



Welcome to the second LEAP quarterly bulletin of 2016, which will update you on LEAP's work over the past three months and other issues of interest.

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We wish you a nice summer and look forward to collaborating with you on defence rights issues in the EU again soon.

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[LEAP NEWS](#)

[New Fair Trials Europe team](#)

For the past two years Fair Trials has been building its Brussels office and the Belgian charity, Fair Trials

Europe. At the beginning of this year we began a recruitment drive to staff the office so that full responsibility for Fair Trials' work in Europe can be transferred to it: coordination of the LEAP network, campaigns and communications, law reform, casework, finance and fundraising. That process is now complete and we are delighted to introduce the team in Brussels:

Ralph Bunche (Ralph.Bunche@fairtrials.net) has joined the office as Regional Director for Europe, responsible for overseeing all aspects of Fair Trials' work in Europe. Ralph joins us from the OSCE Mission in Kosovo, where he managed the OSCE's human rights and rule of law work, with a major focus on the right to a fair trial. Previously, Ralph worked as a litigator for leading international law firms, representing defendants and victims in cross-border financial fraud, price fixing and human rights cases.

Tzeni Varfi (tzeni.varfi@fairtrials.net), who will be joining as Legal and Policy Officer from 4 July. Tzeni comes to us from ICF International where she led legal research and justice sector stakeholder engagement for various DG Justice and DG Home Affairs projects. Previously, Tzeni coordinated a project on restorative justice for the University of Leuven and worked as a lawyer for a private firm in her native Greece.

Silvia Lorenzo Perez (silvia.lorenzoperez@fairtrials.net), from Spain, will also be joining the team as Legal and Policy Assistant. Silvia and Tzeni will join **Jemima Hartshorn**, who is going on maternity leave from 19 July.

To cover the finance work for Fair Trials in Europe we have recruited **Mairead Audounet** (mairead.audounet@fairtrials.net). Mairead joins us from Global Call to Action against Poverty, based in Brussels, where she was the Finance Manager. Mairead has an extensive background in leadership roles with civil society advocacy groups and coalitions in Brussels and in her native Ireland.

Finally, **Gianluca Cesaro** (gianluca.cesaro@fairtrials.net) has been promoted to the role of Communication Officer, responsible for campaigns and communications for our European work.

The Brussels team is very much looking forward to working closely with the LEAP network, and to hopefully meeting and speaking with many of you over the next few months. With dedicated staff focusing exclusively on fair trial issues across Europe we will have a greater impact across the European region and be even more responsive to the needs of our LEAP partners.

As well as supporting the new Brussels team as they get up to speed, Fair Trials' London office is now concentrating on international advocacy (like our work on reform of INTERPOL). Building on our impact in Europe, we are also actively developing our work across the world. For example, in September of this year, Rebecca Shaeffer will be moving to Washington, DC to establish our presence there and to allow us to engage more on fair trial issues in the Americas.

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[Thank you](#)

We would like to thank all LEAP members who supported us in updating the Notes of Advice, which we distribute to suspects and accused persons through our website, emails and by post. You can find the full list of [these excellent resources here](#) and hope that they may be of value both to you and your clients.

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[Pre-Trial Detention](#)

Our pre-trial detention research project has come to a successful end with the publication of the [regional report](#) - '*A Measure of Last Resort? The practice of pre-trial detention decision-making in the EU*' - which provides an overview of the research findings and input provided by many LEAP members at the Expert Seminar on pre-trial detention in September 2015. The report also outlines recommendations for EU action on this important issue. You can find a summary of the report [here](#). The country reports published by our 10 partners are available [here](#) and will form the basis of national level advocacy by our partners.

We launched the regional report on 26 May at the European Parliament. The event, hosted by Fair Trials patron and MEP Birgit Sippel, was attended by project partners, LEAP members, civil society and representatives from the European Commission, the European Parliament and the Council of the European Union. The event also featured the premier of our new film highlighting the human impact of unlawful pre-trial detention through cases from Poland, Romania and Italy, with commentary provided by our partners in those countries. Fair Trials staff Rebecca and Jemima, who managed the project, opened the event with an overview of the research findings. Presentations then followed by Maité De Rue (Deputy to the Prosecutor General of Belgium, and member of the CPT), Justice John Edwards, an Irish Court of Appeal judge, Olivier Tell from DG Justice of the European Commission and Luca de Matteis from the Permanent Representation of Italy to the European Union. More information on the event and the film can be found [here](#).

