Welcome to the first LEAP quarterly bulletin of 2017, which will update you on Fair Trials' and LEAP's work over the past three months and other issues of interest.

You can jump to the different sections using the navigation below.

HIGHLIGHTS

LEAP Annual Conference

Our LEAP Annual Conference took place in Athens on 3rd and 4th March. We were most delighted to see so many of you there, participating enthusiastically in the different sessions. In those two days we were able to cover many topics, including pre-trial detention and alternative measures, EAW and detention conditions, plea-bargaining, presumption of innocence, and vulnerable groups in criminal

proceedings. We discussed the establishment of a new working group to advocate for a more effective implementation of ECtHR judgments regarding articles 5 and 6 ECHR. In addition, we asked the participants to assemble with their national peers and jot down their thoughts on possible local actions to promote fair trial rights at home. The Brussels team will get in contact with the national clusters over the next months to develop more detailed local action plans.

Thank you to those of you who were able to participate and make this event such a great success and especially those of you who donated your time and/or money towards the organisation of the event. For those of you who have not made a financial contribution towards the organisation of the conference but would like to, please refer to the following banking details:

Account's holder: Fair Trials Europe
Bank's name: ING Belgique SA
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Two Red Notices deleted for refugees

We recently managed to get two Red Notices deleted for Azerbaijani refugee Ferid and Turkish journalist and political activist Vicdan Ozerdem. Ferid fled Azerbaijan in 2009 after being pursued by the Ministry of Internal Affairs of Azerbaijan. After several arrests and detentions, he was recognised as a refugee in Russia. However, because of the Red Notice, Ferid was arrested facing extradition back to Azerbaijan where he might have faced torture and inhumane treatment. Ferid's case is the first in which we asked for the refugee policy to be applied where refugee status had been granted by the UNHCR and not the state.

Vicdan fled Turkey in 2004 and claimed asylum in Germany. In 2012, she was arrested at the BH/Croatian border on the basis of a Red Notice, despite her status as a refugee. She was detained for several months before the Supreme Court ruled against her extradition to Turkey. Vicdan's case received wide media attention in Croatia and it caused a spark amongst the Turkish/Kurdish communities in exile.

Our work on INTERPOL recently featured in a documentary produced by AL-Jazeera for the programme "People and Power". You can check it out here.

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LEAP in ACTION

NATIONAL DEVELOPMENTS

Research on pre-trial detention informs legal changes in England and Wales

We are proud to see that our research work on pre-trial detention is starting to bear fruit locally, as our LEAP members from the University of the West of England (UWE) recently showed us. In fact, by carrying out research in England and Wales, Professor Ed Cape and Dr Tom Smith managed to contribute to the amendment of the Criminal Procedure Rules (CrimPR) in the region. Learn more about how they did it here.

We are currently in contact with our LEAP member Bas Leeuw, who has reported a similar success in the Netherlands, so watch this space as more details will be revealed soon!

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Legal Aid in Belgium

A new law reforming Legal Aid in criminal matters in Belgium entered into force on 1st September 2016. According to the legislator, the amendments were introduced with the aim to "review applicants' overall livelihoods in order to provide legal assistance to those who really need it". The reform is actually a major setback for the right to legal aid, as it makes it more difficult for poorer people to access legal assistance.

Currently, 20 Belgian associations, including some of our Belgian LEAP members, are working together to introduce an appeal before the Belgian Constitutional Court. At Fair Trials we supported this initiative via an expert opinion backing the associations' appeal. In this opinion, we indicated that the new legal aid system creates coercive incentives not to seek legal aid and waive the right to access a lawyer. In addition, we are preparing a position paper in response to this reform and its incompatibility with the EU directive on Access to a Lawyer and Legal Aid.

Read our interview with LEAP member Crépine Uwashema to find out more about how the legal aid reform will affect defendants in Belgium.

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Legal Aid training in Malta

On January 13th, Tzeni delivered a training on the Legal Aid Directive to a varied audience including lawyers, NGO representatives, judges, officials from the national Ombudsman office, police officers, and prosecutors. The training was part of the workshop 'Understanding the Right to legal Aid in Malta: Access to a Lawyer, Legal Aid and Pro Bono` organised by the Aditus Foundation and the Critical Institute in Malta.

