charges.”⁹⁵</i></p> <p><i>“The criminal investigation body that ordered the widening of the scope of the criminal investigation or the changing of the charges is under an obligation to inform the prosecutor about that step and, as the case may be, propose that the criminal action start.”⁹⁶</i></p> <p><i>“The judicial body that ordered the widening of the scope of the criminal investigation or the change of charges is under an obligation to inform the suspect about the new facts that warranted the widening of the scope.”⁹⁷</i></p>

⁹⁴ Romania, Law no. 135/2010 on the Code of Criminal Procedure (*Legeanr. 135/2010 privind Noul Cod de ProcedurăPenală*), 1 July 2010, Article 307; criminal defence lawyers.

⁹⁵ Romania, Law no. 135/2010 on the Code of Criminal Procedure (*Legeanr. 135/2010 privind Noul Cod de ProcedurăPenală*), 1 July 2010, Article 311 (1).

⁹⁶ Romania, Law no. 135/2010 on the Code of Criminal Procedure (*Legeanr. 135/2010 privind Noul Cod de ProcedurăPenală*), 1 July 2010, Article 311 (2).

⁹⁷ Romania, Law no. 135/2010 on the Code of Criminal Procedure (*Legeanr. 135/2010 privind Noul Cod de ProcedurăPenală*), 1 July 2010, Article 311 (3).

4.	RIGHT OF ACCESS TO CASE MATERIALS ⁹⁸	Brief Description
4.1	What material evidence can be accessed by suspected or accused persons (e.g. documents, photographs, audio, video, summaries...)?	Suspects, accused persons and their lawyers have the right to consult the whole case file throughout the criminal proceedings. ⁹⁹ The CPP provides that “[d]uring the course of the criminal investigation, the prosecutor may restrict, on a reasoned basis, the case file consultation for up to ten days, if this could harm the proper conducting of the criminal investigation.” ¹⁰⁰
4.2	At what stage of the proceedings is access to case materials granted? Please cross-check findings from the desk research by consulting relevant	The right to access the case file applies throughout the criminal investigation. ¹⁰¹ This right applies for both a suspect ¹⁰² and a defendant (<i>inculpat</i>). ¹⁰³

⁹⁸ See in particular Article 7 and relevant recitals of Directive 2012/13/EU.

⁹⁹ Romania, Law no. 135/2010 on the Code of Criminal Procedure (*Legeanr. 135/2010 privind Noul Cod de ProcedurăPenală*), 1 July 2010, Article 94 (1), (8).

¹⁰⁰ Romania, Law no. 135/2010 on the Code of Criminal Procedure (*Legeanr. 135/2010 privind Noul Cod de ProcedurăPenală*), 1 July 2010, Article 94 (4).

¹⁰¹ Romania, Law no. 135/2010 on the Code of Criminal Procedure (*Legeanr. 135/2010 privind Noul Cod de ProcedurăPenală*), 1 July 2010, Article 94 (1).

¹⁰² Romania, Law no. 135/2010 on the Code of Criminal Procedure (*Legeanr. 135/2010 privind Noul Cod de ProcedurăPenală*), 1 July 2010, Article 83 (b).

¹⁰³ Romania, Law no. 135/2010 on the Code of Criminal Procedure (*Legeanr. 135/2010 privind Noul Cod de ProcedurăPenală*), 1 July 2010, Article 78.

