

CASE STUDY – AN AMERICAN IN AUSTRIAN CUSTODY

Facts of the Case

An American citizen is taken in pre-trial custody in Austria and remains there for six months. In the first questioning by the police, translation was undertaken by another prisoner, who had only limited knowledge of English. In the second interrogation, interpretation was provided by someone regularly asked to assist, but not registered formally as interpreter.

Mr. K refused to sign the minutes of the interrogation.

When he asked for contacting his lawyer, he was given the possibility to call him – but he did not reach him. Still, the police moved on with the interrogation without giving him a second chance to call.

The judge subsequently decides to grant Mr. K legal aid given that he is an American citizen and does not know the legal framework in Austria.

In the course of the first pre-trial hearing, where the decision of further detention is made, he is provided with an attorney, who does not speak English so that they are not able to talk to each other. Interpretation is provided during the proceedings but not for the communication between the detainee and the lawyer. Mr. K asks for a lawyer that speaks English but is denied a replacement.

He writes a letter in English to the pre-trial judge asking for contact with the consular authorities. His letter is neither translated nor sent to the American embassy.

In the main proceedings an interpreter was present. The indictment was read out at the beginning of the trial, but was not translated into English. Mr. K said that he understood the charges and waived interpretation of the indictment.

Questions

Which procedural rights are at stake in this case?

Which of the EU procedural rights Directives would be relevant?

Do you think there was a violation of any of the standards guaranteed by the Directives? Which one(s)?