On the same day, four of Fair Trials' MEP patrons wrote a [letter](#) to European Commissioner of Justice, Consumers and Gender Equality, Vera Jourová, asking her to take legislative action to address the unjustified use of pre-trial detention across the EU. The letter also raised the potential for the European Parliament to act on its own initiative to propose legislation.

Our report and event were very timely, as only a couple of weeks before, Commissioner Jourová had identified pre-trial detention as a [key priority](#) for the Commission to work on.

The next stage of our campaign for EU minimum standards on pre-trial detention will involve engaging with other stakeholders in the criminal justice system. To that end, we are convening a LEAP roundtable on pre-trial detention on 15 July in Brussels, which will be attended by judges, prosecutors, people working on probation issues, as well as defence practitioners and NGOs from LEAP. The aim of this

meeting is to present the findings of the research and regional reports to these stakeholders working on pre-trial detention issues, identify challenges in the context of pre-trial detention and discuss how these can be addressed through EU-legislation, as well as discussing good practices and how these can be reproduced in other countries. We will update you on the findings of this discussion in the next quarterly bulletin.

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Interpretation Report - thank you!

LEAP and Fair Trials published a report on the quality of interpretation provided in criminal proceedings and the extent to which this is protected by law in line with the EU Interpretation and Translation Directive. The report provides an overview of the situation in 18 Member States. While there were some examples of good practice, the general assessment is poor and we shall be using the findings to inform the work of the European Commission to tackle ineffective implementation by Member States. We would like to thank all LEAP Advisory Board members who completed the questionnaire! The report is available [here](#). We are really keen to use these findings to also encourage and support Member States to adapt their laws and practice on this important defence rights issue. Do get in touch if you would like to be engaged in national-level advocacy on the issues raised in the report.

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Access to a lawyer toolkit

LEAP and Fair Trials have published a toolkit on the [Access to a Lawyer Directive](#), adding to the existing toolkits on the [Right to information Directive](#), [Interpretation and Translation Directive](#) and [Using EU law in practice](#). The new toolkit includes an implementation “check-list”, which we would encourage you to have a look at. We are really keen to support you in ensuring that the Access to a Lawyer Directive is adequately implemented by the time it has to be transposed in all Member States on 27 November 2016. Please get in touch with us if you identify insufficiencies in your national legislation or legislation proposals, so we can discuss next steps.

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Country-specific toolkit - Bulgaria

Working with LEAP Advisory Board Member for Bulgaria, Asya Mandzhukova, we have published our first country-specific toolkit on the EU Defence Rights Directives. The most relevant parts of the existing toolkits (see above) have been translated into Bulgarian and are accompanied by a recorded foreword,

also in Bulgarian, by Asya. We hope this toolkit will make it easier for Bulgarian lawyers to learn about the Directives. If you are interested in helping producing a specific toolkit for your jurisdiction, please let Ralph know.

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[New Case database](#)

With your help, we would like to establish an online case-law database that will include national and regional cases relating to the EU Defence Rights Directives and the European Arrest Warrant. We hope that this database will become a useful tool, supporting LEAP members in making comparative-law arguments in court and in their advocacy. We hope that you will support this initiative by providing us with information (judgment and summary in English) on national cases of interest relating to these topics. We look forward to hearing from you!

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[Beyond Surrender project](#)

On 1 April 2016, we launched a new European Commission-funded project, *Beyond Surrender*, in partnership with LEAP members APADOR-CH, Human Rights Monitoring Institute, Helsinki Foundation for Human Rights, and Rights International Spain. In this project, we will monitor the cases of suspects and accused people following surrender to Lithuania, Poland, Romania and Spain pursuant to a European Arrest Warrant in order to identify the extent to which their rights under the EU Defence Rights Directives and the ECHR are respected and enforced. We will use the case studies collected through the project to support our ongoing advocacy calling for EAW reform.

The crucial element of this project is identifying cases that we can monitor at an early stage during the proceedings – this is where **we require your help!** During September, we will conduct roundtable seminars in Belgium, France, Germany, Hungary, Ireland and Portugal to inform lawyers working on extradition cases in these jurisdictions about our project and how they can support us. If you practice in any of these jurisdictions and would be interested in attending (or even hosting) these roundtables, please get in touch!