	organisations and/or practitioners.	
4.3	Under what circumstances is access to material refused? Who takes the decision of refusal?	<p>The CPP provides that “[d]uring the course of the criminal investigation, the prosecutor may restrict, on a reasoned basis, the case file consultation for up to 10 days, if this could harm the proper conducting of the criminal investigation.”¹⁰⁴Such restrictions can be challenged by using the general procedure set out in Articles 336–339 of the CPP.¹⁰⁵An accused person or suspect can file a complaint with the prosecutor if any of their rights or interests are breached (Article 336), even by the police, and the prosecutor must issue a decision on the complaint within 20 days of receiving it (Article 337).If a breach of rights complaint is made against a prosecutor, then the prosecutor hierarchically superior to the one against whom or whose acts the complaint is made issues a ruling on the complaint (Article 339).The defendant can further raise any exceptions regarding infringement of rights during the preliminary chamber procedure, when a judge can rule to exclude evidence obtained in breach of the law (Articles 345,346).</p> <p>When the criminal investigation phase is over the prosecutor sends the case file to the court (Article 329 (2) CPP) and the trial phase begins. There are no limitations to right of the accused to access to the case file during the trial proceedings (Article 356 (1)).</p>
5.	CROSS-CUTTING ISSUES: LANGUAGES, COMPLAINT MECHANISMS, RECORDING & SPECIAL MEASURES¹⁰⁶	Brief Description
5.1	In which languages can information be	

¹⁰⁴Romania, Law no. 135/2010 on the Code of Criminal Procedure (*Legeanr. 135/2010 privind Noul Cod de Procedură Penală*), 1 July 2010, Article 94 (4).

¹⁰⁵Romania, Law no. 135/2010 on the Code of Criminal Procedure (*Legeanr. 135/2010 privind Noul Cod de Procedură Penală*), 1 July 2010, Articles 336–339.

¹⁰⁶ See in particular Articles 3–8and relevant recitals of Directive 2012/13/EU.

provided for the following?	
a) information on procedural rights	The MJ explained in a response to an FOI request that translation and interpretation can be provided in the 49 languages for which it has registered translators including among others: Albanian, Arabic, Hebrew, English, Esperanto, Finnish, French, German, Greek, Ancient Greek, Hindi, Indonesian, Italian, Japanese, Latin, Lithuanian, Macedonian, Hungarian, neo-Greek, Netherlands , Nepalese, Norwegian, Dutch, Panjabi, Persian, Polish, Portuguese, Romani, Russian, Serbian, Serbo-Croatian, Slovak, Slovenian, Spanish, Swedish, Turkish, Ukrainian, Urdu and Vietnamese. ¹⁰⁷ If there are no authorised interpreters who speak any of these languages, the authorities first of all try to determine if the suspects or accused persons know any other language for which an interpreter is available. If this is not the case, the authorities can use the services of a trustworthy person who speaks the language of the accused/suspect person, even if that person is not an authorised interpreter. ¹⁰⁸
b) letter of rights	The MJ explained in a response to an FOI request that translation and interpretation can be provided in the 49 languages in which it has registered translators including among others: Albanian, Arabic, Hebrew, English, Esperanto, Finish, French, German, Greek, Ancient Greek, Hindi, Indonesian, Italian, Japanese, Latin, Lithuanian, Macedonian, Hungarian, Neo-Geek, Netherlands , Nepalese, Norwegian, Dutch, Panjabi, Persian, Polish, Portuguese, Romani, Russian, Serbian, Serbo-Croatian, Slovak, Slovenian, Spanish, Swedish, Turkish, Ukrainian, Urdu and Vietnamese. ¹⁰⁹ If there are no authorised interpreters who speak any of these languages, the authorities first of all try to determine if the suspects or accused persons know any other language for which an interpreter is available. If this is not the case, the authorities can use the services of a trustworthy person who speaks the language of the accused/suspect person, even if that person is not an authorised interpreter. ¹¹⁰
c) information about the accusation	The Ministry of Justice explained in a response to an FOI request that translation and interpretation can be provided in the 49 languages in which it has registered translators including: Albanian, Arabic, Hebrew, English, Esperanto, Finish, French, German, Greek, Ancient Greek, Hindi, Indonesian, Italian, Japanese, Latin, Lithuanian, Macedonian, Hungarian, Neo-Geek, Netherlands , Nepalese, Norwegian, Dutch, Panjabi, Persian, Polish, Portuguese, Romani, Russian, Serbian, Serbo-Croatian, Slovak, Slovenian, Spanish, Swedish, Turkish, Ukrainian, Urdu and Vietnamese. ¹¹¹ If

¹⁰⁷ Romania, representative of the Ministry of Justice.

¹⁰⁸ Romania, representative of the Ministry of Justice.

