
Welcome to the fourth and last LEAP quarterly bulletin of 2016, 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](#)
 - [Season greetings to one and all!](#)
 - [INTERPOL](#)
 - [EU adopted new Legal Aid Directive](#)
 - [Access to a Lawyer Directive: Transposition deadline expired](#)
 - [Turkey](#)

- [LEAP IN ACTION](#)
 - [LEAP MEETINGS](#)
 - [LEAP Advisory Board Meeting](#)
 - [Judicial Remedies Working Group](#)
 - [LEAP Annual Conference 2017](#)
 - [NATIONAL DEVELOPMENTS](#)
 - [Italy: Nicola Canestrini fought Red Notice against Iranian activist](#)
 - [Sweden: Civil Rights Defenders' report exposes mistreatment of vulnerable suspects in Sweden](#)
 - [Poland: Helsinki Foundation for Human Rights and Fair Trials addressed joint letter to the Polish authorities](#)
 - [Spain: Carlos Gómez-Jara fought restrictions to access the case file thanks to EU Directive](#)
 - [France: Alexandre Gillioen exposes huge translation failures in pre-trial detention case](#)
 - [REGIONAL DEVELOPMENTS](#)
 - [Hungarian Helsinki Committee wins major victory before the European Court of Human Rights](#)
 - [OSCE event on derogations from fair trial rights in states of emergency](#)
 - [European Commission roundtable event on pre-trial detention](#)
 - [Conference of Pan-African Lawyers Union](#)
 - [36 Bedford Row Extradition Seminar](#)

- [CASE LAW UPDATES](#)
 - [European Court of Human Rights \(ECtHR\)](#)
 - [Court of Justice of the European Union \(CJEU\)](#)
 - [National cases](#)
 - [Ireland](#)

- [Germany](#)
 - [Malta](#)
 - [United Kingdom](#)
 - [SUPPORT US](#)
 - [We want your cases!](#)
 - [Support our cause](#)
-

[HIGHLIGHTS](#)

[Season's greetings to one and all!](#)

It has been a great year for both Fair Trials and LEAP. 2016 has seen the LEAP grow to include 200 representatives from 160 law firms, civil society organizations and academic institutions across Europe. During the year, we have been delighted to watch and support LEAP members in action improving the right to a fair trial, with significant notable successes at both the national and regional levels, just some of which are noted below in the Quarterly Bulletin. At the October LEAP Advisory Board meeting we developed a truly exciting LEAP programme for 2017, starting in earnest in January with a Judicial Remedies Working Group Meeting, and we at Fair Trials are all looking forward to working with you in the coming year. In the meantime, we wish you all a happy and restful holidays.

[Back to the top](#)

[INTERPOL](#)

Fair Trials' [long-running campaign for reform of INTERPOL](#) experienced notable success in the last quarter with [reforms agreed at INTERPOL's 85th General Assembly](#). The reforms have increased the organisation's transparency, enhanced its expertise and introduced greater safeguards in the way Red Notices and information on wanted persons is stored and processed. More work needs to be done but we are proud to see that the changes largely echoed our recommendations.

[Back to the top](#)

[EU adopted new Legal Aid Directive](#)

On 13th October 2016, the Council of the European Union gave its final approval to [Directive 2016/1919](#)

[on legal aid](#) for suspects or accused persons in criminal proceedings and in European arrest warrant proceedings. The Directive sets common standards across the EU to ensure that financial and judicial support is granted in criminal proceedings to all accused persons, regardless their own resources. Denmark, Ireland and the UK have opted out from the Directive.

Fair Trials welcomed the adoption of the Directive as it includes an essential element to guarantee access to a fair justice system for everyone. It also incorporates several recommendations that Fair Trials defined together with the Legal Experts Advisory Panel in the [2015 position paper](#). For more information, read our news pieces [here](#) and [here](#).

In Belgium, a new law transposing the Legal Aid Directive came into force on 1st September 2016. We interviewed Belgian lawyer and LEAP Member Crépine Uwashema to discuss the implications for criminal justice defendants and their lawyers. The full interview can be found [here](#).

In the meantime, the Ministry of Justice in Ireland reached out to us to assess the feasibility of a Public Defender system as an alternative to the current ex officio system. We will soon be submitting a policy paper analysing the effectiveness and efficiency of public defender services used in other EU countries developed with feedback from LEAP members in relevant jurisdictions.

