

CASE STUDY – The Statement of the Minor

Specific Guidance for the National Pilot Training in Spain

All the procedural guarantees Directives we have discussed are applied in our national level. The Directive 2016/800 has not been transposed, and neither the Directive of the presumption of innocence 2016/343. Our legislator considered that the national regulations already comply with the Directives, since they are minimum rules. Nevertheless, there is a bill on the presumption of innocence being discussed now in the Congress of Spain.

The rest of them were transposed and the Criminal Procedure Code and the Criminal Code were modified because of these Directives. The most important modification was made in 2015 to comply with the Directive 48/2013 on the right to access to a lawyer.

On the other hand, it is to be discussed a few issues, not only internal regulation matters but also some practical problems we have to deal with in order to comply with the Directives.

- Directive 2013/48 access to a lawyer

In Spain we have some minor offences that have a penalty of a fine and are dealt with by criminal courts. The defendants of this minor offenses aren't assisted by lawyers, even though the failure to pay the fine can end up in a deprivation of liberty

- Directive 2016/343 on presumption of innocence

Sometimes, more often than desired, accused and suspects are presented through the use of measures of physical restraint with no specific reasons.

It is very difficult to deal with parallel trials, especially in cases with high public interest that will be judged by a jury (mass media)

- Directive 2012/13 right to information

We have issues with this Directive because police eventually could refuse to give full access to the materials of the case.



Breaking THE BARRIERS

TRANSNATIONAL PARTICIPATORY
JUDICIAL TRAINING ON PROCEDURAL RIGHTS

Remains to be seen as well if there is an impact of the Directives 2016/1919 on legal aid for suspects and accused persons in criminal proceedings and for request persons in EAW proceedings, and the Directive 2010/64 on the right to interpretation and translation in criminal proceedings.



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