¹⁰⁹ Romania, representative of the Ministry of Justice.

¹¹⁰ Romania, representative of the Ministry of Justice.

¹¹¹ Romania, representative of the Ministry of Justice.

		there are no authorised interpreters who speak any of these languages, the authorities first of all try to determine if the suspects or accused persons know any other language for which an interpreter is available. If this is not the case, the authorities can use the services of a trustworthy person who speaks the language of the accused/suspect person, even if that person is not an authorised interpreter. ¹¹²		
	d) case materials	Suspects and accused persons who do not speak or understand Romanian have a right to receive information about the entire case-file through an interpreter. ¹¹³ The Ministry of Justice explained in a response to an FOI request that translation and interpretation can be provided in the 49 languages in which it has registered translators including among others: Albanian, Arabic, Hebrew, English, Esperanto, Finish, French, German, Greek, Ancient Greek, Hindi, Indonesian, Italian, Japanese, Latin, Lithuanian, Macedonian, Hungarian, Neo-Geek, Netherlands , Nepalese, Norwegian, Dutch, Panjabi, Persian, Polish, Portuguese, Romani, Russian, Serbian, Serbo-Croatian, Slovak, Slovenian, Spanish, Swedish, Turkish, Ukrainian, Urdu and Vietnamese. ¹¹⁴ If there are no authorised interpreters who speak any of these languages, the authorities first of all try to determine if the suspects or accused persons know any other language for which an interpreter is available. If this is not the case, the authorities can use the services of a trustworthy person who speaks the language of the accused/suspect person, even if that person is not an authorised interpreter. ¹¹⁵		
		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?			

¹¹² Romania, representative of the Ministry of Justice.

¹¹³ Romania, Law no. 135/2010 on the Code of Criminal Procedure (*Legeanr. 135/2010 privind Noul Cod de Procedură Penală*), 1 July 2010, Article 12 (3)

¹¹⁴ Romania, representative of the Ministry of Justice.

¹¹⁵ Romania, representative of the Ministry of Justice.

	If yes, describe the procedure relevant.	briefly the where		
	a) information on procedural rights	x		<p>If such cases occur, the general procedure for suspects or accused persons to complain about any breaches of their rights during criminal investigations applies. This procedure is set out in Articles 336–339 of the CPP. ¹¹⁶An accused person or suspect can file a complaint with the prosecutor if any of their rights or interests are breached (Article 336), even by the police, and the prosecutor must issue a decision on the complaint within 20 days of receiving it (Article 337). If a breach of rights complaint is made against a prosecutor, then the prosecutor hierarchically superior to the one against whom or whose acts the complaint is made issues a ruling on the complaint (Article 339). The defendant can further raise any exceptions or challenges regarding the infringement of rights during the preliminary chamber procedure, when a judge can rule to exclude evidence obtained in breach of the law (Articles 345,346).</p> <p>Suspects or accused persons can obtain the annulment of procedural acts carried out while their procedural rights were infringed. The annulment procedure is prescribed in Article 282 of the CPP and it applies for cases in which there was a breach of a procedural right of the defendant or accused, during the investigation phase or during the trial phase.</p> <p>If the breach occurred during the criminal investigation the annulment can be requested by the defendant the latest at the end of the preliminary chamber procedure phase and if the infringement occurred during the trial phase the annulment can be raised during the first court hearing following the breach, according to Article 282 (4) of the CPP.</p>
	b) letter of rights	x		<p>If such cases occur, the general procedure for suspects or accused persons to complain about any breaches of their rights during criminal investigations applies. This procedure is set out in Articles 336–339 of the CPP. ¹¹⁷An accused person or suspect can file a complaint with the prosecutor if any of their rights or interests are breached (Article 336), including by the police, and the prosecutor must issue a decision on the complaint within 20 days of receiving it (Article 337). If a breach of rights complaint is made against a prosecutor, then the prosecutor hierarchically superior to the one against whom or whose</p>

¹¹⁶ Romania, Law no. 135/2010 on the Code of Criminal Procedure (*Legeanr. 135/2010 privind Noul Cod de Procedură Penală*), 1 July 2010, Articles 336–339.