[Back to the top](#)

[Access to a Lawyer Directive – Transposition deadline expired](#)

The deadline for transposing Directive 2013/48/EU on the right of access to a lawyer in criminal proceedings (“Access to a Lawyer Directive”) expired on 27th November 2016. Two LEAP members, respectively in Malta and in the Netherlands, submitted individual contributions in relation to the transposition of this Directive into their domestic legislation.

In Malta, the bill implementing the Directive was adopted in November 2016. The bill introduces a set of important amendments to the Code of Criminal Procedure, notably in relation to a) the ability of a suspect/accused to meet with their lawyer before questioning, b) the guarantee of confidential communication with the lawyer and c) the ability of the lawyer to attend investigative and evidence-gathering acts. The key concern involve the restrictions for the lawyer to participate effectively in the questioning as required by the Directive. You can read the full submission from Ann Spiteri [here](#).

In the Netherlands, the transposition of the Access to a Lawyer Directive on 15th November filled a gap in domestic legislation, which did not guarantee the right to be assisted by a lawyer at the police station. However, the Supreme Court case law led to some confusions as to the application of the right to legal assistance during police questioning before and after the transposition. In addition, the role of defence lawyers during police interrogation is yet to be fully defined. Our LEAP member Gwen Jansen reported on

the most recent developments [here](#). We would like to develop more analysis from other interesting jurisdictions that have undergone recent reforms related to the Access to a Lawyer Directive, such as Belgium and Austria, so please get in contact with us if you are interested in putting some analysis together with us.

[Back to the top](#)

[Turkey](#)

Following the July failed coup, emergency provisions enacted by the Turkish government derogating from the right to a fair trial, amongst other rights, are leading to serious violations of fair trial rights for anyone suspected to be involved in the rebellion. Together with other civil society organisations, [we have addressed a letter to the Turkish authorities calling for fair trials to be respected](#). In addition, LEAP Members Christophe Marchand and Dominique Tricaud and Fair Trials' Legal and Policy Director, Libby McVeigh, attended a workshop organized by the Organization for Security and Cooperation in Europe aimed at addressing the question of derogations from fair trial rights in times of emergency.

In the meantime, EU member states are grappling with extradition requests coming from Turkey. This is very much the case in Greece, that has been dealing with [several extradition requests](#) against former members of the Turkish military. In Germany, as our LEAP member Anna Oehmichen reported, [a Higher Regional Court has recently declared all extraditions to Turkey currently inadmissible](#). Watch this space, as more such judgments are expected to follow in other countries.

[Back to the top](#)

[LEAP](#) [IN](#) [ACTION](#)

[LEAP](#) [MEETINGS](#)

[LEAP](#) [Advisory](#) [Board](#) [Meeting](#)

In October, we held the annual LEAP Advisory Board Meeting in Brussels. The meeting was a great success and we were able to develop a really exciting programme for 2017. Focus of our 2017 programme will be on the engagement of LEAP members in national actions aimed at ensuring better implementation of the EU's Directives, in particular as related to the various barriers that are put in the way of defendants and their lawyers preventing an effective defence, and in developing coordinated campaigns with other groups operating at the regional level pushing for regional level reforms related to

pre-trial detention and the European Arrest Warrant. The LEAP national actions will enable LEAP members to develop targeted activities in their national jurisdictions aimed at addressing systemic weaknesses within their systems. By way of example, we are pleased to note that working with Vania Costa Ramos, LEAP Advisory Board Member for Portugal, in January we will be delivering a training event in Portugal related to interpretation and translation that we hope can go some way towards improving what is a troubling situation in that country related to the implementation of the Interpretation and Translation Directive. If there is a burning issue within your jurisdiction that you believe is essential to address, we encourage you to get in touch with your Advisory Board member and the Fair Trials Brussels team to discuss it.

[Judicial Remedies Working Group](#)

As many of you know, we have set up a Working Group on judicial remedies, led by LEAP members Vania Costa Ramos (Portugal) and Dimitrios Giannouloupoulos (Greece). This WG seeks to understand how different Member States treat violations of fundamental rights of the suspect/accused person (notably, whether the violation of the right to a lawyer leads to a prohibition on the use of evidence) and whether these remedies constitute an "effective remedy". The WG will meet in Lisbon, on 27th January, 2017 to discuss national practices. About 18 European experts in ECtHR jurisprudence will join our event.

