

FAIR TRIALS

Communiqué

issued after the

Western Balkans Defence Rights Roundtable

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The logo for the Oak Foundation, featuring a stylized oak leaf icon to the left of the text "OAK FOUNDATION".



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About Fair Trials

Fair Trials is a non-governmental organisation that works for fair trials according to internationally recognised standards of justice and provides advice and assistance to people arrested across the globe. Our vision is a world where every person's right to a fair trial is respected, whatever their nationality, wherever they are accused. Fair Trials pursues its mission by helping people to understand and defend their fair trial rights; by addressing the root causes of injustice through our law reform work; and through targeted training and network activities to equip lawyers to defend their clients' fair trial rights.

Working with the Legal Experts Advisory Panel (“LEAP”) – a network of over 130 criminal justice and human rights experts including defence practitioners, NGOs and academics from 28 EU countries - Fair Trials has contributed to the negotiations surrounding the adoption of EU legislation on procedural rights and has informed debates on other criminal justice issues including the overuse of pre-trial detention within the EU and the need for EU extradition laws to contain safeguards which ensure that basic human rights are respected. With this expertise in promoting the protection of defence rights and justice in Europe, Fair Trials is interested discussing possible collaboration beyond the current borders of the EU.

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A. Introduction

1. On 29 October 2014, Fair Trials International (**Fair Trials**) convened a roundtable meeting for NGO representatives and lawyers from countries in the Western Balkan region which are in the process of applying for accession to the European Union (**EU**), including Albania, Kosovo, Macedonia, Montenegro, and Serbia to discuss the state of fair trial rights protection within the region, to share experiences of working toward improved fair trials protections in the Western Balkans region and to exchange views on possible collaboration and network-building in the future.¹ The meeting was Fair Trials' first meeting in the Western Balkans region, and was designed to assess whether the themes and methodology employed in our Justice in Europe campaign could be of use beyond the borders of the EU. We were delighted that Mr Ian Whitting OBE, British Ambassador to Montenegro, joined us to introduce the meeting and give his support to this initiative.
2. The specific objectives of the meeting for Fair Trials and participants were as follows:
 - a. To gain an understanding of the criminal justice and fair trial rights concerns across the region and, where appropriate, identify common themes and patterns;
 - b. To establish the extent to which recent developments in EU legislation in the area of criminal justice, particularly the legislation adopted under the Roadmap for strengthening procedural rights of suspected or accused persons in criminal proceedings (the **Roadmap**),² are relevant within the Western Balkans;
 - c. To identify what the key drivers of criminal justice reform are in each country and/or across the region, and to establish to what extent the EU accession process is one of those drivers; and
 - d. To assess the potential value of a regional network of NGOs, academics and criminal practitioners and to discuss potential avenues for future collaboration between participants.
3. The roundtable discussions were structured according to these objectives.

B. Criminal Justice Reform Priorities in the Region

4. The meeting's first session aimed to establish an understanding of the pre-existing reform priorities for the represented organisations and for the governments of their respective countries. Discussions focussed particularly on the extent to which criminal justice issues featured prominently among those priorities and if so, which aspects of the right to a fair trial were of highest concern in each jurisdiction and throughout the region. The discussion attempted to clarify these priorities in the context of the potential influence of the process of accession to the EU, and therefore to EU standards of justice.

¹ A representative from Bosnia and Herzegovina was invited but was unfortunately unable to attend.

² EU Council, Resolution of the Council on a Roadmap for strengthening procedural rights of suspected or accused persons in criminal proceedings, 30 September 2009, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2009:295:0001:0003:en:PDF>.

5. Progress reports from the European Commission on the EU accession process and the interests of international donors have tended to frame fair trial rights issues in the Western Balkan region within a broader analysis of the need for “rule of law” reforms, focused on the strengthening of independent and effective judges and prosecutors. The primary criminal justice issue prioritised by the EU accession process under Chapter 23 of the European Commission’s acquis (Judiciary and Human Rights), for example, is the establishment of an independent and efficient judiciary as essential for safeguarding the rule of law. Emphasis under Chapter 24 (Justice, Freedom and Security) in relation to criminal justice relates primarily to anti-corruption measures, policing and judicial cooperation. These issues tend to be addressed with reference to Article 6(1) of the European Convention on Human Rights (**ECHR**), which applies to civil as well as criminal proceedings and which guarantees that “everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.”
6. The EU’s recent legislation (and Fair Trials’ work) in the area of fair trial rights has, on the other, hand focused less on issues related to independence and efficiency of the justice system and instead on the particular guarantees of procedural fairness in the criminal context, as more specifically articulated in the Roadmap. These have been identified as the area of greatest weakness and variability within EU Member States, with significant impact on the effectiveness of judicial cooperation, based on the concept of mutual recognition which involves judicial decisions made in one EU Member State being automatically recognized in another. The flagship mutual recognition instrument – the European Arrest Warrant (EAW) – has demonstrated that the mutual trust necessary to support effective judicial cooperation is not warranted due to inadequate protection of fundamental rights in many EU Member States. Fair Trials is therefore strongly engaged in influencing the EU institutions to adopt strong procedural guarantees to prevent injustice in the operation of mutual recognition instruments such as the EAW. These procedural guarantees mainly relate to the provisions of Article 6(3)(a-e) ECHR, which provide for the right to information, time and facilities for the defence, to legal aid and assistance, to examine witnesses, and to interpretation and translation, as well as the presumption of innocence expressed under Article 6(2) ECHR.
7. Participants reported that in general, criminal justice and fair trials issues were a priority for their organisations, many of which undertake regular monitoring of trials and places of detention as well as providing direct input into relevant legislative initiatives. In particular, issues related to victims’ rights and to general detention conditions (including prisons, police stations, migrants’ shelters, children’s homes and psychiatric facilities) featured high on their agendas. Regional governments have prioritised legislative reform in the area of criminal justice in order to comply with European standards (both those established by the Council of Europe and the EU), but equal attention was not given to effective implementation of changes to criminal and procedural codes, leading to confusion among key actors and general failure to realise improved rights protection.
8. Participants affirmed that much of the emphasis of recent reforms of criminal justice codes in the region has focused on increasing the efficiency of the justice system, without sufficient attention being paid to individual rights of defendants. This has been attempted through such measures as introducing adversarial features into previously inquisitorial systems, an

