

Submission Template

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

May 2015

Country: Slovak Republic

FRANET contractor: Center for the Research of Ethnicity and Culture

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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	a) police questioning;	<p>a) According to Law No. 301/2005 Code of Criminal Procedures², the need to call an interpreter is determined by a member of the police force or a case investigator, after the suspect/accused declares he or she does not understand Slovak language or if the police officer/investigator establishes that the suspect/accused does not have sufficient command of Slovak language (Code of Criminal Procedures, Article 2, Paragraph 20, Article 28, Paragraphs 1 and 2). The practitioners contacted for the purpose of our research stated they never witnessed or heard that the police officer/investigator would be reluctant toward or hinder contacting and commissioning interpretation services.³</p>

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

² Slovakia, Act No. 301 /2005 Code of Criminal Procedures (*Zákon č. 301/2005 Z. z. Trestný poriadok*), 24 May 2005.

³ Slovakia, attorneys, lawyer and interpreter and translator.

		<p>b) There are no fixed rules or mechanisms to ascertain whether the suspect/accused sufficiently understands the language of the criminal proceedings. For commissioning interpretation services it is enough if the suspect/accused declares he or she does not understand Slovak language or if the policeman/investigator establishes that the suspect/accused does not have sufficient command of Slovak language (Code of Criminal Procedures, Article 2, Paragraph 20, Article 28, Paragraphs 1 and 2). The practitioners confirmed that the declaration of the suspect/accused that he or she does not understand the language of the criminal proceedings does not get verified in practice. ; in other words, as soon as the person declares he or she does not understand Slovak, interpretation services are commissioned automatically.</p>
		<p>c) The costs related to interpretation during the criminal proceedings are borne by the government institution that decided to commission interpretation services (Code of Criminal Procedures, Article 29, Paragraph 2).</p>
		<p>d) The valid law fails to specify the time limit for commissioning interpretation services. The law stipulates, for instance, the time limit for questioning an arrested/detained person. This time limit is subsequently deemed decisive for commissioning interpretation services as the questioning may only take place in the presence of an interpreter, provided that the arrested/detained person has declared he or she does not understand Slovak or that the member of the police force/case investigator has established he or she does not understand at all or understand sufficiently. The interviewed practitioners confirmed that the legal/procedural act may only take place in the presence of an interpreter⁴; consequently, the time limit for executing the legal/procedural act is simultaneously the time limit for commissioning interpretation services.</p>
1.1.2	b) court hearings;	<p>a) The procedure is identical as in the case of police questioning, i.e. the court of law decides to commission interpretation services by issuing the so-called measure (Code of Criminal Procedures, Article 28, Paragraphs 1 and 2).</p>
		<p>b) Please see 1.1.1b)</p>
		<p>c) Please see 1.1.1c).</p>

⁴ Slovakia, attorneys, lawyer and interpreter and translator.

		<p>d)The valid law fails to specify the time limit for commissioning interpretation services. Court proceedings cannot take place in the absence of an interpreter. The interviewed practitioners have not encountered with procrastination or adjournment of court proceedings due to the absence of an interpreter⁵.</p>
1.1.3	c)any necessary interim hearings;	<p>a) The provisions of the Code of Criminal Procedures pertaining to commissioning of interpretation services for the purpose of criminal proceedings are binding for all law enforcement organs and courts of law as well as all procedures that must be performed before these bodies (Code of Criminal Procedures, Article 2, Paragraph 20, Article 28, Paragraphs 1 and 2).</p>
		<p>b) Please see 1.1.1 b).</p>
		<p>c) Please see 1.1.1c).</p>
		<p>d) The valid law fails to specify the time limit for commissioning interpretation services. An interpreter must be present at every legal/procedural act executed in the course of criminal proceedings. The interviewed practitioners have not encountered with delays or postponements of interim hearings on account of absence of an interpreter⁶.</p>
1.1.4	d)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 need to commission interpretation services is determined by law enforcement organs (i.e. policeman, case investigator, or prosecutor) or the court of law. Once they so decide, then the commissioned interpreter shall, at the request of the suspect/accused, also interpret communication with his or her legal counsel in the course or in direct connection with criminal proceedings (Code of Criminal Procedures, Article 28, Paragraph 1). In other words, the interpreter does not interpret communication between the suspected/accused persons and their legal counsel just anytime but only during legal proceedings, for instance before police investigator, before a court of law, etc.</p>

⁵ Slovakia, attorneys, lawyer and interpreter and translator.

⁶ Slovakia, attorneys, lawyer and interpreter and translator.

		b) Please see 1.1.1b)
		c) Please see 1.1.1c).
		d) The valid law fails to specify the time limit for commissioning interpretation services. Any legal/procedural act for which an interpreter is commissioned to interpret the communication between the attorney and his or her client must not take place in the absence of an interpreter. One of the interviewed attorneys has heard of a case in which an interpreter was not present at the meeting with the case investigator and interpretation services were provided by the attorney; however, the practitioner added that such a solution was neither frequent nor usual ⁷ .
1.2	<p>How do authorities ensure interpretation into rare/lesser known languages where no certified interpreters exist?</p> <p>Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.</p>	<p>The authorities may also decide to commission interpretation services of an interpreter who is not the so-called court interpreter, i.e. is not duly certified in compliance with Act No. 382/2004 on Appraisers, Interpreters and Translators. They may do so if there are no certified interpreters in the Slovak Republic for the required language (Article 15, Paragraph 1a) or if a certified interpreter is unable to perform the task or if interpretation services would bear excessive costs (Article 15, Paragraph 1b).⁸ According to the information provided by the Ministry of Justice of the Slovak Republic, in each case it is considered individually if costs related to interpretation/translation could be assessed as excessive. However, the Ministry has not established any specific rules guiding this consideration. The Ministry gave us following situation as an example: the interpretation/translation should be performed by registered interpreter/translator in Slovak Republic who would be driving away at that time. If there was no other register interpreter/translator available for the particular language then the costs related to the interpretation/translation and his/her arrival to the Slovak Republic would be considered excessive and disproportionate⁹.</p> <p>The practitioners confirmed they have encountered with the practice of authorities commissioning interpretation services from an interpreter who is not duly certified in compliance with the mentioned law. This usually happens when the list of certified interpreters for the required language does not contain a single name. In particular, this problem concerns interpretation from non-European languages. Besides, many certified interpreters after some time ask to be deleted from the list of certified interpreters as it causes them a multitude of practical problems, for instance additional costs</p>

⁷ Slovakia, attorneys, lawyer and interpreter and translator.

⁸ Slovakia, Act No. 382/2004 on Appraisers, Interpreters and Translators (*Zákon č. 382/2004 Z. z. o znalcoch, tlmočníkoch a prekladateľoch*), 26.05.2004, Article 15.

⁹ Slovakia, representative of the Ministry of Justice.

		of liability insurance (Article 9, Paragraph 1 of Act No. 382/2004) or various administrative obligations vis-à-vis the Ministry of Justice (ensuing from Regulation No. 490/2004) ¹⁰ .
1.3	<p>Please describe procedures in place, if any, to ensure that suspects or accused persons have the right to challenge the decision that no interpretation is needed?</p> <p>Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.</p>	<p>The Code of Criminal Procedures fails to state explicit procedures to challenge law enforcement organs' decision that there is no need to commission interpretation services. According to an expert article examining the right to interpretation and translation and the implementation of Council Directive No. 2010/64/EU on the right to interpretation and translation in criminal proceedings into Slovakia's legal order in 2014, the valid law does not grant the suspect/accused a chance to file a legal remedy against law enforcement organs' decision that there is no need to commission interpretation services.¹¹ According to the authors of the article, the Directive's requirement that the suspect/accused must have a chance to challenge law enforcement organs' decision that there is no need to commission interpretation services or that these services are not of adequate quality to ensure a fair trial has not been implemented.</p> <p>The practitioners contacted for the purpose of our research stated they have never witnessed or heard that their clients would be denied the right to interpretation once they declare they do not speak Slovak language. Also, in their opinion it should be possible to file a procedural remedy against such a decision, for instance by turning to the case prosecutor¹².</p> <p>Slovak law does not provide for specific procedures of challenging law enforcement organs' decision that interpretation services are not necessary or protesting against inadequate quality of provided interpretation services. In pre-trial procedures, it is possible to claim Article 210 of the Code of Criminal Procedures, which entitles the suspect/accused to request the case prosecutor to examine the conduct of member of the police force/case investigator at any point of ongoing investigation. The case prosecutor is obliged to examine the complaint and inform the suspect/accused about the outcome of the inquiry. During court proceedings it is possible to use a general provision stipulating that a court of law may reject the formal accusation and refer the case to the prosecution if it finds material procedural shortcomings (Code of Criminal Procedures, Article 241, Paragraph 1f; Article 244, Paragraph 1h). It is also possible to challenge the refusal to commission interpretation services or protest against inadequate quality of provided interpretation services as part of appealing the verdict as it is possible to appeal not only the verdict but also the procedures that preceded the verdict (Code of Criminal Procedures, Article 311, Paragraph 1).¹³</p>

¹⁰ Slovakia, attorneys, lawyer and interpreter and translator.