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[Justice in Europe - Policy Updates](#)

[Legal aid](#)

The Directive on legal aid is likely to be adopted by the end of June and we will let you know as soon as we know more. We would like to thank all LEAP members, who have contributed so strongly to the work we have been doing to encourage EU policymakers to develop and agree on a Directive to really address the problems identified in EU Member States. You can find our position paper on the initial proposal by the European Commission [here](#). We would also like to thank all LEAP members who participated in the European Parliament's study carried out by the consultancy Milieu on the situation of legal aid in your country.

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DRF Scoreboard

The European Parliament Committee on Civil Liberties, Justice and Home Affairs ("LIBE-Committee") is currently working on an own initiative report on a EU mechanism on democracy, the rule of law and fundamental rights. Jemima attended a roundtable meeting to discuss the initiative and we recently submitted a written submission in response to a consultation on the draft report.

The core of the Parliament's proposal is a scoreboard to assess the adherence of EU Member States to fundamental principles of democracy, rule of law and fundamental rights. This initiative is driven by the increasingly oppressive political behaviour of some Member States and the consequential incoherence of the EU to encourage and demand changes in non-EU Member States, while the Member States are not necessarily complying with these standards themselves. Any such scoreboard would be used to determine whether action is necessary pursuant to Article 7 TEU in relation to a particular country and would replace existing scoreboards, including the EU Justice Scoreboard. Our submission drew upon the LEAP consultation on a Fair Trials Scoreboard and encouraged the MEP Rapporteur, Sophie in't Veld, to emphasise the right to a fair trial in criminal proceedings more strongly as a fundamental human right, as well as to include lawyers and NGO in the expert panel responsible for evaluating the situation in Member States. We will provide an update on this process in the next quarterly bulletin.

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Electronic evidence

The role of electronic evidence in criminal proceedings is an issue that has come up increasingly in discussions with LEAP members, including at the LEAP Annual Conference 2016. Stephen Mason, an English barrister, is developing an initiative concerning the drafting of a Convention on Electronic Evidence.

His main objective is to develop a common policy towards electronic evidence, taking into account the differences in the treatment of evidence in individual jurisdictions.

You can find more details on the initiative [here](#). All LEAP members are invited to participate in the drafting of this convention by signing up on this [link](#).

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[Survey regarding anti-terrorism laws](#)

Asya Mandzhukova, LEAP Advisory Board Member for Bulgaria, has asked us to forward you some important questions. Please respond to Jemima, Jemima.Hartshorn@fairtrials.net, who will forward the information to Asya, - thank you for your participation!

The Bulgarian government has recently proposed a new Anti-terrorism law which provides for significant and quite worrying limitations to the rights of suspects and even of regular citizens in cases of a "grounded suspicion" of a terrorism act to be committed. The limitations affect free movement, meetings in public spaces, communications, including press-releases and many other aspects of normal life. The leader of the political party is arguing that "all of Europe is now taking such legislative measures" – we are keen to find out if this is indeed true. The questions are the following:

1. Is there specific anti-terrorism legislation in your country?
2. If yes, does it provide for the possibility to limit citizens' rights or suspects' rights and which rights can be restricted?
3. Which authority has the power to decide on such limitations – a judge or police authorities

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[Justice In Europe Defence Rights Judgments & Litigation](#)

[Aranyosi](#)

In April, the CJEU rendered its judgment in the [Aranyosi and Căldăraru cases](#) (C-404/15 and C-659/15 PPU) in which it confirmed that Member States are obliged to respect the fundamental rights of requested people when considering European Arrest Warrants.

The decision is especially welcome given the alarming tone of Advocate-General Bot's opinion on the case from a few weeks earlier, which prompted Fair Trials and 19 signatories from LEAP, to write a [letter](#) to Věra Jourová, the *Commissioner for Justice, Consumers and Gender Equality* at the European Commission, to express grave concerns. The Opinion suggested that judicial authorities should execute a European Arrest Warrant even if there is a risk of inhuman or degrading treatment to the requested person.

Thankfully, the EU Court rejected Advocate-General Bot's position, and has made clear that Article 4 of the EU Charter of Fundamental Rights prohibiting torture and ill treatment is an absolute and non-derogable right that continues to apply in the context of mutual recognition.

You can read more about the judgment [here](#).