This workshop was an important component of the Access To Legal Assistance (ATLAS) project, which aims to: a) identify human rights obligations in relation to provision of legal aid, b) map the actual availability of legal assistance for the protection of fundamental rights and c) increase the capacity of legal professionals who give pro bono legal assistance.

Some of the main highlights about legal aid in Malta include the following:

- There are only 17 legal aid lawyers in Malta and there is no data about the number of the cases they are handling;
- Remuneration of Legal Aid Lawyer is so low (only €2.329.36/year regardless the number of cases) that it does not permit a high quality service except with great sacrifice from the lawyer;
- Only recently, migrants have had access to legal aid lawyers to be able to appeal detention orders. However, in practice this is not working effectively.
- Around 60% of defence lawyers in Malta do not have a clue about how their legal aid system works.

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REGIONAL DEVELOPMENTS

Working group on judicial remedies

The Working Group on judicial remedies was established in June 2016 following the initiative of the LEAP Advisory Board. The objective of this Working Group (WG) is to examine the judicial remedies available in EU Member States for violations of procedural rights, particularly in the context of the implementation of the Roadmap Directives. The work of the group seeks to explore ways to bridge the gap between the considerable strengthening of procedural rights in recent years, on the one hand, and the lack of appropriate focus on judicial remedies for violations of such rights on the other.

Following the questionnaire we circulated amongst all members of the Working Group, Fair Trials and the WG met in Lisbon on 27th January to discuss how different countries treat violations of fundamental rights of the suspect/accused person, most notably when violations of the right to a lawyer lead to a prohibition of the use of evidence or any other judicial remedies, and whether these constitute an effective remedy.

The outcomes of the Lisbon meeting were presented in a separate panel during the LEAP Annual Conference on 4th March. We were particularly honoured to host Judge Julia Laffranque (European Court of Human Rights), who assessed the impact of Ibrahim & Others v UK in terms of the availability of judicial remedies for violations of the right of access to a lawyer. Most interestingly, Judge Laffranque shared her views on whether the Salduz doctrine imposes the exclusion of evidence obtained in violation of the right of access to a lawyer.

Fair Trials and the WG are currently working on pulling together a policy paper to address how the discussions over judicial remedies in the Ibrahim case can be interpreted in order to guide policy and advocacy developments around access to a lawyer violations across the EU.

The coordination of the WG is provided by Fair Trials and Vania Costa Ramos (LEAP Advisory Board member, Portugal), with Dr Dimitrios Giannoulopoulos (Brunel University London and LEAP member, UK and Greece) acting as Academic Advisor.

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Implementation of Strasbourg judgments

The Parliamentary Assembly of the Council of Europe (PACE) is currently investigating the status of the overall implementation of ECtHR judgments across Europe in order to improve the effectiveness of the system. Fair Trials, in cooperation with several LEAP members, has recently provided crucial information to rapporteur Pierre-Yves Le Borgn'. Our brief specifically concerned cases of violation of articles 5 and 6 ECHR, which protect the right to liberty and the right to a fair trial. You can find the full brief and more details here.

Le Borgn' has recently visited Poland and Hungary in a fact-finding mission, where he was further briefed by our LEAP members the Helsinki Foundation for Human Rights and the Hungarian Helsinki Committee.

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Children's rights: procedural safeguards discussed in Valencia

Our Legal and Policy Director Libby McVeigh was in Valencia, Spain, in February to attend a conference of the International Juvenile Justice Observatory (IJJO). IJJO is currently leading an EU project on juvenile justice, which has resulted in a manual and a toolkit to train criminal justice professionals in ensuring that children are enjoying their right to be heard in criminal proceedings. Attendees to the conference included people from the European Council for Juvenile Justice (IJJO's LEAP equivalent), a small number of NGOs, representatives from the Ministry of Justice, and prosecutors. However, no defence lawyers attended the meeting. Libby gave a presentation on the EU Directive on Procedural Safeguards for Children, followed by a discussion on its key strengths and weaknesses, as well as ways forward to ensure an effective implementation.