¹¹ Strigáčová, D. – Gajdičiar, V. (2014), 'Niekoľko poznámok k právu na tlmočenie a preklad v slovenskom trestnom konaní' [Several remarks on the right to interpretation and translation in Slovakia's criminal procedures], *Bulletin slovenskej advokácie*, No. 10-11, p. 26.

¹² Slovakia, attorneys, lawyer and interpreter and translator.

¹³ Slovakia, attorney.

		According to the official information supplied by the Ministry of Justice, the decision to commission interpretation services in criminal proceedings is subject to a resolution that may be challenged regardless of which law enforcement organ (e.g. member of the force, case investigator or case prosecutor) or court of law issued/failed to issue the resolution to commission interpretation services. ¹⁴
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 valid law reads as follows: “Unless physical presence of an interpreter is required to ensure a fair trial and [law enforcement organs] fail to procure an interpreter for the language [the suspect/accused] sufficiently understands, interpretation services may in justified cases be provided via technical devices designed to transmit picture and sound” (Code of Criminal Procedures, Article 28, Paragraph 6). The valid law also provides for using communication technologies throughout criminal proceedings without further specifying what communication technologies may be used.
	b) Which technologies are used, if any (videoconference, telephone, internet, etc.)	The most frequently used communication technology is videoconference. ¹⁵ According to practitioners’ experiences technologies used for the purpose of remote interpretation are used very rarely although their usage would significantly speed up the course of the proceedings. ¹⁶
	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	The practitioners we have consulted have not encountered with the practical use of tools developed in the context of European e-Justice. According to the European e-Justice portal, there are only four regional courts in Slovakia that are equipped with videoconference technology ¹⁷ . Ministry of Justice sent us the information that all 64 district courts are equipped with the technology for videoconference. Presently, Ministry of Justice has implemented a project <i>Videoconferences</i> that is aimed at improving remote communication of participants of proceedings in Slovakia ¹⁸ .

¹⁴ Slovakia, representative of the Ministry of Justice.

¹⁵ Strigáčová, D. – Gajdičiar, V. (2014), ‘Niekoľko poznámok k právu na tlmočenie a preklad v slovenskom trestnom konaní’ [Several remarks on the right to interpretation and translation in Slovakia’s criminal procedures], *Bulletin slovenskej advokácie*, No. 10-11, p. 26.

¹⁶ Slovakia, attorneys, lawyer and interpreter and translator.

¹⁷ For further details, please see https://e-justice.europa.eu/content_information_on_national_facilities-319-sk-sk.do?member=1

¹⁸ Slovakia, representative of the Ministry of Justice.

	relevant organisations and/or practitioners.			
	TRAINING¹⁹	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.		No	<p>Further education of judges and judicial officers is provided by the Judicial Academy whose official website does not specify any judicial training aimed at particularities of interpretation and translation in criminal proceedings.²⁰</p> <p>The Office of Attorney General of the Slovak Republic has informed us that training concerning interpretation, translation and providing information in criminal proceedings is expected to be included in education plan in 2016. The education will be provided by the Judicial Academy²¹.</p>
2.	RIGHT TO TRANSLATION OF DOCUMENTS²²	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>			
	a) police questioning;	a) The valid law reads as follows: “The suspect shall receive in writing a resolution to bring indictment, a resolution to take the suspect into custody, a bill of indictment, an agreement on guilt and punishment and a proposal to approve it, a ruling, a penal order, a decision of appeal and a decision on conditional abandonment of criminal prosecution” (Code of Criminal		

¹⁹ See in particular Article 6 and relevant recitals of Directive 2010/64/EU.

²⁰ Judicial Academy of the Slovak Republic; available at: <http://www.ja-sr.sk/>

²¹ Slovakia, representative of the Office of Attorney General of the Slovak Republic.

²² See in particular Articles 3 and 4 and relevant recitals of Directive 2010/64/EU.

2.1.1		<p>Procedures, Article 28, Paragraph 4). “At the request of the accused, or without such a request, the law enforcement organ before which the proceedings take place decides that besides documents circumscribed in Paragraph 4 the accused shall also receive other written documents, provided they are inevitable to ensure a fair trial” (Code of Criminal Procedures, Article 28, Paragraph 5).</p> <p>The cited passages of the valid law regulate the conduct of all law enforcement organs (i.e. policemen, investigators and prosecutors) but also that of courts of law.</p> <p>The practitioners we have consulted stated that during police questioning or other procedures before the police it is usually not necessary to translate any documents unless it is explicitly required by the valid law. The usual procedure is that the police officer issues a record from each legal/procedural act, which is subsequently interpreted to the suspect/accused.²³ The record explicitly states that its contents have been interpreted to the suspect/accused; nevertheless, if the suspect/accused demanded a verbatim translation of the record, it is quite possible the demand would be granted.²⁴</p>
		<p>b) The costs related to translation during the criminal proceedings are borne by the law enforcement organ that decided to commission translation services (Code of Criminal Procedures, Article 29, Paragraph 2).</p>
	a) court hearings;	<p>c) The law fails to stipulate exact time limits for submitting the commissioned translations.</p> <p>The practitioners we have consulted pointed out that sometimes various time limits and deadlines (e.g. to file an appeal, a complaint, etc.) begin to elapse even though certain documents that are important at further stages of criminal proceedings have not yet been translated.</p> <p>Also, some experts have pointed out that the valid law is unclear as to whether time limits begin to elapse at the point of issuing the Slovak version of certain documents or at the point of submitting their translation.²⁵</p> <p>a) Please see 2.1.1 a)</p>

²³ Slovakia, attorneys, lawyer and interpreter and translator.

²⁴ Slovakia, attorneys, lawyer and interpreter and translator.

²⁵ Strigáčová, D. – Gajdičiar, V. (2014), ‘Niekoľko poznámok k právu na tlmočenie a preklad v slovenskom trestnom konaní’ [Several remarks on the right to interpretation and translation in Slovakia’s criminal procedures], *Bulletin slovenskej advokácie*, No. 10-11, p. 27.

2.1.2		b) Please see 2.1.1 b)
		c) Please see 2.1.1 c)
2.1.3	c)any necessary interim hearings;	a) Please see 2.1.1 a)
		b) Please see 2.1.1 b)
		c) Please see 2.1.1 c)
2.1.4	d)any communication between suspects and accused persons and their legal counsel in direct connection with any questioning or hearing during the proceedings?	a) Please see 2.1.1 a)
		b) Please see 2.1.1 b)
		c) Please see 2.1.1 c) The practitioners we have consulted stated they never encountered with the need to translate communication between the suspect/accused persons and their legal counsel.
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.	Instead of a full-fledged translation, the valid law provides for using oral summary of documents that must be translated (Code of Criminal Procedures, Article 28, Paragraph 4) as well as those that may be translated (Code of Criminal Procedures, Article 28, Paragraph 5). As for documents that must be translated, an oral summary is acceptable only if the suspect/accused has waived his or her right to a full-fledged translation; before the suspect/accused waives this right, he or she must be duly informed about this possibility as well as its potential consequences. As for documents that may be translated at the request of the suspect/accused (Code of Criminal Procedures, Article 28, Paragraph 5), the law also provides for using an oral summary instead of commissioning a full-fledged translation. This fact must be noted in the record from each legal/procedural act.