¹¹⁷ Romania, Law no. 135/2010 on the Code of Criminal Procedure (*Legeanr. 135/2010 privind Noul Cod de Procedură Penală*), 1 July 2010, Articles 336–339.

			<p>acts the complaint is made issues a ruling on the complaint (Article 339). The defendant can further raise any exceptions or challenges regarding the infringement of rights during the preliminary chamber procedure, when a judge can rule to exclude evidence obtained in breach of the law (Articles 345,346).</p> <p>Suspects or accused persons can obtain the annulment of procedural acts carried out while their procedural rights were infringed. The annulment procedure is prescribed in Article 282 of the CPP and it applies for cases in which there was a breach of a procedural right of the defendant or accused, during the investigation phase or during the trial phase.</p> <p>If the breach occurred during the criminal investigation the annulment can be requested by the defendant the latest at the end of the preliminary chamber procedure phase and if the infringement occurred during the trial phase the annulment can be raised at the first court hearing following the breach, according to Article 282 (4) of the CPP.</p>
	c) information about the accusation	x	<p>If such cases occur, the general procedure for suspects or accused persons to complain about any breaches of their rights during criminal investigations applies. This procedure is provided for in Articles 336–339 of the CPP. ¹¹⁸An accused person or suspect can file a complaint with the prosecutor if any of their rights or interests are breached (Article 336), including by the police, and the prosecutor must issue a decision on the complaint within 20 days of receiving it (Article 337). If a breach of rights complaint is made against a prosecutor, then the prosecutor hierarchically superior to the one against whom or whose acts the complaint is made issues a ruling on the complaint (Article 339). The defendant can further raise any exceptions or challenges regarding the infringement of rights during the preliminary chamber procedure, when a judge can rule to exclude evidence obtained in breach of the law (Articles 345,346).</p> <p>Suspects or accused persons can obtain the annulment of procedural acts carried out while their procedural rights were infringed. The annulment procedure is prescribed in Article 282 of the CPP and it applies for cases in which there was a breach of a procedural right of the defendant or accused, during the investigation phase or during the trial phase.</p> <p>If the breach occurred during the criminal investigation the annulment can be requested by the defendant the latest at the end of the preliminary chamber procedure phase and if</p>

¹¹⁸ Romania, Law no. 135/2010 on the Code of Criminal Procedure (*Legeanr. 135/2010 privind Noul Cod de Procedură Penală*), 1 July 2010, Articles 336–339.

				the infringement occurred during the trial phase the annulment can be raised at the first court hearing following the breach, according to Article 282 (4) of the CPP.
	d) access to case materials	x		<p>If such cases occur, the general procedure for suspects or accused persons to complain about any breaches of their rights during criminal investigations applies. This procedure is set out in Articles 336–339 of the CPP. ¹¹⁹An accused person or suspect can file a complaint with the prosecutor if any of their rights or interests are breached (Article 336), including by the police, and the prosecutor must issue a decision on the complaint within 20 days of receiving it (Article 337). If a breach of rights complaint is made against a prosecutor, then the prosecutor hierarchically superior to the one against whom or whose acts the complaint is made issues a ruling on the complaint (Article 339). The defendant can further raise any exceptions or challenges regarding the infringement of rights during the preliminary chamber procedure, when a judge can rule to exclude evidence obtained in breach of the law (Articles 345,346).</p> <p>Suspects or accused persons can obtain the annulment of procedural acts carried out while their procedural rights were infringed. The annulment procedure is prescribed in Article 282 of the CPP and it applies for cases in which there was a breach of a procedural right of the defendant or accused, during the investigation phase or during the trial phase.</p> <p>If the breach occurred during the criminal investigation the annulment can be requested by the defendant the latest at the end of the preliminary chamber procedure phase and if the infringement occurred during the trial phase the annulment can be raised at the first court hearing following the breach, according to Article 282 (4) of the CPP.</p>
5.3	Is any official record kept to note the provision of information about the following? If yes, briefly describe where relevant.			