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European Arrest Warrant: keeping it on EU agenda

Our Chief Executive Jago Russell was in Brussels at the beginning of February to give a presentation on the EAW in the European Parliament. Fair Trials was invited to speak by Willy Fautre, the head of NGO Human Rights Without Frontiers. Other speakers included Hannu Takkula (watch the opening speechhere), friend of Fair Trials Eeva Heikkila, and Oliver Pahnecke, a human rights lawyer working closely with the OSCE in Warsaw.

Jago seized the opportunity to talk about our ongoing campaign on the EAW, and spoke of how important it is for reforms to be implemented to cut down the human rights violations it causes. If you've got 17 minutes to spare, you can watch Jago's full presentation here.

Following the event at the European Parliament, Jago authored a piece for the Parliament Magazine on the current political context surrounding cross-border justice and about our ongoing struggle to reform the EAW. You can read his views here.

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INTERPOL discussions in Geneva

Bruno Min, Jago Russell and Libby McVeigh were in Geneva for an INTERPOL roundtable meeting at the Association for the Prevention of Torture (APT) offices. Attendees included: political refugee Nadejda Atayeva, Amanda Milani from Americans for Democracy & Human Rights in Bahrain (ADHRB), Rachel Gasowski from the International Partnership for Human RIghts (IPHR), Temur Shakirov from the International Coalition of Jurists (ICJ), Ines Osman from the Al Karama Foundation, Matt Sands from APT, Javier Roura from Protectdefenders.eu, and Julie Gromellon from Reporters without Borders. Bruno gave a presentation on the INTERPOL challenges and reforms, which was very well perceived from the attendees.

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Fair Trials recommendations inform EU-African Union civil society dialogue

Civil society representatives from both the African Union (AU) and the European Union (EU) met in Brussels in early January to develop recommendations to address to the two organisations regarding counter-terrorism and human rights cooperation. Ralph Bunche and Gianluca Cesaro from the Brussels offices attended two different sessions and presented our recommendations regarding:

- Mutual exchange on human rights standards underlying EU/AU counter terrorism programmes;
- Grounding technical assistance programmes in the procedural rights standards;
- Grounding international cooperation in criminal matters in the procedural rights standards.

We are delighted to see that all of our recommendations were taken on board by the civil society platform.

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CASE-LAW UPDATES

ECtHR

Kemal Coşkun v Turkey (no. 45028/07), 28 March 2017.
The applicant, Kemal Çoşkun, is a Turkish national who complained that his dismissal from the police force as a result of disciplinary and legal proceedings initiated against him, which he alleged had been unfair. In the disciplinary proceedings, the Supreme Disciplinary Council found it established that Mr Çoşkun had committed the offences of attempted rape, assault and threatening violence with a weapon, and ordered his dismissal from the police force. This decision was upheld by the Samsun Administrative Court. However, in the criminal proceedings Mr Çoşkun was then acquitted of imprisonment, robbery and attempted rape. Though he was convicted of assault and battery, he was later acquitted of these charges on appeal. In the disciplinary proceedings, Mr Çoşkun appealed the decision of the Samsun Administrative Court to uphold his dismissal, arguing that he had been acquitted of all the criminal charges which would have justified his removal from the police. However, his appeal was rejected, as were further legal challenges to his dismissal.
Relying on Article 6(2) (presumption of innocence), Mr Çoşkun complained that the disciplinary and judicial authorities had violated his right to be presumed innocent in that by categorising his acts as

attempted rape, false imprisonment and threatening with a weapon, they pronounced him guilty before he was convicted and despite his subsequent acquittal on those charges by the criminal court. The Court found that the Samsun Administrative Court, in upholding the decision of the Supreme Administrative Council, did pronounce the applicant's guilt before it had been proved according to law and that, moreover, the Supreme Administrative Court failed to rectify the previous court's wording on appeal despite the duty to observe the applicant's right to be presumed innocent in respect of the criminal proceedings which were still pending. Therefore the court found that there had been a violation of Article 6(2).