		The practitioners we have consulted confirmed that in practice, oral summary of legal documents is used much more frequently than their full-fledged translation because it is faster and less costly; ²⁶ however, very few of them have encountered with suspect/accused persons who would waive their right for a full-fledged translation of documents that must be translated (Paragraph 4).		
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>According to the valid law (Code of Criminal Procedures, Article 28), the following documents must be translated: a resolution to bring indictment, a resolution to take the accused into custody, a bill of indictment, an agreement on guilt and punishment and a proposal to approve it, a ruling, a penal order, a decision of appeal and a decision on conditional abandonment of criminal prosecution (Paragraph 4).</p> <p>The accused may also request full-fledged translation of other documents (Paragraph 5). If the law enforcement organ before which the proceedings take place refuses to grant the request for translation, the accused has the right to file a complaint against the decision (Paragraph 5).</p> <p>Similar to challenge the refusal to commission the interpretation service or protest against inadequate quality of interpretation also in the case of challenge the refusal to provide translation or low quality of translation only a general provision of the law can be applied as we have referred in details in subsection 1.3.</p>		
		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	The suspect/accused are usually asked to sign all documents in Slovak after they have been orally summed up to them. The record from each legal/procedural act must state what part of the document has been orally summed up to the suspect/accused. The suspect/accused has the right to refuse to sign the record and to request its full-fledged translation ²⁷ .
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?	Yes		The suspect/accused may waive their right to full-fledged translation of documents whose translation is required by law (Code of Criminal Procedures, Article 28, Paragraph 4). The only legal condition the law circumscribes for this waiver is that the suspect/accused must be duly informed about this decision as well as its potential consequences (Code of Criminal Procedures, Article 28, Paragraph 4). The suspect/accused is required to sign the interrogation record, which states that he or she has waived the right to full-fledged translation of the documents and that he or she has been duly instructed about potential implications of such a decision (Code of

²⁶ Slovakia, attorneys, lawyer and interpreter and translator.

²⁷ Slovakia, Act No. 301 /2005 Code of Criminal Procedures (Zákon č. 301/2005 Z. z. Trestný poriadok), 24 May 2005, Article 58 and Article 59.

				Criminal Procedures, Article 59, Paragraph 1). The record is produced in Slovak and its content is orally interpreted to the suspect/accused.
3.	RIGHTS CONCERNING BOTH INTERPRETATION AND TRANSLATION²⁸			
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		The national database of certified translators and interpreters is available at the official website of the Ministry of Justice. ²⁹
	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?	Yes		All certified translators and interpreters must be duly registered in compliance with Act No. 382/2004 on Appraisers, Interpreters and Translators, as amended. In proceedings before the court of law or other public administration organs, services of translators and interpreters that are not duly certified in compliance with said law may also be commissioned, provided that: a) there are no translators and interpreters registered for required languages or fields of expertise; b) no duly registered interpreter is able to perform the requested task; or c) performing the requested task would bear excessive difficulties or costs (Article 15, Paragraph 1).
	c) Who has access to these databases?	Brief Description: The database is publicly accessible.		
	d) Which professional qualifications are needed by: a) translators and b) interpreters in order to be registered in the database?	Brief Description: Act No. 382/2004 on Appraisers, Interpreters and Translators, as amended, introduced a list of criteria every person that aspires to be registered in the database of certified interpreters and translators must comply with (Article 5, Paragraph 1). As far as eligibility conditions are concerned, every applicant must demonstrate the following: (a) full legal capacity; (b) integrity; (c) completed education in the field of expertise for which he wishes to be registered; (d) has completed special education, a.k.a. "professional minimum"; (e) has been active in this field of expertise for at least five years; and (f) has passed examination in the field of expertise for which he wishes to be registered.		

²⁸ See in particular Article 5 and relevant recitals of Directive 2010/64/EU.

²⁹ Slovakia, Ministry of Justice (*Ministerstvo spravodlivosti SR*), The single automated system of legal information; available at: http://jaspi.justice.gov.sk/jaspiw1/jaspiw_mini_fr0.htm.

		The “professional minimum” is the level of education that must be reached by any translator or interpreter who wishes to be included in the database of certified translators and interpreters. The professional minimum in the total extent of at least 30 lessons is provided by the Ministry of Justice through the so-called interpreting institutes. The professional minimum includes primarily information on legal rules regulating the provision of interpretation and translation services and on keeping a diary that includes exact records on provided interpretation and translation services. ³⁰	
e) Are there any requirements in place to ensure the independence of interpreters and translators? If yes, provide a brief overview (for both translators and interpreters).	Yes		A physical person that applies to be registered in the database of certified interpreters and translators in compliance with Act No. 382/2004 must take the following oath into the hands of the justice minister: “I hereby swear to my honour and conscience that in performing my duties I shall abide by the Constitution of the Slovak Republic, constitutional laws, regular laws and other generally binding legal rules as well as by moral and ethical principles of performing this activity; I shall perform my duties in person, in an impartial and unbiased manner, and as I think best; I shall make the full use of all my expertise and I shall preserve reticence about the facts I shall have learned in the course of performing my duties.” The Ministry of Justice performs supervision and control over interpreters and translators duly registered in compliance with Act No. 382/2004 on Appraisers, Interpreters and Translators (Article 29). Besides, all registered interpreters and translators are required to continue to increase their education and qualifications to the extent stipulated by the ministry (Article 30, Paragraph 1).
f) Is access to existing databases provided through the European e-Justice portal ? ³¹ How is this register available to legal counsel and relevant authorities?		No	The national database of certified translators and interpreters is publicly available at the official website of the Ministry of Justice.
g) Are criminal justice institutions required to use interpreters and translators listed in these registers?	Yes		The services of an interpreter or translator that is not duly registered in compliance with Act No. 382/2004 on Appraisers, Interpreters and Translators may only be commissioned if the suspect/accused chooses to communicate in a language for which there are no duly registered interpreters or translators on the list or if no duly registered interpreters or translators are available at the moment (Code of Criminal

³⁰ Slovakia, Ministry of Justice (*Ministerstvo spravodlivosti SR*) (2004), Justice Ministry Regulation No. 490/2004 regarding implementation of Act No. 382/2004 on Appraisers, Interpreters and Translators and altering and amending certain laws (*Vyhláška č. 490/2004 Z.z. Vyhláška Ministerstva spravodlivosti Slovenskej republiky, ktorou sa vykonáva zákon č. 382/2004 Z.z. o znalcoch, tlmočníkoch a prekladateľoch a o zmene a doplnení niektorých zákonov*), 23 August 2004, Article 9.

³¹ Please see <https://e-justice.europa.eu/home.do?plang=en&action=home>

				Procedures, Article 28, Paragraph 3). This regime applies to all procedures before all law enforcement organs (i.e. the police and the prosecution) as well as before courts of law. ³²
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?	Yes		The Ministry of Justice supervises the performance of interpreters and translators that are duly registered in compliance with Act No. 382/2004 on Appraisers, Interpreters and Translators. Supervision is an inspection activity that is supposed to “monitor the observance of law and proper conduct by appraisers, interpreters and translators”. ³³ The supervision is performed by a person directly appointed by the Ministry of Justice. The regulation fails to specify when and under what conditions the Ministry of Justice decides to perform an inspection, which leads us to believe that supervision is performed irregularly and randomly. In other words, it is not a mechanism that would check upon the quality and independence of every single translation or interpretation, or check upon their quality and independence in any regular time interval. Ms. Markéta Štefková said the Ministry of Justice lacked adequate human resources to be able to perform effective supervision of the quality of certified translators and interpreters. ³⁴
	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	Yes		Any complaints regarding insufficient quality and/or independence of translation or interpretation may be filed with the Ministry of Justice. The details of filing the complaints are featured in Article 24 of Justice Ministry Regulation No. 490/2004 that implements Act No. 382/2004 on Appraisers, Interpreters and Translators. The regulation only specifies the procedure of filing the complaints while it does not say anything about the way and time limits of processing them or potential remedy. The practitioners we have consulted stated that complaints may also be filed with the prosecutor who supervises the criminal prosecution or with the judge who presides over judicial proceedings. ³⁵ If the suspect/accused wish to challenge the conduct of

³² Slovakia, Act No. 382/2004 on Appraisers, Interpreters and Translators (*Zákon č. 382/2004 Z. z. o znalcoch, tlmočníkoch a prekladateľoch*), 26 May.2004, Article 15, Paragraph 1.