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[Estonian Supreme Court](#)

The Estonian Supreme Court recently gave its judgment in a case that concerned the scope of derogations from the right to access the case file under the Right to Information Directive. We submitted a [third-party intervention](#) in this case, arguing that the Estonian criminal procedure code provisions permitting restrictions on defence access to the case file even where such evidence is necessary to challenge the lawfulness of arrest or detention, violate Article 7(1) of the Right to Information Directive, as the derogations set out in Article 7(4) explicitly only apply to Article 7(2) and 7(3). The Supreme Court did not accept our position, outlining that according to Recitals 32 and 42 of the Right to Information Directive and case law of the European Court of Human Rights, the right to access the case file may be restricted where necessary. A reference to the CJEU was not made. As this is a problem reported to us by LEAP members in many Member States, we will discuss the next steps with the lawyers involved and update LEAP members in due course.

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[Legal Training](#)

[UK Training](#)

In April, Fair Trials and LEAP members delivered the final of six trainings under the current training programme on the Roadmap Directives. 41 lawyers attended from Belgium, England and Wales, France, Ireland, Luxembourg, Northern Ireland and Scotland. The training received great feedback and several attendees have since joined the LEAP network and are looking forward to collaborating on promoting defence rights issues. The venue was kindly provided pro bono by Brunel University London, thanks to LEAP member Dimitrios Giannouloupoulos.

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[Publications and Seminars](#)

Libby PACE hearing in Rome

In May, Libby McVeigh participated in a hearing of the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly of the Council of Europe (PACE), in order to contribute to the preparation of its report on the politically-motivated misuse of INTERPOL - now expected to be finalised in early 2017. This provided an opportunity to update politicians from across the Council of Europe on the progress that INTERPOL has made in adopting reforms we have recommended, whilst also highlighting areas in which reform is still required. There was positive engagement from a number of Committee members, including Poland and Georgia.

Libby's participation in Vienna UNODC event on PTD and SDGs

In May, we co-hosted a side event and roundtable meeting at the Commission for Crime Prevention and Criminal Justice at the UNODC in Vienna. The event focussed on the implementation of Target 16.3 of the UN Sustainable Development Goals (agreed in September 2015) which relates to access to justice, and in relation to which an indicator on pre-trial detention has been agreed. The inclusion of justice matters, and more specifically access to justice and pre-trial detention, in the context of goals for development is an encouraging step and we are keen to capitalise on the drivers for reform which this creates. The side event provided the opportunity for us and our partners to present the contribution which civil society can make to monitoring the use of pre-trial detention, while the roundtable meeting enabled us to meet with NGOs from India, Mexico, South Africa and Europe and explore potential future collaboration in relation to the pre-trial detention indicator.

Fair Trials in Africa

In April, Libby McVeigh and Bruno Min co-hosted a side event with the South African NGO, the African Policing Civilian Oversight Forum, in the margins of the 58th Ordinary Session of the African Commission on Human and People's Rights held in Banjul. The objective of the event was to start conversations between legal experts from Africa and Europe on recent developments in each continent on the notification of rights, and to facilitate the exchange of ideas and examples of best practice. Libby's presentation drew on the initial findings from the LEAP survey on the implementation of the obligation to provide Letters of Rights to arrested persons under the Right to Information Directive. The panel was chaired by the Special Rapporteur on Prisoners and Conditions of Detention and Policing in Africa.

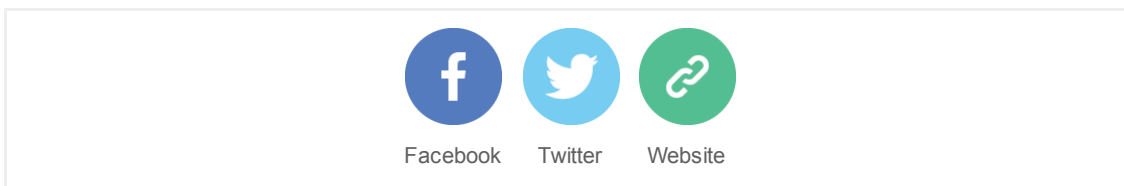
Police training on the EU Defence Rights directives

In May, Libby McVeigh delivered a webinar hosted by the European Police College (CEPOL) on the EU Defence Rights Directives, highlighting the role which police officers should play in ensuring effective implementation. It was very interesting to speak to a different audience, and we hope to do more of such trainings.

Pre-trial detention – ERA seminar

In April, Rebecca Shaeffer delivered a talk on pre-trial detention and the findings of our research at a seminar on detention-related matters convened by the Academy of European Law. This event was attended by lawyers, judges and prosecutors from across the EU – many of whom signalled their keen interest in our work and the reports we published.

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