Mukayev v Russia (no. 22495/08), 14 March 2017.

The applicant, Arsan Mukayev, is a Russian national who was born in 1977. He is currently serving a life prison sentence for, amongst other things, murdering 12 people. The case concerned his allegation that he had been tortured by the police and that he had been convicted on the basis of statements he had made under duress.

Relying on Article 6(1) he made two complaints about the unfairness of the criminal proceedings against him: first, he alleged that his conviction had not been fair as the domestic courts had relied on a confession he had only given under duress; and, second, that he had not been able to defend himself with a lawyer of his choosing, and that this lawyer had not provided him with proper legal assistance.

The Court reiterates that it is not the role of the Court to determine whether particular types of evidence – for example, evidence obtained unlawfully in terms of domestic law – may be admissible. Citing Ibrahim and Others v the IK, the Court maintained that the question which must be answered is whether the proceedings as a whole, including the way in which the evidence was obtained, were fair. This involves an examination of the unlawfulness in question and, where the violation of another Convention right is concerned, the nature of the violation found. However, the Court had previously found that the applicant had been subjected to torture whilst in police custody, which is the time when he made the self-incriminating statements. However, the domestic courts did not find those statements inadmissible and referred to them when finding the applicant guilty and convicting him.

In such circumstances, the Court concluded that, regardless of the impact the applicant's statements obtained under torture had on the outcome of the criminal proceedings against him, such evidence rendered the criminal proceedings unfair. There has, accordingly, been a violation of Article 6 § 1 of the Convention.

Döner and Others v. Turkey (no. 29994/02), 7 March 2017.

The applicants complained under Article 5 (5) of the Convention that they had not had a right to compensation in respect of the alleged violation of their rights under Article 5. The Court reiterated that Article 5(5) is complied with where it is possible to apply for compensation in respect of a deprivation of liberty effected in conditions contrary to paragraphs 1, 2, 3 or 4. The right to compensation set forth in paragraph 5 therefore presupposes that a violation of one of the preceding paragraphs of Article 5 has been established, either by a domestic authority or by the Court. The Court has found in the present case that the applicants were not brought promptly before a judge within the meaning of Article 5 § 3 and that their right to challenge the lawfulness of their detention in police custody was infringed, in violation of Article 5 § 4. It follows that Article 5 § 5 of the Convention is applicable. In this connection, the Court observes that it was open to the applicants to bring a claim for compensation under section 1(6) of Law no. 466 as the criminal proceedings against them had ended with their acquittal. However, the Court has already found in other cases raising similar issues that when awarding compensation under Law no. 466, the national courts based their assessment solely on the fact that there had been an acquittal. The national courts' assessment was therefore an automatic consequence of the acquittal and

did not amount to the establishment of a violation of any of paragraphs 1 to 4 of Article 5. It follows that, in the applicants' case, Law no. 466 did not provide an enforceable right to compensation for the breach of their rights under Article 5 §§ 3 and 4 of the Convention, as required by Article 5 § 5.
The Court concludes that there has been a violation of Article 5 § 5 of the Convention.

Moroz v Ukraine (no. 5187/07), 2 March 2017.
The applicant, Oleg Moroz, is a Ukrainian national who was born in 1967 and is currently serving his prison sentence, who was arrested by police, and questioned later that night in the presence of his lawyer. However, Mr Moroz complained that the proceedings against him had been unfair. In particular, he complained that he had not been allowed to have a private discussion with his lawyer in the police station before his police interview there. Later, Mr Moroz was found guilty of murder. Therefore, Mr Moroz complained that under Article 6 the proceedings against him had been unfair.
The Court reiterated that even when there are compelling reasons to restrict the right to access to a lawyer, such a restriction must not unduly prejudice the rights of the accused under Article 6. The rights of the defence will, in principle, be irretrievably prejudiced when incriminating statements made during questioning by police without access to a lawyer are used for a conviction. Citing the case of Ibrahim and others v the UK, the Court held that the test for assessing whether a restriction on access to a lawyer is compatible with the right to a fair trial is composed of two stages. In the first stage the Court must assess whether there were compelling reasons for the restriction. In the second stage, it must evaluate the impact of the restriction on the overall fairness of the proceedings and decide whether the proceedings as a whole were fair.
In this case, the Court found that there had been no violation of Article 6 because the fairness of the proceedings had not been compromised. During the interview referred to by the applicant and onwards throughout the proceedings he was legally represented. Likewise, it is apparent from the case file that his earlier statements regarding the incident had been made to the police of his own free will. e Court cannot but observe that the applicant failed to explain, both before and after the case had been communicated to the Government, what prejudice to the overall fairness of his trial had been caused by the alleged failure to allow him to meet privately with his lawyer before the police interview at issue. Therefore the overall fairness of the trial was not irretrievably prejudiced by the decision to refuse the applicant a confidential communication with his lawyer.