³³ Slovakia, Ministry of Justice (*Ministerstvo spravodlivosti SR*) (2004), Justice Ministry Regulation No. 490/2004 regarding implementation of Act No. 382/2004 on Appraisers, Interpreters and Translators and altering and amending certain laws (*Vyhláška č. 490/2004 Z.z. Vyhláška Ministerstva spravodlivosti Slovenskej republiky, ktorou sa vykonáva zákon č. 382/2004 Z.z. o znalcoch, tlmočníkoch a prekladateľoch a o zmene a doplnení niektorých zákonov*), 23.08.2004.

³⁴ Slovakia, interpreter and translator.

³⁵ Slovakia, attorneys, lawyer and interpreter and translator.

	interpretation and translation?			<p>member of the police force/case investigator, they must file the motion with the person in question who must forward it to the case prosecutor without unnecessary delay (Code of Criminal Procedures, Article 210).</p> <p>When protesting against inadequate quality of provided interpretation/translation services, the suspect/accused can only refer to general provisions of the Code of Criminal Procedures that have been described in detail in section 1.3.</p>
	c) Are there any mechanisms in place that allow for the replacement of the appointed interpreter or a new translation when the quality of the interpretation or the independence of the interpreter is considered insufficient? If yes, briefly provide information.	Yes		<p>The practitioners we have consulted also said it was possible to file complaints with the prosecutor who supervises the criminal prosecution or with the judge who presides over judicial proceedings.</p> <p>If the suspect/accused wish to challenge the conduct of member of the police force/case investigator including the services of an interpreter/translator, they must file the motion with the person in question who must forward it to the case prosecutor without unnecessary delay (Code of Criminal Procedures, Article 210).</p> <p>The Act No. 382/2004 on Appraisers, Interpreters and Translators gives an opportunity to challenge the quality of interpretation/translation services, however the Ministry of Justice is able only to order an inspection over the interpretation/translation, sanction the interpreter/translator or cancel the registration of the interpreter/translator in the database of certified interpreters and translators. The decision of the Ministry has no direct impact on the criminal proceedings. The suspect/accused and his/her legal counsel have to rely on more general provisions of the Code of Criminal Procedures as mentioned in the Section A, subsection 1.3³⁶.</p> <p>Several of the practitioners have encountered a situation in which law enforcement organs or courts of law decided to use the services of another interpreter of translator because they were dissatisfied with the quality of interpretation/translation or the independence of interpreter/translator.³⁷</p>
3.3	Are there special procedures designed to take into account the special needs of vulnerable suspects or vulnerable accused persons which		No	

³⁶ Slovakia, representative of the Ministry of Justice.

³⁷ Slovakia, attorneys, lawyer and interpreter and translator.

	affect their ability to communicate effectively? ³⁸ If yes, briefly provide information on those mechanisms considering the following vulnerable groups:			
	a) suspect or accused persons with physical impairment or disability;		No	
	b) suspect or accused persons with intellectual impairment or disability;		No	
	c) i) children who are suspects/defendants, and/or ii) holders of parental responsibility (please distinguish between the two).		No	
3.4	Is there any recording procedure to note that interpretation and translation have occurred and in which form? ³⁹ If yes, briefly provide information on how this procedure is organised in practice.	Yes		<p>Law enforcement officers are obliged to produce a record from each legal/procedural act throughout the process; the record must include information on whether services of interpreters/translators have been used and what exactly has been interpreted and/or translated during the legal/procedural act. The suspect/accused is required to sign a record from every legal/procedural act executed in the course of criminal proceedings (Code of Criminal Procedures, Article 59). The record from every legal/procedural act contains information whether the interpretation/translation has been used and what information has been interpreted/translated. The record also contains the name of the interpreter who is also required to sign the record (Code of Criminal Procedures, Article 59).</p> <p>One of the practitioners informed us about a peculiar case when the role of the interpreter during a legal act was assumed by the legal representative of the suspect/accused. According to the practitioner, this is not a usual procedure; also, he was unable to tell us how exactly the information on interpreting had been entered in the record.⁴⁰</p>

³⁸ See in particular recital 27 of Directive 2010/64/EU.

³⁹ See in particular Article 7 and relevant recitals of Directive 2010/64/EU.

⁴⁰ Slovakia, attorneys, lawyer and interpreter and translator

SECTION B: RIGHT TO INFORMATION IN CRIMINAL PROCEEDINGS

1.	PROVISION OF INFORMATION ON THE PROCEDURAL RIGHTS ⁴¹	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>
	a) police questioning;	<p>a) Like conduct of other law enforcement organs and courts of law, the conduct of the police is circumscribed by Article 34, Paragraph 4 of the Code of Criminal Procedures, which reads as follows: “Law enforcement organs and courts of law are always obliged to instruct the accused about their rights, including the implications of confession, and provide them a full chance to exercise them.” According to the valid law, the suspect/accused should be instructed on their rights not only at the beginning but throughout all stages of criminal proceedings.</p> <p>A law enforcement officer who happens to have detained a perpetrator in the course of or immediately after committing a criminal offence is obliged to inform him or her about the reasons for detention and to question him or her (Article 85, Paragraph 4). The same procedure is applied at any point before launching criminal proceedings, whenever it is necessary to interrogate the person suspected of having perpetrated a criminal offence (Article 196, Paragraph 2). With respect to persons suspected of having perpetrated a criminal offence, Articles 34 and 121 through 124 of the Code of Criminal Procedures that address the obligation to inform the accused of their procedural rights are adequately applied even at the point when the suspect is being interrogated but formal indictment has not been brought as yet (Article 85, Paragraph 5).</p> <p>The police force uses a template of the record from the interrogation of the suspect person and a template of the record from the interrogation of the accused person. Both templates contain information on the rights to interpretation/translation. However, the information is listed at the end of the template as an instruction for the policeman/investigator that he should inform the suspect/accused on this right⁴². The suspect/accused has the right to read the record from the</p>

⁴¹ See in particular Article 3 and relevant recitals of Directive 2012/13/EU.

⁴² Slovakia, representative of the Ministry of Interior.

legal/procedural act or receive oral interpretation of the record, the law gives no opportunity to restrict this right (Code of Criminal Procedures, Article 28).

The templates "instruction of the person on his/her procedural rights" (bill of rights) contains the information on the right to interpretation/translation.

Before police questioning begins, the suspect/accused must be instructed on their rights in the following manner: "As the accused, you have the right to testify or refuse to give evidence. No one shall force you to make a confession. You have the right to choose an attorney. If you cannot afford one, you have the right to demand that an attorney be assigned to you. You have the right to demand that the attorney be present at your questioning and you may refuse to testify in his absence" (Code of Criminal Procedures, Article 121, Paragraph 2). This instruction must be read to the accused and adequately explained if necessary (Code of Criminal Procedures, Article 122, Paragraph 1). These articles are also applied for suspect person (Article 85, Paragraph 5).