[LEAP Annual Conference 2017](#)

Next year LEAP Annual Conference will be held in Athens, on 3rd and 4th March. Make sure you [fill in this form](#) in order to register!

We can only provide limited places on a first-comes-first-served basis, so the sooner you register the better!

[Back to the top](#)

[NATIONAL DEVELOPMENTS](#)

[Italy: Nicola Canestrini fought Red Notice against Iranian activist](#)

Congratulations to our LEAP member Nicola Canestrini for successfully fighting an [INTERPOL Red Notice against an Iranian activist in Italy](#). Nicola had reached out to us for help in getting the Red Notice deleted and we were happy to support him.

[Sweden: Civil Rights Defenders' report exposes mistreatment of vulnerable suspects](#)

[Civil Rights Defenders](#), a Stockholm-based human rights organisation and one of our LEAP members, has recently reported on the [treatment of vulnerable accused persons in criminal proceedings in Sweden](#), including people with disabilities. According to the report, the Swedish authorities are failing to identify the needs of vulnerable accused persons and consequently to protect their rights. Read the full findings [here](#).

Following the report's publication, Civil Rights Defenders have been approached by the Swedish Ministry of Justice to provide detailed recommendations on how the Swedish government can improve performance in this area. Early in the New Year, we will be sending out a request to the LEAP membership for any good practices in this area that may be useful for Civil Rights Defenders to send to the Swedish Ministry of Justice.

[Poland: Helsinki Foundation for Human Rights and Fair Trials addressed joint letter to the Polish authorities](#)

The letter, addressed to President Andrzej Duda and Prime Minister Beata Szydło, [called for a solution to the ongoing constitutional crisis in Poland and for respect of the rule of law](#). HFHR is a critical watchdog of the Polish institutional landscape and managed to gather more than 90 signatories among European human rights organisations.

[Spain: Carlos Gómez-Jara fought restrictions to access the case file thanks to EU Directive](#)

Great news from Spain, as [our LEAP member Carlos successfully defeated a long-standing practice to forbid any access to the case file in criminal proceedings, no matter the charge](#). As Carlos and his colleagues referred to the EU Directive on the Right to Information, this case shows how EU-wide standards can have a positive impact on the national levels.

[France: Alexandre Gillioen exposes huge translation failures in pre-trial detention case](#)

Our French LEAP member Alexandre Gillioen has recently shared with us a very interesting case involving the application of the [Interpretation and Translation Directive](#) in France. His client, a Pakistani national, is being held in pre-trial detention since April 2016 and is still waiting for the essential documents of his case file to be translated. Alexandre is currently pushing the French judge to refer the case for a preliminary ruling to the Court of Justice of the European Union (CJEU) to test compatibility with the provisions laid out in the EU Directive. We have recently been approached by staff of the European Commission for examples of countries where interpretation and translation is particularly problematic. In the New Year, we will be sending out a request to the LEAP membership to identify particularly egregious cases of failure to comply with the provisions of the Directive, with a view to putting together a submission.

[Back to the top](#)

[Hungarian Helsinki Committee wins major victory before the European Court of Human Rights](#)

As is more fully explained in the case law updates section below, LEAP member, the Hungarian Helsinki Committee (HHC), achieved a remarkable success before the European Court of Human Rights, ensure better access to information about the functioning of criminal legal aid systems in Europe. Congratulations to everyone at HHC!

[Judicial Remedies Working Group](#)

As many of you know, we have set up a Working Group on judicial remedies, led by LEAP members Vania Costa Ramos (Portugal) and Dimitrios Giannouloupoulos (Greece). This WG seeks to understand how different Member States treat violations of fundamental rights of the suspect/accused person (notably, whether the violation of the right to a lawyer leads to a prohibition on the use of evidence) and whether these remedies constitute an "effective remedy".

The WG will meet in Lisbon, on 27th January, 2017 to discuss national practices. About 18 European experts in ECtHR jurisprudence will join our event.