intervention that participants reported had not always functioned to reduce case processing times as various actors in the criminal justice system, including defence lawyers, had not been adequately trained to implement such systemic changes. Procedural rights were felt to be an integral aspect of the proper functioning of efficient and independent courts and criminal systems, but sufficient attention has not been paid to ensuring their protection when making systemic reforms.

9. In particular, the move to a more adversarial system has resulted in strengthening the power of prosecutors, as in Macedonia and Serbia, without equality of arms being extended to the defence. For example, in Serbia the defence can now conduct its own investigation, but any evidence it finds must be reviewed and admitted by the prosecutor, with only minimal judicial oversight in which a judge can only order a prosecutor to review the decision not to admit defence evidence, but lacks the power to order evidence admissible itself. Similarly in Macedonia there are no public hearings regarding the admissibility of evidence in the pre-trial phase.
10. In addition to legislative changes, many of the represented jurisdictions were focused on the lack of implementation of European Court of Human Rights (ECtHR) judgments, including those finding violations of Article 6 ECHR. Representatives from Kosovo, for example (which is still seeking accession to the Council of Europe), reported that only the Constitutional Court was regularly implementing ECtHR judgments. Participants identified problems with judicial training and oversight, and the practical difficulties judges faced in being informed of Strasbourg jurisprudence given judges' limited time, resources, and translation facilities.
11. Participants from all represented jurisdictions reported serious and pervasive violations of the presumption of innocence. In Macedonia, it was reported, the Prime Minister has been known to make public pronouncements on national news broadcasts regarding high profile arrests which indicate that guilt has already been determined, for example by referring to arrestees as "corrupt criminals." Violations of this nature were particularly widespread in corruption cases, which were reported to carry very high rates of conviction relative to other offences. Arrests of all kinds of offences are reported in the press, for example in Albania, as necessary to "fight criminality."
12. Rights violations in the police station were also reportedly common in many of the represented jurisdictions. Participants reported insufficient notification of suspects' rights and poor practice around written letters of rights: in some countries and jurisdictions, these were not routinely given. In others, a letter was given but was not accompanied by meaningful explanation of the rights explained therein, leading to uninformed waivers of key rights like the right to a lawyer and the right to silence. Participants identified a low level of consciousness of legal rights among citizens, and noted that effective notification of specific rights was particularly important in the context of low levels of education and high levels of poverty in many parts of the region.
13. Concerns were raised by many participants about lack of independence of defence lawyers attending suspects in the police station post arrest. Participants reported that in many jurisdictions, police tended to refer suspects to a small number of defence lawyers with whom

police or prosecutors were comfortable. Lawyers were not always able to attend suspects in a timely manner and it was not clear that suspects' rights were always fully respected in the interim. In Macedonia, for example, it was reported that police would frequently engage in "informal chats" with individuals who would later become formal suspects, a practice that was exacerbated by the fact that no court action or oversight was necessary to begin an investigation.

14. Lengthy pre-trial detention, and attendant rights violations, was also reported in multiple jurisdictions represented at the meeting. In Serbia for example, it was noted that some individuals with poor access to legal counsel were "forgotten" in detention while awaiting trial. Lack of procedural efficiency and a failure to conduct trials in a reasonable period of time therefore impacted negatively on the fundamental rights of suspects and accused people. In Macedonia over half of trials were reported not to have been held within a reasonable period of time. In Kosovo, investigations can lawfully take up to 2 years to complete and according to participants, frequently do take that long. Pre-trial detention periods of up to 4 years are not unknown. In some cases reported by monitors, months would go by with no investigative activity being conducted by prosecutors despite the suspect being detained and the concomitant 'special diligence' obligations imposed by the ECtHR jurisprudence. It was noted that delays more frequently plagued cases involving poor or marginalised defendants – in high profile corruption cases for example, governments were able to conduct trials speedily.