Also, the suspect/accused must be thoroughly informed about the rights and obligations of the accused as they are summed up in Article 34, Paragraphs 1-3 of the Code of Criminal Procedures. According to Article 34:

(1) The accused shall have the right to express his or her opinion on all facts he or she is accused of and on all evidence testifying to them from the beginning of the proceedings against him or her; however, the accused has the right to refuse to testify. The accused may clarify the circumstances, suggest, produce and procure evidence in his or her defence, make proposals and file motions and remedies. The accused shall have the right to choose an attorney and to consult him during all legal acts performed by law enforcement organs or the court of law; however, the accused shall not have the right to consult his or her attorney in the course of interrogation about how to answer the posed questions. The accused may demand to be interrogated in the presence of his or her attorney and that the attorney is present at other legal acts during pre-trial procedures. The accused who has been detained, taken to custody or has commenced serving his or her sentence shall have the right to speak to the attorney in private; this shall not apply to telephone conversations between the accused and their attorneys once the former have commenced serving their sentence as these conversations are regulated by a special legal rule. During court proceedings, the accused shall have the right to examine witnesses proposed by themselves or by their attorney with their consent as well as to pose questions to other witnesses. The accused shall exercise their rights either by themselves or via their attorney.

(2) At the beginning of court proceedings before the court of first instance, the accused shall have the right to bring forth all evidence he or she is aware of and he or she has proposed. Should the accused propose to bring forth the evidence after issuing the formal indictment and before the

		<p>commencement of court proceedings before the court of first instance, the court shall forward such a proposal to the prosecution and the victim without unnecessary delay.</p> <p>(3) The accused that lacks sufficient funds to settle the defence charges shall have the right to defence that is provided for free or for discounted remuneration. The claim to defence that is provided for free or for discounted remuneration must be presented not later than at the point of deciding on the settlement of charges of criminal proceedings and, if it concerns appointing an attorney in compliance with Article 40 Paragraph 2 of the Code of Criminal Procedures, not later than 30 days after the decision to appoint the attorney has been delivered to him or her.</p> <p>(4) Law enforcement organs and courts of law shall always inform the accused of their rights, including the meaning and implications of the confession, and provide them with a full-fledged opportunity to exercise them.</p> <p>Before interrogation, the suspect/accused must also receive detailed information on their procedural rights with respect to their current situation: “With regard to concrete circumstances of the case, the accused shall be instructed about the possibility and conditions of conditional abandonment of criminal prosecution, settlement and abandonment of criminal prosecution, an agreement on guilt and punishment, and on the conditions of imposing the punishment of property forfeiture” (Code of Criminal Procedures, Article 121, Paragraph 3). The accused must always be asked to confirm with their signature that they have understood the instruction (Code of Criminal Procedures, Article 122, Paragraph 1).</p> <p>At the point of detention/taking into custody, the suspect/accused must always be instructed about their right to interpretation/translation services.</p> <p>The police force uses a template of the record from the interrogation of the suspect person and a template of the record from the interrogation of the accused person. Both templates contain information on the rights to interpretation/translation. However, the information is listed at the end of the template as an instruction for the policeman/investigator that he should inform the suspect/accused on this right⁴³. The suspect/accused has the right to read the record from the legal/procedural act or receive oral interpretation of the record, the law gives no opportunity to restrict this right (Code of Criminal Procedures, Article 28).</p> <p>The templates “instruction of the person on his/her procedural rights” (bill of rights) contains the information on the right to interpretation/translation.</p>
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⁴³ Slovakia, representative of the Ministry of Interior.

		<p>b) The suspect/accused are instructed on their rights both in writing and orally. In the written form, the instruction is part of the record from each legal/procedural act, which is produced in Slovak language (Code of Criminal Procedures, Article 58, Paragraph 2) and its content is orally summed up to the suspect/accused. The valid law provides the suspect/accused with a possibility to request translation of the record into a language they understand (Code of Criminal Procedures, Article 29, Paragraph 4).</p> <p>The instruction about their rights is always conveyed to the suspect/accused in oral as well as in written form; however, the written instruction is only in Slovak.</p> <p>According to the practitioners' experience, the instruction on procedural rights is always provided to the suspect or accused person; the interpreter is usually asked to interpret the instruction as a whole or just selected information. The selection is usually performed by the attorney of the suspect/accused.</p> <p>c) The information on procedural rights of the suspect/accused is always provided at the beginning of every legal/procedural act (Code of Criminal Procedures, Article 121, Paragraph 2).</p>
	<p>b) court hearings;</p>	<p>a) The provision of information to the accused throughout court proceedings is governed primarily by Articles 34, 121 and 122 of the Code of Criminal Procedures. For further details regarding the content of these articles, please see section 1.1 a) on police questioning. The accused must also be instructed of his or her rights with respect to court proceedings (Code of Criminal Procedures, Article 258, Paragraph 1).The court of law must instruct the accused of their rights before the accused can be questioned in court; unfortunately, the law fails to stipulate the exact scope of information on procedural rights the accused are entitled to receive at this stage of criminal proceedings.</p> <p>During court proceedings, the suspect/accused must be informed about the provision spelled out in Article 121 Paragraph 2 of the Code of Criminal Procedures (for further details, please see Section B: 1.1.a)) as well as about their obligation to challenge prejudice of the judge without unnecessary delay (Article 31, Paragraph 4 of the Code of Criminal Procedures). The suspect/accused are also instructed on their right to inspect the case file (Article 69) as well as other rights spelled out in Article 34 Paragraphs 1 through 5 (for further details, please see Section B: 1.1.a)). The information about</p>

		<p>possible legal remedies must be provided immediately after the verdict has been delivered; this information is also provided in writing since it forms part of the court decision.⁴⁴</p>
		<p>b) As far as it concerns the courts of law the valid law does not exactly specify the form of providing information on procedural rights. The Ministry of Justice has provided information that accused person is instructed on his/her procedural rights orally at the court⁴⁵. However, some information on procedural rights has written form as a part of the sentence issued by court, it concerns mainly the information on how to file an appeal ⁴⁶.</p>
		<p>c)The accused must also be instructed on his or her procedural rights with respect to court proceedings before they can be questioned in court (Code of Criminal Procedures, Article 258, Paragraph 1). The valid law fails to specify when exactly the suspect/accused should receive the information about their procedural rights; however, law enforcement organs and courts of law must abide by the general provision circumscribed in Article 34, Paragraph 4 of the Code of Criminal Procedures, which reads as follows: “Law enforcement organs and courts of law are always obliged to instruct the accused about their rights, including the implications of confession, and provide them a full chance to exercise them.”</p>
	<p>c) any necessary interim hearings;</p>	<p>a) The provision of information on procedural rights of the suspect/accused with respect to any necessary interim hearings is also governed by Articles 34, 121 and 122 of the Code of Criminal Proceedings. For further details regarding the content of these articles, please see section 1.1 a) on police questioning.</p> <p>b) The valid law fails to specify the form in which should be the information on procedural rights provided. Some instructions are given orally before interrogation or other procedural act (Code of Criminal Procedures, Articles 34, 121 and 122), some instructions are in written form as a part of the decision issued by law enforcement organ or court, for instance the resolution to bring indictment, formal accusation or sentence contain also information on procedural rights of the suspect/accused.</p>

⁴⁴ Slovakia, representative of the Ministry of Justice.

⁴⁵ Slovakia, representative of the Ministry of Justice.

⁴⁶ Slovakia, representative of the Ministry of Justice.