[Conference of Pan-African Lawyers Union – Jaanus Tehver and Agata Stajer](#)

In October, our Legal and Policy Director Libby McVeigh and LEAP members Jaanus Tehver and Agata Stajer flew to Nairobi, Kenya to join the Conference of Pan-African Lawyers' Union. We had convened two panel sessions which focussed on improving protection of the rule of law in Africa and which drew on expertise from Fair Trials and LEAP.

Jaanus presented on the role of lawyers in implementing regional pre-trial justice standards in the EU, whilst Agata provided an overview of the system of plea bargaining in Poland. Thank you both Jaanus and Agata for joining us in this spearheading work!

[36 Bedford Row Extradition Seminar](#)

Earlier in October, Libby chaired a seminar in London on Section 12A of the UK Extradition Act 2003, concerning absence of a decision to charge and try. The panel was made up entirely of LEAP members. A huge thank you to Dominique Tricaud, Oliver Wallasch, and Arturas Gutasukas, who were all great.

[OSCE event on derogations from fair trial rights in states of emergency](#)

Turkish current affairs were the implicit focus of this meeting organised by the OSCE on derogations from fair trial rights under state of emergency law. The event was attended by our Legal and Policy Director Libby and LEAP members Christophe Marchand (Belgium) and Dominique Tricaud (France).

[European Commission roundtable event on pre-trial detention](#)

This roundtable was organised by the European Commission to debate pre-trial detention legislation with member states and other stakeholders. Our Regional Director for Europe Ralph Bunche presented our

regional report, whilst our EEAR members Karolis Lukševičius, from the Human Rights Monitoring Institute (Lithuania), and Andras Kadar, from the Hungarian Helsinki Committee, discussed the situation in their respective countries.

[Back to the top](#)

CASE-LAW UPDATES

ECtHR

[Yaroslav Belousov v Russia](#) (nos. 2653/13 and 60980/14), 4th October 2016. The case concerns a Russian national charged with and convicted of mass disorder due to his participation in a political rally. The trial proceedings took place in court rooms where the applicant was held in a glass cabin, which hindered communication with his counsel. The applicant complained that the glass cabins had prevented him from having a fair hearing “because the glass partition reduced visibility and audibility and made confidential exchanges with legal counsel impossible; the interior arrangement of the cabins also made it awkward to handle and read documents.”

The Court found that the proceedings had been conducted in breach of Article 6 given that the glass box arrangements had an impact on the exercise of the accused’s rights to participate effectively in the proceedings and to receive practical and effective legal assistance. Specifically, the Court stressed that an “accused’s right to communicate with his lawyer without the risk of being overheard by a third party is one of the basic requirements of a fair trial in a democratic society; otherwise legal assistance would lose much of its usefulness.”

[Jemeljanovs v Latvia](#) (no. 37364/05), 6th October 2016. The case concerned a man accused of murder who claimed to have been deprived of his right to receive legal assistance during the first-instance criminal proceedings against him. During the first-instance proceedings Mr Jemeljanovs was represented by two legal aid lawyers. However, due to significant differences in the preparation of his defence, Mr Jemeljanovs discharged them both of their duties and continued to represent himself in court. He was convicted of murder and sentenced to 12 years in prison. In his application, he claimed having been deprived of his right to legal assistance, arguing that he had refused the services of State-appointed lawyers because of the poor quality of their assistance. Additionally, he claimed that he did not intend to waive his right to all legal assistance when dismissing the second State-appointed lawyer.

The Court found that the legal assistance provided by the state-funded lawyers had not been negligent and therefore Mr Jemeljanovs’ complaint was unfounded. As a result the Court concluded that there had been no violation of Article 6 given that Mr Jemeljanovs’ right to defend himself in person or through legal assistance had not been restricted in a manner which undermined the overall fairness of the criminal

proceedings.

[Magyar Helsinki Bizottság v Hungary](#) (no 18030/11), 8th November 2016.

The case involves an application lodged by the Hungarian Helsinki Committee (Magyar Helsinki Bizottság), claiming that their right under Article 10 of the ECHR had been violated when the police department refused to disclose information on the appointment of public defenders upon their request. The two police stations refused to provide the information on grounds that the names of the lawyers constituted private data, which therefore could not be disclosed. The applicant argued that the right to access information is the precondition for the appropriate exercise of the right to freedom of expression as guaranteed under Article 10.