Tommaso v Italy [GC] (43395/09), 23 February 2017.
The case concerned preventive measures imposed for a duration of two years on the applicant, , Mr Angelo de Tommaso. On 22 May 2007 the Bari public prosecutor recommended that the Bari District Court place Mr de Tommaso under special police supervision for two years under Act no. 1423/1956 and impose a compulsory residence order on him. The applicant complained of a violation of Article 5 (right to liberty and security), Article 6 § 1 (right to a fair hearing) and Article 13 (right to an effective remedy) of the Convention and Article 2 of Protocol No. 4 (freedom of movement).
The Court found, firstly, that the obligations imposed on Mr de Tommaso had not amounted to a deprivation of liberty within the meaning of Article 5 § 1 of the Convention, but merely to restrictions on his freedom of movement.
Next, the Court held that Act no. 1423/1956, the statutory instrument forming the basis of the individual preventive measures imposed on Mr de Tommaso, had satisfied the requirement of accessibility. However, it found that the Act in question had afforded the courts a wide discretion without providing a sufficiently clear indication of the scope or manner of exercise of such discretion. The imposition of preventive measures had not been sufficiently foreseeable and had not been accompanied by adequate safeguards against the various possible abuses. Having been couched in vague and excessively broad

terms, the Act had not satisfied the foreseeability requirements established in the Court's case-law.
With regard to the fairness of the proceedings, the Court considered that the proceedings as a whole had been conducted in accordance with the requirements of a fair hearing.

Artur Parkhomenko v. Ukraine (no. 40464/05), 16 February 2017.
Mr Parkhomenko was arrested and placed in pre-trial detention on 15 June 2001 on suspicion of having attempted to rob a couple in their apartment at gunpoint. He was questioned on 16 and 18 June, and on both occasions he made self-incriminating statements. Before making those statements, Mr Parkhomenko had been informed of his right to legal counsel and his right to remain silent but signed written waivers of those rights. However, at a later stage Mr Parkhomenko changed his statement. On 9 October 2001 Mr Parkhomenko asked the authorities to assign him a lawyer. However, he was questioned without a lawyer being present, and changed his statement again.The case was subsequently submitted for trial to the Kyiv Court of Appeal. In July 2002. Mr Parkhomenko was convicted in December 2004 and sentenced to seven years' imprisonment. In reaching that conclusion, the court relied on his various statements made in the course of the pre-trial investigation,
Mr Parkhomenko was released on parole in May 2007. Relying notably on Article 6 §§ 1 and 3 (c) (right to a fair trial and right to legal assistance of own choosing), he alleged that the criminal proceedings against him had been unfair, submitting in particular that he had been convicted on the basis of confessions obtained in the absence of a lawyer.
The Court construed its reasoning on the basis of the principles set forth in Salduz and in Ibrahim and others regarding restriction on the right to access a lawyer. First the Court found that there had not been compelling reason to restrict the right to access a lawyer. Then it moved on to assess whether the absence of compelling reason had compromised the fairness of the proceedings as a whole, for which the Court relied heavily on the criteria set forth in Ibrahim and others.
The Court found that the effect of the unlawful actions of the Government to restrict the access to lawyer on the overall fairness of the proceedings was likely mitigated by the fact that it occurred not at the very beginning of the investigation, but after the applicant had been repeatedly advised of his rights, including his right to remain silent but still made incriminating statements, and after he had already provided the authorities with all the essential information.
"The Court considers that the other Ibrahim criteria also militate in favour of considering the proceedings fair. In particular: (i) the Court does not perceive any factors that would indicate that the applicant was particularly vulnerable; (ii) there is no indication in the material before the Court that the applicant's right to challenge the authenticity of the evidence and oppose its use was in any way restricted; (iii) as to the quality of evidence, there is no indication that any compulsion was involved in obtaining his statement […]; (iv) there is equally no indication that another Convention right has been violated; (v) the evidence in the case was assessed by professional judges, (vi) the public interest in the prosecution of the offence imputed to the applicant […] was strong and the public interest in admitting the applicant's statement made in the absence of his co-defendants was further reinforced by the indications that his co-defendants may have attempted to intimidate him""
Therefore, the Court held that the overall fairness of the trial was not irretrievably prejudiced by the decision to refuse the applicant access to a lawyer, and thus, found no violation of Article 6.