		<p>c) The valid law fails to stipulate any details on the time limit in which the information on procedural rights with respect to interim hearings must be provided to the suspect/accused. The valid law fails to specify when exactly the suspect/accused should receive the information about their procedural rights; however, law enforcement organs and courts of law must abide by the general provision circumscribed in Article 34, Paragraph 4 of the Code of Criminal Procedures, which reads as follows: “Law enforcement organs and courts of law are always obliged to instruct the accused about their rights, including the implications of confession, and provide them a full chance to exercise them.”</p>
	<p>d) any communication between suspects and accused persons and their legal counsel in direct connection with any questioning or hearing during the proceedings?</p>	<p>a) The law fails to stipulate whether the information on their procedural rights should be provided to the suspect/accused during their communication with their legal representatives or whether the legal representatives of the suspect/accused are bound to inform their clients on their procedural rights. The law merely states the following: “The legal representatives shall provide the accused with necessary legal assistance, effectively apply all means and methods provided for in the law in order to defend their clients’ interests, including in particular making sure to bring forth in an appropriate and timely manner in the course of court proceedings the facts that exonerate the accused or mitigate their guilt” (Code of Criminal Procedures, Article 44, Paragraph 1). The law stipulates that the suspect/accused must be informed about their right to choose an attorney or request that an attorney be appointed to them and to exercise the right to defence that is provided for free or for discounted remuneration (Code of Criminal Procedures, Article 34).</p> <p>b) The information that the suspect/accused shall have the right to attorney forms part of the record that is issued upon the execution of every legal/procedural act (i.e. detention, questioning of the suspect, interrogation of the accused, etc.). The record is always issued in Slovak and its content must be orally interpreted to the suspect/accused.</p> <p>c) The information about the possibility to choose an attorney or to request that an attorney be appointed to them in case the suspect/accused cannot afford to hire a legal representative due to financial reasons is featured in the so-called model records that are used in the legal/procedural acts of detaining the suspect, questioning the suspect, taking the accused into custody and interrogating the accused. In all of these cases, the suspect/accused must be instructed on their right to have an attorney at their disposal throughout criminal proceedings.</p>
<p>1.2</p>	<p>Do authorities provide information about any other procedural rights (apart</p>	

	<p>from those established in Article 3 of the Directive)? If yes, briefly provide information.</p>	<p>In court proceedings, the accused receive the following instruction (Code of Criminal Procedures, Article 257, Paragraphs 1 and 2): “After the bill of indictment has been presented, the chairman of the senate shall instruct the accused on their right to make one of the following pleas:</p> <ul style="list-style-type: none"> a) That they are innocent; b) That they are guilty of having committed the offence or some of the offences listed in the bill of indictment; c) That they do not deny having committed the offence or some of the offences listed in the bill of indictment. <p>The chairman of the senate simultaneously instructs the accused on potential implications of their plea in compliance with Paragraph 1, letter b) or letter c)”. The accused must be informed about their procedural rights with respect to every legal/procedural act that take place in the course of criminal proceedings. For instance, they are informed about additional procedural rights (i.e. apart from those anchored in Article 3 of the Directive) before the legal act of interrogation of the accused.</p>
<p>2.</p>	<p>LETTER OF RIGHTS⁴⁷</p>	<p>Brief Description</p>
<p>2.1</p>	<p>What rights does the letter of rights provide information about? What information is included in the letter of rights when children are arrested or detained?</p>	<p>The criminal proceedings in the Slovak Republic do not recognise the term “letter of rights”. Instead, in practice the term “instruction of the suspect/accused on their rights” is used whose content varies depending on which particular procedural act is about to take place. Besides the instruction, the suspect/accused also receives further information on their procedural rights with respect to particular procedural acts (e.g. detention, questioning, interrogation, etc.), especially in the form of a record from the executed legal/procedural act. The record is a written account of any legal act that took place as part of criminal proceedings. Apart from other facts, the record features written information about procedural rights of the suspect/accused; the suspect/accused are subsequently supposed to read the record or ask for the record to be read to them. The record is issued in Slovak. If the suspect/accused do not understand the Slovak language, the content of the record including the instruction on their rights is orally interpreted to them. At the end of each legal act, the suspect/accused are asked to sign the record, which they are entitled to refuse (Code of Criminal Procedures, Article 58, Paragraphs 1 and 2, Article 59, Paragraph 1).</p> <p>The Ministry of Interior provided us with following documents that are applied as bill of rights : a) Instruction of the suspected person used in the case of a decision to restrain personal freedom of the suspected person in compliance with Article 85 Paragraph 2 of the Code of Criminal Procedures; b)</p>

⁴⁷ See in particular Article 4 and relevant recitals of Directive 2012/13/EU.

		<p>Instruction of the accused person used in the case of a decision to bring the accused person before the court in compliance with Article 120 of the Code of Criminal Procedures; c) Instruction of the witness used in the case of a decision to produce the witness in compliance with Article 128 of the Code of Criminal Procedures.</p> <p>The Ministry of Interior has also informed us that the police does not use specific bill of rights with respect to the European arrest warrant or with respect to children.⁴⁸</p> <p>The suspect/accused are instructed on their rights both orally and in writing, particularly before interrogation (Code of Criminal Procedures, Article 121); the list of their rights must form part of the interrogation record. In case of questioning minor suspect/accused, the instruction on rights is presented in the same manner, only the interrogation record containing the instruction must also be signed by the legal representative of the minor suspect/accused and the representative of the organ of socio-legal protection and social guardianship.</p> <p>The suspect/accused shall receive additional information on their rights at further stages of criminal proceedings as the valid law stipulates the obligation for all law enforcement organs and courts of law to instruct the suspect/accused on their rights in criminal proceedings (Code of Criminal Procedures, Article 34, Paragraph 4).</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>Please see 1.1 police questioning a).</p> <p>The law fails to stipulate exactly at what stage of criminal proceedings the suspect/accused must receive the letter of rights. Instead, the law rather generally states the following: “Law enforcement organs and courts of law shall always inform the accused of their rights, including the meaning and implications of the confession, and provide them with a full-fledged opportunity to exercise them” (Code of Criminal Procedures, Article 34, Paragraph 4).</p> <p>The law fails specify exactly at what stage of the criminal proceedings or when during the procedural act the suspect/accused should be instructed on his/her rights or should receive the bill of rights. In practice, most of the instructions on procedural rights are given to suspect/accused at the beginning of the procedural act (detention, questioning, interrogation, etc.).</p> <p>The practitioners were unable to specify at which point exactly the suspect/accused receive their bills of rights as they are rarely present at the time of detention/arrest. record ⁴⁹.</p>

⁴⁸ Slovakia, representative of the Ministry of Interior.

⁴⁹ Slovakia, attorneys, lawyer and interpreter and translator.

2.3	<p>Is the letter of rights drafted in simple and accessible language? How do competent authorities verify whether the language is simple and accessible enough for the suspects or accused persons and/or that the suspects or accused persons understand the language?</p> <p>Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.</p>	<p>In practice, law enforcement organs use a printed form (model) of the record from interrogation of witness, a person providing explanation and especially of the accused, which consists of several pages of instructions and citations of articles of the Criminal Statute and the Code of Criminal Procedures. “As a rule, the persons who are asked to attach their signature to such a record get familiar with its content only briefly, mostly due to the extent and complicated nature of the text of the instruction; by attaching their signature they confirm that they have been given sufficient time to study the instruction, to get familiar with their rights and that they do not object to the record’s content ... such a record may later serve as evidence at further stages of criminal proceedings.”⁵⁰</p> <p>The practitioners we have consulted agreed the document that is supposed to instruct the suspect/accused on their rights is not adequate. Especially with respect to foreigners from a culturally different environment, the document fails to reflect their cultural dissimilarity sufficiently when instructing them on their rights. By cultural dissimilarity, they referred particularly to these foreigners’ different perception of government organs and authorities as well as their conduct and procedures, and their understanding of criminal proceedings.</p> <p>In practice, there are no specific rules in place used to verify whether the detained/arrested or the suspect/accused have understood the instruction on their rights in criminal proceedings. The law rather generally states that their rights should be explained to them adequately so that they understand them.</p>
3.	RIGHT TO INFORMATION ABOUT THE ACCUSATION⁵¹	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>According to the valid law, the information about the formal indictment of criminal offence, also known as the resolution to bring indictment issued by policeman/investigator, “must contain a designation of the person against which the indictment is brought, a description of the offence including the place, the time and other circumstances under which the offence took place so that the offence cannot be confused with any other offence, a legal specification of the criminal offence that has been perpetrated, including the applicable provisions of the Criminal Statute⁵² and the facts that justify the bringing of indictment” (Code of Criminal Procedures, Article 206, Paragraph 3). The member of the police force must immediately inform in writing the accused of the resolution to bring indictment (Code of Criminal Procedures, Article 206, Paragraph 1). Also, the valid law stipulates that the resolution to</p>

⁵⁰ Attorneyship Krutek&Kuručová (2013), ‘*Výsluch v trestnom konaní a význam poučenia o právach a povinnostiach vypočúvaného*’ [Interrogation in Criminal Proceedings and the Importance of Instructing the Interrogated of Their Rights and Obligations], 20 August 2013; available at: <http://krutekkuruczova.sk/vysluch-svedka-obvineneho-2013-08-20/>

⁵¹ See in particular Article 6 and relevant recitals of Directive 2012/13/EU.