The Court upheld the argument of the applicant that freedom of information is an inherent aspect of the right to freedom of expression and concluded that there had been a violation of Article 10. The Court found that the information was required to complete a study on the functioning of the public defenders' system with a view to contributing to discussion on an issue of obvious public interest. In the Court's view, the restriction on the right to access to the information could not be justified by the obligation to respect the private life of the lawyers, since the data requested did not concern the activities of the legal counsels or information falling under attorney-client privilege. It thereby concluded that the restriction of the right had not been neither necessary in a democratic society nor proportionate.

[Mercan v Turkey](#) (no 56511/16), 8th November 2016

The Court rejected an application concerning the lawfulness of a judge's pre-trial detention following the attempted coup in Turkey for failing to exhaust domestic remedies. The application was lodged by a Turkish judge who had been dismissed from office following the failed coup, arrested, put on pre-trial detention and accused of links to the Fetullah Terrorist Organization (FETO). In her application, she claimed that her arrest and detention were in contravention with the right to a fair trial under Article 6 and the right to be free from torture or any form of cruel or inhuman treatment 3 of the ECHR. However, the Court declared the application inadmissible because it had failed to meet the admissibility requirement of exhausting all existing domestic remedies. Relying on the principle of subsidiarity, the Court held that Ms Mercan should have lodged her complaint before the Turkish Constitutional Court, which the Court considered to be impartial, accessible and effective.

[Press Release](#) issued by the Registrar of the ECtHR on 23rd November 2016.

The note was entitled "Mass applications concerning inadequate detention conditions in Hungary suspended" and with it the ECtHR announced the decision to suspend the examination of thousands of applications concerning prison conditions in Hungary until 31 August 2017. In a pilot judgment of 2015, the Court held that Hungary had to take measures to improve the problem of widespread overcrowding in its prisons. Given that the Hungarian government is currently undergoing a legal reform to address these issues, the Court notes that new domestic remedies will be introduced that will prima facie be able to redress the applicants.

[Back to the top](#)

CJEU

C-453/16 PPU – [Özçelik](#); C-452/16 PPU – [Poltorak](#); C-477/16 PPU – [Kovalkovas](#), 10th November 2016. In this series of decisions, the CJEU has further developed the notion of ‘issuing judicial authority’ in the context of EAW proceedings. In particular, the Court ruled that the office of the public prosecutor can be considered a competent judicial authority with legitimate powers to issue an EAW (Ozcelik). Conversely, the Court found that the concept does not extend to the national police services (Poltorak) nor to officials of the Ministry of Justice ([Kovalkovas](#)).

Case C-439/16 PPU - Emil Miley, 27th October 2016.

This case dealt with a question raised by a Bulgarian Court regarding the existing conflict between national law and ECtHR standards with respects to pre-trial detention decision-making proceedings and the Directive 2016/343/EU on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings. In proceedings reviewing pre-trial detention decisions, Bulgarian national law prohibits the court to rule on whether there are reasonable grounds to suspect that the accused has committed the offences of which he is accused, which runs counter Article 5(1)(c) and 4 of the ECHR. In order to solve this conflict, the Bulgarian Supreme Court of Cassation delivered an opinion stating that “each court must examine whether it should give priority to the ECHR or to national law and whether it is in a position to rule in that context.” Thereby, the Bulgarian criminal Court presented the CJEU with the question of whether this opinion should be precluded in light of Article 3 and 6 of the Directive, which is yet to be transposed in Bulgaria.

The CJEU found that “from the date upon which a directive has entered into force, the authorities and courts of the Member States must refrain as far as possible from interpreting domestic law in a manner which might seriously compromise, after the period for transposition has expired, attainment of the objective pursued by that directive”. In the view of the CJEU, the opinion is not likely to seriously compromise the attainment of the objectives prescribed by that directive after the expiry of the period prescribed for transposition insofar as it merely leaves those courts free to apply the provisions of the ECHR, or those of the national criminal procedural law. Therefore the CJEU ruled that Supreme Court’s opinion delivered at the beginning of the transposition period of the Directive on Presumption of Innocence is not in contravention with Article 3 and 6 of the Directive.