¹¹⁹ Romania, Law no. 135/2010 on the Code of Criminal Procedure (*Legeanr. 135/2010 privind Noul Cod de Procedură Penală*), 1 July 2010, Articles 336–339.

	a) information on procedural rights	X		A suspect/accused person has to sign a written record (<i>proces verbal</i>) confirming that they were informed of their rights. ¹²⁰
	b) letter of rights	X		A person who is arrested has to sign a written record (<i>proces verbal</i>) confirming that they were informed of their rights. ¹²¹
	c) information about the accusation	X		A written record (<i>proces verbal</i>) is drawn up when suspects are informed of the criminal acts for which they are being investigated. ¹²²
	d) access to case materials	x		A suspect/accused person has to sign a written record (<i>proces verbal</i>) confirming that they were informed of their rights. ¹²³
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			<p>The only general provisions in regard to ensuring the procedural rights of vulnerable suspects are in relation to legal aid and the presence of a tutor or legal guardian in criminal proceedings.¹²⁴</p> <p>The CPP¹²⁵ provides that legal assistance is mandatory:</p> <p><i>“a) when a suspect or defendant is underage, is admitted to a detention center or an educational center, when they are detained or arrested, even in a different case, and when in respect of such person a safety measure was ordered remanding them to a</i></p>

¹²⁰ Romania, Law no. 135/2010 on the Code of Criminal Procedure (*Legeanr. 135/2010 privind Noul Cod de Procedură Penală*), 1 July 2010, Article 108 (3).

¹²¹ Romania, Law no. 135/2010 on the Code of Criminal Procedure (*Legeanr. 135/2010 privind Noul Cod de Procedură Penală*), 1 July 2010, Article 209 (7).

¹²² Romania, Law no. 135/2010 on the Code of Criminal Procedure (*Legeanr. 135/2010 privind Noul Cod de Procedură Penală*), 1 July 2010, Article 307.

¹²³ Romania, Law no. 135/2010 on the Code of Criminal Procedure (*Legeanr. 135/2010 privind Noul Cod de Procedură Penală*), 1 July 2010, Article 108 (3).

¹²⁴ Romania, representative of the Prosecutor’s Office attached to the Supreme Court (*Parchetul de pe lângă Înalta Curte de Casație și Justiție*).

¹²⁵ Romania, Law no. 135/2010 on the Code of Criminal Procedure (*Legeanr. 135/2010 privind Noul Cod de Procedură Penală*), 1 July 2010, Article 90. Translation available on the website of the Ministry of Justice, at www.just.ro/LinkClick.aspx?fileticket=uoJx07a1STU%3d&tabid=89.

<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><i>medical facility, even in a different case, as well as in other situations established by law;</i></p> <p><i>b) when a judicial body believes that a suspect or defendant could not prepare their defense on their own.”</i></p> <p>In relation to summons before the criminal investigation body, the CPP provides that:¹²⁶</p> <p><i>“(1) When the suspect or defendant is an underage person who has not turned 16, for any hearing or confrontation of the juvenile the criminal investigation body shall summon their parents or, as the case may be, their legal guardian, custodian or person in whose care or under whose supervision the juvenile was placed temporarily, as well as the General Department for Social Assistance and Child Protection [Direcția Generală de Asistență Socială și Protecția Copilului] in the locality where the hearing is to take place.</i></p> <p><i>(2) When the suspect or defendant is an underage person who has turned 16, summoning the individuals described in par. (1) shall only be ordered if the criminal investigation body deems it necessary.</i></p> <p><i>(3) Failure by the legally summoned individuals to attend the hearing or confrontation of the juvenile does not preclude those procedures from taking place.”</i></p>
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¹²⁶ Romania, Law no. 135/2010 on the Code of Criminal Procedure (*Legeanr. 135/2010 privind Noul Cod de Procedură Penală*), 1 July 2010, Article 505. Translation available on the website of the Ministry of Justice, at www.just.ro/LinkClick.aspx?fileticket=uoJx07a1STU%3d&tabid=89.

