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COVER NOTE

from: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 28 November 2013

to: Mr Uwe CORSEPIUS, Secretary-General of the Council of the European
Union

No Cion doc.: SWD(2013) 492 final

Subject: Commission Staff Working Document
Implementation Plan accompanying the proposal for a Directive on procedural
safeguards for children suspected or accused in criminal proceedings

Delegations will find attached Commission document SWD(2013) 492 final.

Encl.: SWD(2013) 492 final



Brussels, 27.11.2013
SWD(2013) 492 final

COMMISSION STAFF WORKING DOCUMENT

Implementation Plan

Accompanying the document

Directive

on procedural safeguards for children suspected or accused in in criminal proceedings

{COM(2013) 822 final}
{SWD(2013) 480 final}
{SWD(2013) 481 final}

COMMISSION STAFF WORKING DOCUMENT

Implementation Plan

Accompanying the document

Directive

on procedural safeguards for children suspected or accused in in criminal proceedings

Implementation Plan¹

1. Title of the document for the proposed act:

Implementation Plan for a Directive on procedural safeguards for children suspected or accused in in criminal proceedings

2. Contact point: Ingrid Breit, DG JUSTICE, Unit B1

3. Deliverables and implementation challenges

This Directive creates a (certain) number of legal obligations upon Member States which arise at all stage of the criminal procedure, from police to the final decision, and which might be addressed in different parts of Member States legislation or criminal procedure. The implementation of this Directive will require the amendment of various branches of the national legal order in the Member States in criminal law. Most of its provisions will be transposed through amendments to the national codes on criminal procedure (e.g. mandatory access to a lawyer), others however require changes in different national laws and regulations and in administrative provisions (for example certain aspects of the individual assessment of children or concerning the conditions of their detention).

Besides the fact that detailed legal provisions should be envisaged by Member States for the implementation of the legal obligations resulting from the Directive, the implementation of the Directive should be accompanied by support actions in the Member States: (1) training of different actors in the criminal procedure (law enforcement and judicial authorities) to increase their awareness of the particular needs of children of different age groups and to enable them to deal with children in an impartial, respectful and professional manner; (2) a monitoring system should be put in place in the Member States in order to produce more comprehensive data about the size and the scope of problems relating to the breach of procedural safeguards for children in each jurisdiction, which would subsequently allow evaluating the need of possible subsequent action at national or EU level.

¹ This Implementation Plan is provided for information purposes only. It does not legally bind the Commission on whether the identified actions will be pursued or on the form in which they will be pursued.

Implementation challenge	Support actions	Timing
<i>Besides legislative changes, a change is needed in the practice regarding procedural safeguards for children</i>	<i>(1) Training at national level of the different actors in the criminal procedure</i>	<i>During all the transposition period and beyond</i>
	<i>(2) Setting up a monitoring and evaluation mechanism at national level</i>	<i>To be prepared during the transposition period and to be operational at the latest on the deadline for transposition of the Directive</i>

Moreover, the smooth implementation will be ensured by the following detailed implementation strategy, which aims at solving all possibly emerging challenges at the very beginning of the process. This approach has been followed for other Directives in the area of procedural rights in criminal proceedings (in particular in Directive 2012/29/EU establishing minimum standards on the rights and protection of victims of crime).

Implementation Strategy for a Directive on procedural safeguards for children suspected or accused in criminal proceedings

The **purpose** of this document is to complement the document 'Implementation plan' by a detailed description of planned implementation strategy for a Directive on procedural safeguards for children suspected or accused in criminal proceedings. This model of implementation strategy has been used for the implementation of other Directives adopted so far in the area of procedural rights in criminal proceedings (Directive 2012/29/EU establishing minimum standards on the rights and protection of victims of crime).

Action to be taken	Description	Timeframe
Adoption of the Directive Publication in the Official Journal	<u>Implementation deadline: 24 months after OJ publication.</u>	<u>OJ publication is the "starting point" in the implementation process (date "X")</u>
Preparation of an explanatory working paper by COM with interpretation of all Articles in the Directive, including a transposition checklist for MS	<p>The explanatory working paper will contain detailed explanations and expectations linked to the content of every Article and the corresponding Recitals, taking into account the medium/high level options from the Impact Assessment and also taking into account the negotiation process.</p> <p>They will also address how the provisions of this Directive will link to the existing legal framework, notably the Charter (and ECHR) and the other Directives on procedural rights.</p>	To be completed by X + 3 months
Letter to Member States	Content: <ul style="list-style-type: none"> • Invitation to experts' meeting 	X + 3 months

	<ul style="list-style-type: none"> • Asking Member States for information on their calendars for implementation; • Transmission of draft explanatory working paper and a set of questions for which Commission will seek MS input at the meeting. 	
(First) Experts' meeting	<p>In addition to Member States, Commission will invite EP Rapporteur and professional organisations (e.g., ECBA and CCBE) to this meeting. Objectives of the meeting:</p> <ul style="list-style-type: none"> • Discussion of priorities in terms of implementation; • Asking Member States for information on their calendars for implementation (tour de table); • Receive input with a view to the fine-tuning of the Commissions implementation strategy; • Discussion of the draft explanatory working paper. 	X + 5 months
Implementation workshops	<p>Workshops (frequency depending on available resources): COM will organise workshops with MS (inviting also NGOs, practitioners, academics) in Brussels and/or at a regional basis (based on legal traditions, specific issues in the Directive, and the factual level of current implementation of the Directive's provisions).</p>	Starting from X + 6 months and regularly until 6 months before transposition deadline
Experts' meeting (half way through implementation)	<p>Objectives of the meeting:</p> <ul style="list-style-type: none"> • Receiving information on the state of implementation in the Member States; • Steer implementation process. 	1 year before transposition deadline
Bilateral meetings	<p>To work directly with MS on their implementation of the Directive, COM should organise meetings with national relevant stakeholders responsible for national implementation (e.g. Ministry of Justice, Interior, Police, Prosecution Office of the Government, Ministry of Social affairs, National Parliaments).</p> <p>COM will also cooperate with stakeholders to help with the preparation explanatory working paper and with specific issues arising in the</p>	Ad hoc, when and where necessary.

	implementation work. It is envisaged that current contacts with main networks of practitioners, e.g. European Judicial Network (EJN) or organisations such as ECBA and CCBE, will become more systematic and strategic and informal meetings will be organised.	
Final experts' meeting	A final experts' meeting with all MS will be organised 6 months before the transposition deadline to take stock of national implementation measures. This meeting will help COM to understand what types of measures have or will be taken by the MS and also to alert COM to focus on some MS or issues that may need particular attention during the last months of the implementation period.	6 months before transposition deadline.
Accompanying soft law measures	COM supports a number of practical projects financed under JPEN. Identify upcoming needs and include as priorities in the calls for 2014, 2015 and 2016. Actions will be continued under the new Justice Programme (MFF 2014 - 2020).	On-going
Notification of transposition measures	An efficient and accessible system for receiving and examining MS notification of implementation measures needs to be put in place.	