[Back to the top](#)

NATIONAL CASES

IRELAND

Minister for Justice and Equality v W.B [2015] IEHC 805, Irish High Court, 16 December 2015.

Sweden issued an EAW requesting the surrender of an Irish man, WB, to be prosecuted on charges of rape. The requested person opposed the EAW on the grounds that his surrender poses a real risk of a serious breach of his fundamental rights, given that under Swedish law there is effectively a presumption in favour of pre-trial detention. He also argued that if surrendered, WB would be placed in pre-trial detention immediately upon his return, despite the lack of evidence supporting the risk of flight or the likelihood to interfere with witnesses.

In the High Court, WB's objections were rejected and surrender was ordered. However, the High Court certified that given the importance of its decision, it was in the public interest to lodge an appeal to the Court of Appeal.

“Does the Swedish system of pre-trial release which requires that where there is probable cause that a person is suspected of a serious crime that he or she will remain in custody unless it is obvious that this is not necessary and where Swedish law requires a weighing up of the detriment to the suspect and other interest as against detention amount to such an egregious violation of human rights that the surrender ought to be refused as a result?”

The Court of Appeal found that “the mere fact that Swedish law attaches different weight to the considerations in question, and in that regard is perhaps even radically different to Irish law, does not automatically mean that their system is fundamentally defective and that a refusal of surrender is required to protect WB's rights”. It also found that in Sweden there is no presumption of necessity for detention but a weighty requirement to produce very cogent and compelling evidence in order to persuade a Court that detention is unnecessary. Therefore, the Court of Appeal upheld the decision of the High Court and ruled that the Swedish system of pre-trial detention does not amount to such an egregious violation of human rights that surrender under an EAW ought to be refused as a result.

Germany

Schleswig-Holsteinisches Oberlandesgericht 1. Strafsenat, 1 Ausl (A) 45/15, 22nd September 2016.

A decision whereby a Higher Regional Court found that, in view of Turkey's derogations of several rights of the accused under Article 15 of the ECHR, extraditions to Ankara are currently inadmissible. Under the Decree no. 667, adopted after the failed coup, police may arrest a person for up to 30 days without being brought before a judge, and the prosecution is authorised to replace the defence counsel of the accused and even prohibit any communication between the accused and his defender. The Court also noted that, after the arrest of thousands of judges and prosecutors, it must be expected that criminal proceedings will take significantly more time, which is likely to increase the prisons overpopulation. The Court concluded that under these circumstances, not only procedural rights guaranteed under Article 6 of the ECHR would

not be respected, but it also had to be assumed that present prison conditions would be in breach of Article 3 ECHR, which is a non-derogable and absolute right and continues to apply times of emergency.

Malta

[II-Pulizija vs Jason Cortis](#), Court of Criminal Appeal (Inferior Jurisdiction), Appeal number: 224/2014, 6th October 2016.

[Trevor Bonnici vs L-Avukat General](#), First Hall of the Civil Court (Constitutional Jurisdiction), Application number: 44/2016, 10th November 2016.

These two decisions deal with the right to receive the assistance of a lawyer prior to and during the interrogation at the police station. In both cases the Courts applied the Access to a Lawyer Directive retroactively and found violations of the applicants' right to a fair trial as guaranteed under Article 6 ECHR.

Also in both cases, the Courts recognised the need to afford judicial remedies to the appellants, which involved, respectively, the exclusion of the statement given during questioning and the celebration of a new trial.

United Kingdom

[Sunca and others v Romania](#) [2016] EWHC 2786 (Admin) CO/2387/2016, CO/3889/2015 and CO/4067/2016, 04 November 2016.

The case concerned a series of EAWs issued by Romania, which raised concerns as to the risk of torture, inhuman or other degrading treatment in the country's overcrowded prisons. The Romanian authorities gave new assurances as to the respect of ECHR standards in their prison system. These were later retracted by the Minister of Justice.

When assessing the validity of the new assurances given, the Court found that "the evaluative exercise [...] occurs in a context, which includes the nature of the relationship between the UK and the jurisdiction in issue [...] Romania is not Libya as regards the context". In the court's assessment the risks associated with overcrowding "are not of the same character as the Libyan cases, where the concerns entertained were well along the torture end of the Article 3 spectrum".