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CJEU

Joined Cases C-124/16, C-188/16 and C-213/16, Ianos Tranca, Tanja Reiter and Ionel Opria, 22 March 2017.

In this judgment the CJEU responded to the preliminary questions referred by two German courts regarding Article 2, Article 3(1)(c) and Article 6(1) and(3) of the Directive 2012/13/EU on the right to information on criminal proceedings. The referring courts asked whether the said provisions were incompatible with national legislation which provides that the accused person who does neither reside nor has fixed place of residence in that Member State or in his Member State of origin is required to appoint a third party (an agent) for the purposes of service of a penalty order concerning him. Additionally, the referring court asked if the Directive is compatible with national legal provisions that establish that the period for lodging an objection to the said order, before it becomes enforceable, runs from service of that order on that agent.

The Court held that Article 2, Article 3(1)(c), of Directive do not preclude the said domestic legislation in Germany, and therefore, in the above-mentioned circumstances, the accused person is required to appoint an agent for the purposes of service of a penalty order concerning him, and that the period for lodging an objection to that order, before it becomes enforceable, runs from service of that order on that agent. Additionally the Court held that Article 6, however, "requires that, when the penalty order is enforced, as soon as the person concerned has actually become aware of the order, he should be placed in the same situation as if that order had been served on him personally and, in particular, that he have the whole of the prescribed period for lodging an objection, where necessary, benefiting from having his position restored to the status quo ante. It is for the referring court to ensure that the national procedure for the accused person's position being restored to the status quo ante and the conditions to which the exercise of that procedure is subject are applied in a manner consistent with those requirements and that that procedure thus permits the effective exercise of the rights provided for in Article 6."

Case C-640/15, Tomas Vilkas, 25 January 2017

In this judgement the CJEU responded to a preliminary question referred by an Irish court concerning the interpretation of Article 23 of Council Framework Decision 2002/584/JHA of 13 June 2002 on the European Arrest Warrant and the surrender procedures between Member States, in surrender proceedings of a requested person to Lithuania.

Mr Vilkas was the subject of two EAWs, issued by a Lithuanian court. The High Court decided that Mr Vilkas was to be surrendered to the Lithuanian authorities not later than 10 days after the orders took effect. In that time frame the Irish authorities attempted to surrender Mr Vilkas, but due to the resistance put up by Mr Vilkas, that first surrender attempt to fail. Subsequently, the High Court then ordered that Mr Vilkas be surrendered to the Lithuanian authorities not later than 10 days, but again, a fresh surrender attempt failed on account of Mr Vilkas's behaviour.

The Minister for Justice and Equality (Ireland) consequently applied to the High Court for authorisation for a third attempt at surrendering Mr Vilkas to the Lithuanian authorities. The High Court held, however, that given the expiration of the time frame initially set up, it lacked jurisdiction to hear this application and ordered Mr Vilkas's release. The Minister for Justice and Equality brought an appeal against that judgment and the Court of Appeal decided to stay proceedings and refer a questions to the CJEU in this regard.