	If yes, briefly provide information on those mechanisms in relation to each of the listed vulnerable groups. Is this information in simple and accessible language?			
• information on procedural rights	a)		X	There are no special provisions. In practice, it is left to the supervising prosecutor or judge to ensure that this right is respected. ¹²⁷
	b)		X	There are no special provisions. In practice, it is left to the supervising prosecutor or judge to ensure that this right is respected. ¹²⁸
	c)		X	There are no special provisions. In practice, it is left to the supervising prosecutor or judge to ensure that this right is respected. ¹²⁹
• letter of rights	a)		X	There are no special provisions. In practice, it is left to the supervising prosecutor or judge to ensure that this right is respected. ¹³⁰

¹²⁷ Romania, representatives of the Prosecutor's Office attached to the Supreme Court (*Parchetul de pe lângă Înalta Curte de Casație și Justiție*) and of the Ministry of Justice.

¹²⁸ Romania, representative of the Prosecutor's Office attached to the Supreme Court (*Parchetul de pe lângă Înalta Curte de Casație și Justiție*) and of the Ministry of Justice.

¹²⁹ Romania, representative of the Prosecutor's Office attached to the Supreme Court (*Parchetul de pe lângă Înalta Curte de Casație și Justiție*) and of the Ministry of Justice.

¹³⁰ Romania, representative of the Prosecutor's Office attached to the Supreme Court (*Parchetul de pe lângă Înalta Curte de Casație și Justiție*) and of the Ministry of Justice.

		b)	X	There are no special provisions. In practice, it is left to the supervising prosecutor or judge to ensure that this right is respected. ¹³¹
		c)	X	There are no special provisions. In practice, it is left to the supervising prosecutor or judge to ensure that this right is respected. ¹³²
• information about the accusation		a)	X	There are no special provisions. In practice, it is left to the supervising prosecutor or judge to ensure that this right is respected. ¹³³
		b)	X	There are no special provisions. In practice, it is left to the supervising prosecutor or judge to ensure that this right is respected. ¹³⁴
		c)	X	There are no special provisions. In practice, it is left to the supervising prosecutor or judge to ensure that this right is respected. ¹³⁵
		a)	X	There are no special provisions. In practice, it is left to the supervising prosecutor or judge to ensure that this right is respected. ¹³⁶

¹³¹ Romania, representative of the Prosecutor's Office attached to the Supreme Court (*Parchetul de pe lângă Înalta Curte de Casație și Justiție*) and of the Ministry of Justice.

¹³² Romania, representative of the Prosecutor's Office attached to the Supreme Court (*Parchetul de pe lângă Înalta Curte de Casație și Justiție*) and of the Ministry of Justice.

¹³³ Romania, representative of the Prosecutor's Office attached to the Supreme Court (*Parchetul de pe lângă Înalta Curte de Casație și Justiție*) and of the Ministry of Justice.

¹³⁴ Romania, representative of the Prosecutor's Office attached to the Supreme Court (*Parchetul de pe lângă Înalta Curte de Casație și Justiție*) and of the Ministry of Justice.

¹³⁵ Romania, representative of the Prosecutor's Office attached to the Supreme Court (*Parchetul de pe lângă Înalta Curte de Casație și Justiție*) and of the Ministry of Justice.

¹³⁶ Romania, representative of the Prosecutor's Office attached to the Supreme Court (*Parchetul de pe lângă Înalta Curte de Casație și Justiție*) and of the Ministry of Justice.

• access to case materials	b)	X	There are no special provisions. In practice, it is left to the supervising prosecutor or judge to ensure that this right is respected. ¹³⁷
	c)	X	There are no special provisions. In practice, it is left to the supervising prosecutor or judge to ensure that this right is respected. ¹³⁸

¹³⁷ Romania, representative of the Prosecutor's Office attached to the Supreme Court (*Parchetul de pe lângă Înalta Curte de Casație și Justiție*) and of the Ministry of Justice.

¹³⁸ Romania, representative of the Prosecutor's Office attached to the Supreme Court (*Parchetul de pe lângă Înalta Curte de Casație și Justiție*) and of the Ministry of Justice.