Secondly, the Court found that whilst recent statements made by the Minister of Justice admitting to have lied to the ECtHR were "unfortunate", this "did not undermine the good faith of the assurances nor the objective basis for believing they will be fulfilled".

In sum, the Court concluded that the history of breached assurances together with their public retraction by the Minister of Justice were not substantial grounds for believing that a real risk existed that the requested persons would be subjected to detention in conditions which violated Article 3. This benchmark

decision overturns previous jurisprudence in [Rusu v. Romania](#).

[Back to the top](#)

[SUPPORT US](#)

[We want your cases!](#)

We need new and interesting cases to show how fair trial rights are being dealt with in European jurisdictions. We've heard repeatedly from people at the EU Commission that these cases make a real and significant difference. They foster public debate and push for policy change. They're also a good opportunity to show off your work, and don't forget that your cases can be interesting not to mention useful to other LEAP members who are facing similar challenges in their jurisdiction.

We are specifically looking for cases regarding:

- **The European Arrest Warrant** - this is part of our Beyond Surrender project, a new and unique project considering what's happening to people after they're extradited. We want to get the European Arrest Warrant back on the agenda, two years after the Commission recognised the need to reform it.
- **Pre-trial detention** - this follows on from our major research project this year. We want that to be the base from which we're able to really keep the pressure on the Commission and make legislation a reality, but we need cases to do that.
- **Plea-bargaining** - this is a new area of work. Some of you will have completed the survey that has helped feed into a major report that will be published in the first half of next year, but again, if we want anyone to pay attention we need real world examples of the misuse and abuse that we know goes on.

Get in touch with the Brussels team and we'll take care of the rest!

[Support our cause](#)

94% of all funds donated to Fair Trials are spent directly on our programmes – essential work which you, as a LEAP member, are contributing to and benefiting from. Your support is essential to ensuring the sustainability of the LEAP Network and the development of Fair Trials' work.

If you haven't done so yet, please consider supporting Fair Trials' work fighting injustice by making a donation [here](#). It's quick and easy, and it will mean a lot for us!

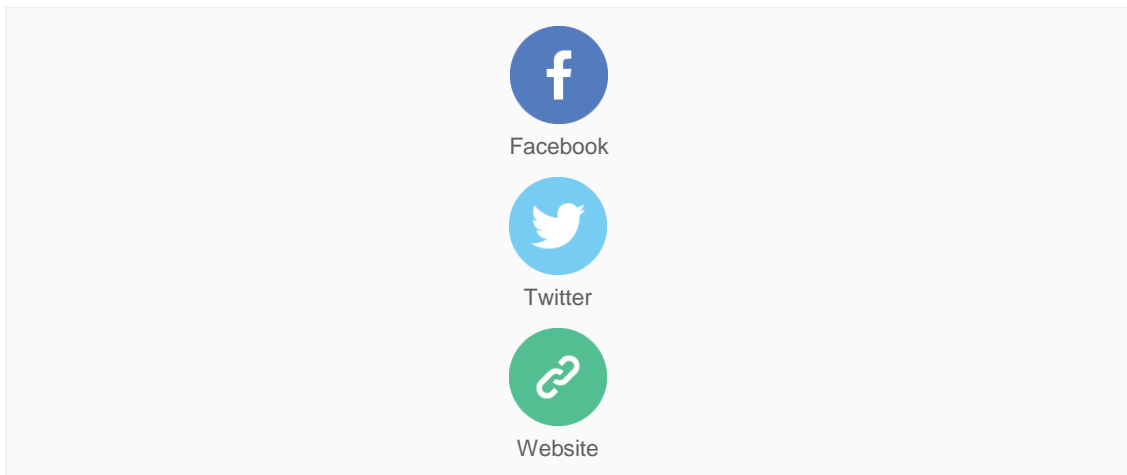
Thank you.

[Back to the top](#)

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

[Back to the top](#)



This publication has been produced with the financial support of the Criminal Justice Programme of the European Commission. The contents of this publication are the sole responsibility of Fair Trials and can in no way be taken to reflect the views of the European Commission.

Copyright © 2016 Fair Trials, All rights reserved.

You are receiving this email because you are on our Legal Experts Advisory Panel mailing list.

Our mailing address is:

Fair Trials Europe

Rue des Deux Eglises 39

1000 Bruxelles

Belgium