The Court held that "the mere expiry of the time limits prescribed in Article 23 of the Framework Decision cannot relieve the executing Member State of its obligation to carry on with the procedure for executing a European arrest warrant and to surrender the requested person, and the authorities concerned must

agree, for that purpose, on a new surrender date. Nonetheless, in such a situation, it follows from Article 23(5) of the Framework Decision that, on account of the expiry of the time limits prescribed in Article 23, the requested person must be released if he is still being held in custody".
Additionally, the Court held that Articles 15(1) and 23 of the Framework Decision must be interpreted as meaning that the authorities remain obliged to agree on a new surrender date if the time limits prescribed in Article 23 have expired.

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NATIONAL CASES

Germany

Saarbrücken Higher Regional Court, Ausl 9/2016 (47/16)
The Higher Regional Court of Saarbrücken (Germany) rejected the extradition of a Lithuanian citizen to Lithuania because of human rights concerns, including poor prison conditions and risk of violence from other prisoners.
The requested person had indeed objected his extradition on these two arguments, specifically motivating the risk for his life because he owed 10.000€ to an inmate held in a Lithuanian detention facility.
In its decision, the Court made reference to the 2014 report of the Committee on the Prevention of Torture (CPT) concerning Lithuania, which outlined various shortfalls in Lithuanian prisons. The CPT specifically reported that many inmates were held in cells smaller than 4 square meters, which even dropped to less than 2 in some cases. The CPT had moreover reported serious cases of ill-treatment by staff and inter-prisoner violence which prison staff was unable to prevent, especially at night and on weekends.
Read more about the decision in this brief report provided by our German LEAP member Anna Oehmichen.

Ireland

Irish Supreme Court, DPP v Barry Doyle
In the case of DPP v Barry Doyle (January 18th 2017), an appeal against conviction for murder, the Supreme Court, in the person of Judge Charleton with support from Chief Justice Denham, ruled clearly that suspects are not entitled to representation during interviews. Judge Charleton relied, in the main, on the passage of time since the Miranda decision, the generally agreed origin of the right, and on the safeguards, in particular electronic recording of interviews, provided by the State to the suspect. His judgement is clear and unambiguous, and has been met with a stunned silence from the authorities.
Find out more about this controversial ruling from the words of our Irish LEAP member Dara Robinsonhere.

Spain

Juzgado Central de Instruccion n. 003 Madrid, 0000008 / 2016 0001, 8 March 2017
The Spanish special court for terrorism-related crimes has finally released 26-year-old vegan anarchist Manuel Bustamante (aka Nahuel) from pre-trial detention after one year and four months. Nahuel was

charged of leading an anarchist terrorist group, called Straight Edge, and was therefore held in almost full-time solitary confinement. His story has some quite unbelievable aspects, starting from the police searches at his place. From direct reports by our LEAP member Alejandro Gamez-Selma, whose law firm defended Nahuel, the young man was suspected of hiding suspicious substances in the kitchen, which were later found to be sugar and cooking spices. Our Campaigns and Communications team is working on this case, so stay tuned for more - well - spicey details. Congratulations to Alejandro's law firm, whose fight will now continue in court to get Nahuel completely acquitted.

Constitutional Court, Sentencia 13/2017, recurso de amparo 7301-2014, 30 January 2017
The Spanish Constitutional Court has recently issued a sentence giving constitutional protection to two citizens whose lawyers had filed a Habeas Corpus for lack of access to the case-file as protected by the Right to Information Directive. The sentence finally clarifies some crucial issues that our Spanish LEAP members have been highlighting for a long time:

- EU Directives have direct vertical effect when the State fails to transpose them in due time if the norm is sufficiently clear and applicable. The constitutional complaint was filed precisely in this period.
- Access to materials means access to the case-file, not just the provision by police officers of the "essential information" around the detention.
- Access to materials has to be given before the private interview with the detainee.
- Failing to grant these rights gives access to the Habeas Corpus procedure, which is the Spanish procedure to challenge the legality of the detention decision.

The accused was a foreign national held in pre-trial detention. The judicial authorities declared the secrecy of the proceedings and, as a consequence, the accused was denied access to the case-file prior to the pre-trial hearing.