⁵² Slovakia, Act No. 300/2005 Criminal Statute (*Zákon č. 300/2005 Z.z. Trestný zákon*), 20.05.2005

		<p>bring indictment must be translated in writing for the accused once they declare that they do not understand the Slovak language (Code of Criminal Procedures, Article 28, Paragraph 4).</p> <p>The formal accusation (submitting the case to the court) must include the name of the prosecutor, the name of the accused and other personal information so that it is impossible to mistake the accused for anyone else, a precise description of the criminal offence for which the accused is facing criminal prosecution along with legal qualification of the offence in compliance with the Criminal Statute, the findings of the investigation along with available evidence, the plea of the accused and the prosecutor's position on it (Code of Criminal Procedures, Article 235). If the prosecutor files the resolution to bring indictment with a court of law, the prosecutor is obliged to inform the accused and his legal representative about this fact in writing and without unnecessary delay (Code of Criminal Procedures, Article 234, Paragraph 1). If the prosecutor intends to qualify the criminal offence before the court differently than the member of the police force who originally brought the indictment, the prosecutor is obliged to inform the accused and his legal representative about this fact in writing and present them with an opportunity to submit a request for additional investigation (Code of Criminal Procedures, Article 234, Paragraph 2). If the accused does not understand the Slovak language, he or she must receive a written translation of the formal accusation issued by prosecutor (Code of Criminal Procedures, Article 28, Paragraph 4).</p>
3.2	<p>At which stage of the proceedings is the information provided?</p> <p>Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.</p>	<p>The valid law stipulates an obligation of members of the police force to inform the accused of the resolution to bring indictment without any delay (Code of Criminal Procedures, Article 206, Paragraph 1). Also, it stipulates that the resolution to bring indictment must be translated for the accused once they declare that they do not understand the Slovak language (Code of Criminal Procedures, Article 28, Paragraph 4).</p> <p>For further details on the procedure of formal accusation, please see subsection 3.1.</p> <p>An attorney who regularly represents foreigners in criminal proceedings told us that one of his clients was summoned before an investigator who handed him a resolution to bring indictment in Slovak. The attorney along with his client objected and demanded that the resolution be translated. The case investigator was not aware of his obligation because he worked with an obsolete version Code of Criminal Procedures; nevertheless, he dismissed the complaints, arguing that if there is anything wrong with his conduct, the case prosecutor would refer the case back to him⁵³.</p>
3.3	<p>How are suspects or accused persons informed when, in the course of the</p>	<p>According to valid law, the accused must be informed of each change to the accusation in writing (Code of Criminal Procedures, Article 206, Paragraph 6).</p>

⁵³ Slovakia, attorneys, lawyer and interpreter and translator.

	criminal proceedings, the details of the accusation change?	If the prosecutor intends to qualify the criminal offence before the court differently than the member of the police force who originally brought the indictment, the prosecutor is obliged to inform the accused and his legal representative about this fact in writing and present them with an opportunity to submit a request for additional investigation (Code of Criminal Procedures, Article 234, Paragraph 2).
4.	RIGHT OF ACCESS TO CASE MATERIALS⁵⁴	Brief Description
4.1	What material evidence can be accessed by suspected or accused persons (e.g. documents, photographs, audio, video, summaries...)?	<p>The accused have the right to access all information, documents, real and documentary evidence that form part of their case file (Code of Criminal Procedures, Article 69, Paragraphs 1 and 3). They are free to make notes and copies at their own expense. Also, the accused who do not understand the Slovak language are required to cover the cost of translating their case file. The accused has the right to translation of documents enumerated in Article 28, Paragraph 4 of the Code of Criminal Procedures (for further details, please see section 2.1.1 part A on police questioning). The accused is not entitled to free translation of other documents but may request it; the applicable body may grant such a request if it deems it necessary to guarantee a fair trial (Code of Criminal Procedures, Article 28, Paragraph 5).</p> <p>Upon the completion of investigation, the accused and their attorneys have the right to scrutinise the entire case file and get familiar with all available evidence. Based on their getting familiar with the case file, the accused and/or their legal representatives may submit a request for additional investigation or shortened investigation. Members of the police force must inform the accused of this possibility at least three days before proceeding further as they must provide them with adequate time to study the evidence (Code of Criminal Procedures, Article 206, Paragraph 1). The valid law fails to stipulate exactly what this time limit is for.</p>
4.2	At what stage of the proceedings is access to case materials granted? Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.	<p>The right of the accused to access case materials is guaranteed throughout criminal proceedings (Code of Criminal Procedures, Article 69, Paragraphs 1 and 3); however, the law also enacts the possibility to restrict this right (Paragraph 2).</p> <p>The practitioners we have consulted stated they did not encounter violations of the right to access case materials, provided the accused or their attorneys decided to exercise this right.</p>

⁵⁴ See in particular Article 7 and relevant recitals of Directive 2012/13/EU.

4.3	Under what circumstances is access to material refused? Who takes the decision of refusal?	<p>The accused may access the contents of their case files except the record on voting and parts of the case files that contain data on the identity of protected witnesses, endangered witnesses or witnesses whose identity is to be concealed as well as code names that would help divulge the identity of agents (Code of Criminal Procedures, Article 69, Paragraph 1).</p> <p>The right of the accused to access their case files may also be restricted out of serious reasons at the pre-trial stage, especially if it is impossible to make such protective measures with respect to the case file that would prevent thwarting or seriously complicating the purpose of criminal proceedings; nevertheless, the accused may request the prosecutor to examine such a decision (Code of Criminal Procedures, Article 69, Paragraph 2).</p> <p>During the pre-trial procedure, the right of the accused to access the case file may be restrained by law enforcement organs (i.e. member of the police force or case investigator). At the request filed by the person who has been refused access to the case file, such a decision must be examined by the case prosecutor. If the case prosecutor was the organ to have restrained the right of the accused to access the case file, his decision must be examined by the prosecutor who supervises the criminal prosecution, acting at the request filed by the person who has been refused access to the case file. (Code of Criminal Procedures, Article 69, Paragraph 2). These decisions are not subject to judicial review according to the relevant law. During the court proceedings stage, the law does not envisage the possibility for the court to restrain access to a court file (Code of Criminal Procedures, Article 234, Paragraph 3).</p> <p>The accused do not have access to restricted data such as trade secret, bank secret, telecommunications secret, tax secret and privacy of the mail (Code of Criminal Procedures, Article 69, Paragraph 5).</p>
5.	CROSS-CUTTING ISSUES: LANGUAGES, COMPLAINT MECHANISMS, RECORDING & SPECIAL MEASURES⁵⁵	Brief Description
5.1	In which languages can information be provided for the following?	
	a) information on procedural rights	This information is provided in writing in Slovak. For those suspect/accused who do not understand the Slovak language, this information is orally interpreted and the information about interpretation is

⁵⁵ See in particular Articles 3 - 8 and relevant recitals of Directive 2012/13/EU.

		noted in the record from the legal/procedural act during which the information was provided. The valid law also grants the suspect/accused the right to demand translation of the record.		
	b) letter of rights	The letter of rights or the so-called instruction of the suspect/accused is available in the following languages: Slovak, English, German, Spanish, Italian, Russian, Hungarian, Polish and Romani. ⁵⁶ If it is required to provide the letter of rights in some other language the oral interpretation is used ⁵⁷ .		
	c) information about the accusation	The valid law stipulates that if the suspect/accused declare they do not understand the Slovak language, the resolution to bring indictment as well as the formal accusation must be translated for them in writing.		
	d) case materials	Case materials are available in Slovak. The suspect/accused are free to make copies and/or translations of the documents at their own expense. The suspect/accused is only entitled to free translation of documents enumerated in Article 28, Paragraph 4 of the Code of Criminal Procedures. The suspect/accused may also request free translation of other documents from the case file; the applicable body (i.e. the prosecutor or the court of law) may but also may not grant such a request, in which case the suspect/accused must pay for the translation services themselves.		
		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.			