Audiencia Provincial 2 Tarragona (Court of Appeal), 6927.001, 2 March 2017
In this case defended by our LEAP member Sebastián Martín-Osorio, the Tarragona Court of Appeal upheld his client's right to translation of vital documentation. We are particularly proud that our LEAP Annual Conference in Amsterdam (2015) was a crucial opportunity for him to write the appeal, as he told us.
The accused person had been surrendered to Spain from Ireland. In Ireland the accused had been questioned without a lawyer present. After surrender, the lawyer in Spain sought to challenge the validity of the incriminating testimony given in Ireland and prevent that evidence from being taken into account in court proceedings in Spain. Thus, the lawyer presented two sentences of the Irish Supreme Court that established that in Ireland the right to be questioned with a lawyer present is a constitutional right and by refusing the presence of a lawyer the Irish police had violated its own constitutional law and the evidence should be excluded. The Spanish Court refused to accept the documents unless translated. The Spanish lawyer then argued that in light of the Directive on Interpretation and translation, in conjunction with the Spanish law on legal aid, the cost of the translation should be covered by the court institutions. The Court upheld this argument and granted the accused the right to get the said documents translated, the cost of which is to be covered by the Spanish authorities.

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SUPPORT US

Surveys

We have recently circulated two surveys on Presumption of Innocence and Children's Defence Rights respectively. Thank you to all of you who have responded already, as your first-hand experience is crucial to inform our work as always. If you haven't had a chance to reply yet or if you can't find the survey in your inbox anymore, please get in touch with Gianluca at gianluca.cesaro@fairtrials.net

Notes of Advice

We are currently reviewing and updating all our Notes of Advice, which are crucial sources of information for people arrested in any EU countries (and beyond). This year, we have decided to distribute hard copies of the Notes during the Annual Conference to be reviewed by the attending LEAP members. A follow-up email was then sent by our Legal and Policy Assistant Silvia Lorenzo Perez to make sure that every input is duly taken into account. We thank everyone who spent his/her time reviewing these Notes, thus helping us in delivering more accurate and up-to-date information to people in need.

If you still need to send your reviews, please get in touch with Gianluca at gianluca.cesaro@fairtrials.net or Silvia at silvia.lorenzoperez@fairtrials.net

Online trainings

Our online trainings are still available for free on our website, so don't hesitate to check them out and share them among your networks! You can find them all here.

We would like to thank you all the trainers and people who helped us develop the trainings, including the crucial contribution of academics such as LEAP member Dimitrios Giannoulopoulos. Read more about the role of academics in LEAP in the interview Dimitrios kindly gave to us.

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WORK OPPORTUNITIES

Fair Trials: Researcher

We have recently circulated two surveys on Presumption of Innocence and Children's Defence Rights respectively. Thank you to all of you who have responded already, as your first-hand experience is crucial to inform our work as always. If you haven't had a chance to reply yet or if you can't find the survey in your inbox anymore, please get in touch with Gianluca at gianluca.cesaro@fairtrials.net

JUSTICE: Lawyer, Criminal Justice

JUSTICE, a UK-based NGO, is currently looking for a Lawyer to focus on strengthening the criminal justice stream of their work. This provides an exciting opportunity for a practising lawyer with a strong research background or an academic lawyer to engage in high-level policy and law reform work. The successful candidate will be appointed to a full-time post on a permanent basis, based at their London office.

The deadline for applications is 5pm on Friday 7 April. Interviews will be held on 26 April. Candidates will be required to complete a test as part of the interview process.

The full advert and links to the person specification and application form are available here: CVs alone will not be considered.

If you wish to advertise a work opportunity within your organisation, please feel free to get in touch with Gianluca at gianluca.cesaro@fairtrials.net We will be happy to help you spread the news within our quarterly LEAP bulletins.

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Do you know somebody who could be interested in receiving this bulletin? Then tell them to send an email to gianluca.cesaro@fairtrials.net, we will be happy to sign them up to our mailing list.

If you do not wish to receive the bulletin any longer, please unsubscribe by sending an email to the same address gianluca.cesaro@fairtrials.net

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