⁵⁶ At request, the Ministry of Interior provided us with different language mutations of the following documents: a) Instruction of the suspected person used in the case of a decision to restrain personal freedom of the suspected person in compliance with Article 85 Paragraph 2 of the Code of Criminal Procedures; b) Instruction of the accused person used in the case of a decision to bring the accused person before the court in compliance with Article 120 of the Code of Criminal Procedures; c) Instruction of the witness used in the case of a decision to produce the witness in compliance with Article 128 of the Code of Criminal Procedures.

⁵⁷ Slovakia, representative of the Ministry of Interior.

	a) information on procedural rights		No	The valid law fails to stipulate a separate procedure for the case that the suspect/accused have not been informed of their procedural rights or that the provided information was insufficient. In such cases, the suspect /accused must rely on the more general provisions of the law, which state that the conduct of the member of the police force/case investigator may be challenged with the case prosecutor. It is possible to claim Article 210 of the Code of Criminal Procedures, which entitles the suspect/accused to request the case prosecutor to examine the conduct of member of the police force/case investigator at any point of ongoing investigation. The conduct of the case prosecutor may be challenged with the pre-trial judge. During court proceedings it is possible to use a general provision stipulating that a court of law may reject the formal accusation and refer the case to the prosecution if it finds material procedural shortcomings (Code of Criminal Procedures, Article 241, Paragraph 1f; Article 244, Paragraph 1h). The conduct of the court of law may be appealed at a court of the higher instance. It is possible to challenge the refusal to provide adequate information on procedural rights as part of appealing the verdict as it is possible to appeal not only the verdict but also the procedures that preceded the verdict (Code of Criminal Procedures, Article 311, Paragraph 1).
	b) letter of rights		No	There is no special procedure. Please see 5.2a).
	c) information about the accusation		No	There is no special procedure. Please see 5.2a)
	d) access to case materials	Yes		<p>If the member of police/case investigator decides to refuse or restrict access of the suspect/accused to case materials, they may turn to the case prosecutor; if the case prosecutor decides to refuse or restrict access of the suspect/accused to the case file they may still turn to the supervising prosecutor (Code of Criminal Procedures, Article 69, Paragraph 2).</p> <p>The valid law does not envisage examination of decisions to restrain the right of the accused or their legal representatives to access the case file issued by courts of law as it is impossible to issue such a decision at this stage of criminal proceedings (Code of Criminal Procedures, Article 234, Paragraph 3).</p>
5.3	Is any official record kept to note the provision of information about the following?			

	If yes, briefly describe where relevant.			
	a) information on procedural rights	Yes		The information about instructing the suspect/accused on their procedural rights forms part of the record that is produced from each legal/procedural act performed (Code of Criminal Procedures, Article 58).
	b) letter of rights	Yes		The information about instructing the suspect/accused on their letter of rights forms part of the record that is produced from the procedural act following the detention/arrest (Code of Criminal Procedures, Article 58) .
	c) information about the accusation	Yes		The information about bringing an indictment along with the rights of the accused (Code of Criminal Procedures, Article 206) and also the formal accusation along with the information on procedural rights (Code of Criminal Procedures, Article 234 and 235) forms part of the resolution..
	d) access to case materials			Each inspection of the case file by the suspect/accused or their legal representatives must be entered into the official record, which forms part of the criminal file. ⁵⁸
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 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:			

⁵⁸ Slovakia, representative of the Ministry of Justice.

	<p>a) suspect or accused persons with physical impairment or disability; b) suspect or accused persons intellectual impairment or disability; c) suspect or accused children who are suspects/defendants and/or the holder of parental responsibility.</p> <p>If yes, briefly provide information on those mechanisms in relation to each of the listed vulnerable groups. Is this information in simple and accessible language?</p>			
	<p>a) information on procedural rights</p>	<p>a)</p>	<p>Yes</p>	<p>The persons with impaired ability to communicate effectively have the right to demand an adequate compensation for their disability. In compliance with Article 20, Paragraph 3 of Act No. 382/2004 on Appraisers, Interpreters and Translators, the following professionals are also regarded as interpreters:</p> <ul style="list-style-type: none"> a. Interpreters into sign language for the hearing impaired; b. Articulation interpreters who help in communication with a hearing impaired persons who do not have a sufficient command of sign language and do not hear normal speech; c. Interpreters for persons who are hearing and visually impaired.
	<p>b)</p>		<p>No</p>	<p>The valid Slovak law provides the possibility to appoint a legal representative for persons with intellectual impairment whose legal capacity has been revoked or restricted. If such suspect/accused have been appointed a legal representative, the legal representative is</p>

			<p>entitled to represent them, “especially in terms of selecting their attorney, making proposals in their name, filing motions and remedies in their name; also, the legal representatives are entitled to attend all legal acts the accused are legally entitled to attend. The legal representatives are also entitled to exercise these rights against the will of the accused, provided they are exercised in their favour” (Code of Criminal Procedures, Article 35, Paragraph 1). In certain specific cases, the court of law may also appoint a guardian for such suspects/accused (Code of Criminal Procedures, Article 35, Paragraph 2).</p> <p>As for the suspect/accused whose legal capacity has not been revoked or restricted and therefore have not been appointed a legal representative, there are no concrete measures designed to improve the quality of informing and instructing these persons on their procedural rights. The same applies to the measures aimed at improving the quality of information and instruction on b) the letter of rights; c) information on formal accusation; and d) access to case materials.</p>
		No	<p>As for juvenile suspect/accused, their right to be informed and instructed of their procedural rights is guaranteed by the obligation to inform and instruct their legal representatives and organs of socio-legal protection and social guardianship. There are no measures that would be specifically designed to improve the quality of informing and instructing juvenile suspect/accused on their procedural rights.</p> <p>The same applies to the measures aimed at improving the quality of information and instruction of b) the letter of rights; c) information on formal accusation; and d) access to case materials.</p>
	b) letter of rights	a)	There are no specific measures in place with respect to suspect/accused persons with physical impairment or disability. Available are only procedures/measures described in subsection 5.4 a)a)
		b)	There are no specific measures in place with respect to suspect/accused persons with intellectual impairment or disability. Available are only procedures/measures described in subsection 5.4 a)b)
		c)	There are no specific measures in place with respect to suspect/accused children or holders of parental responsibility. Available are only procedures/measures described in subsection 5.4 a)c)
	c) information about the accusation	a)	There are no specific measures in place with respect to suspect/accused persons with physical impairment or disability. Available are only procedures/measures described in subsection 5.4 a)a).

		b)		There are no specific measures in place with respect to suspect/accused persons with intellectual impairment or disability. Available are only procedures/measures described in subsection 5.4a)b).
		c)		There are no specific measures in place with respect to suspect/accused children or holders of parental responsibility. Available are only procedures/measures described in section 5.4 a)c).
	d) access to case materials	a)		There are no specific measures in place with respect to suspect/accused persons with physical impairment or disability. Available are only procedures/measures described in subsection 5.4 a)a).
		b)		There are no specific measures in place with respect to suspect/accused persons with intellectual impairment or disability. Available are only procedures/measures described in subsection 5.4a)b)
		c)		There are no specific measures in place with respect to suspect/accused children or holders of parental responsibility. Available are only procedures/measures described in section 5.4 a)c).