C. Relevance of the EU Procedural Rights Directives

15. The past five years have seen the development of a new body of EU law focusing on the procedural rights of criminal suspects under powers granted by the Lisbon Treaty to establish minimum standards in the area of suspects' rights for the purpose of facilitating police and judicial cooperation across EU Member States. This movement began with the Roadmap, a list of proposed measures on procedural rights designed for step-by-step adoption by the EU. Three Directives have been adopted to on the right to interpretation and translation in criminal proceedings (**Interpretation and Translation Directive**),³ the right to information (**Right to Information Directive**),⁴ and the right to access a lawyer and communicate with third parties on arrest (**Access to a Lawyer Directive**, and together with the first two directives, the **Roadmap Directives**).⁵ Three further directives (**Future Roadmap Directives**), on procedural safeguards for children accused or suspected in criminal proceedings,⁶ on legal aid⁷ and on the presumption of

³ European Parliament and Council, Directive 2010/64/EU of on the right to interpretation and translation in criminal proceedings, 20 October 2010, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:280:0001:0007:en:PDF>

⁴ European Parliament and Council, Directive 2012/13/EU on the right to information in criminal proceedings, 22 May 2012 available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:142:0001:0010:en:PDF>.

⁵ European Parliament and Council, Directive 2013/48/EU on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty, 22 October 2013, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:294:0001:0012:EN:PDF>.

⁶ European Commission, Proposal for a Directive of the European Parliament and of the Council on procedural safeguards for children suspected or accused in criminal proceedings, COM (2013) 822/2, available at: http://ec.europa.eu/smart-regulation/impact/ia_carried_out/docs/ia_2013/com_2013_0822_en.pdf.

innocence,⁸ were proposed by the European Commission at the end of 2013 and are currently under negotiation by the EU institutions. Furthermore, as part of the Roadmap, a consultation on detention, the Green Paper on the application of EU Criminal Justice legislation in the field of detention was published by the Commission in June 2011.⁹

16. The Roadmap was intended to address the lack of attention given to the question of fundamental rights alongside the increased focus on judicial, police and prosecutorial cooperation between Member States ushered in by the Amsterdam Treaty in 1999. The assumption had always been that the commitments assumed by all EU Member States under the ECHR were sufficient to create trust in each other's systems and no further action, legislative or otherwise, was required. This assumption was quickly shown to be naive, and the assumed trust, misplaced, as evidenced by the fact that between 2009 and 2013, EU Member States were found to be in violation of the rights to liberty and a fair trial in 640 criminal cases.¹⁰ This demonstrated failure of Member States to consistently protect the rights set out in Articles 5 and 6 ECHR demonstrates not only that there is a lack of consensus on what protection should actually involve, but also that the ever-growing body of ECtHR case-law on these rights does not provide sufficiently clear and accessible guidance for their practical protection.
17. The Roadmap Directives aim to ameliorate this problem by codifying and simplify existing international law (primarily European Court of Human Rights case law) with regard to fair trial rights, in some cases going beyond the case-law of the ECtHR to provide for a higher minimum standard for EU Member States, and are easier to understand and administer than the varied, multi-lingual and constantly fluctuating case law of Strasbourg. Furthermore, the requirement for Member States to transpose the Roadmap Directives into national law can make them more effectively relied upon in many domestic courts. Finally, they carry the benefit of improved enforcement mechanisms in the form of European Commission monitoring and infringement proceedings and the possible recourse of national courts to the Court of Justice of the European Union (CJEU) in Luxembourg. Additionally, these Roadmap Directives have the potential to serve as a reference tool for correct implementation of ECHR standards in other Council of Europe countries bringing clarity in the ever-evolving ECtHR jurisprudence. Even more importantly, they provide a clear framework for reform for countries on the path to accession.
18. The discussion focused on the level of the represented jurisdictions' adherence to the rights expressed in the Roadmap, particularly the three adopted Roadmap Directives. Participants reported some awareness of the Roadmap Directives and piecemeal attempts to use them as guiding documents for legal reforms, but there was a varying level of protection of those rights, often arising from a patchwork of legal frameworks including constitutional protections, provisions in criminal procedure codes, and the impact of ECtHR jurisprudence.

⁷ European Commission, Proposal for a Directive of the European Parliament and of the Council on provisional legal aid for suspects or accused persons deprived of liberty and legal aid in European arrest warrant proceedings, COM (2013) 824 final, available at: http://ec.europa.eu/smartregulation/impact/ia_carried_out/docs/ia_2013/com_2013_0824_en.pdf.

⁸ Proposal for a Directive on the strengthening of certain aspects of the presumption of innocence and of the right to be present at trial in criminal proceedings, available at: http://ec.europa.eu/justice/criminal/files/com_2013_821_en.pdf.

⁹ Strengthening mutual trust in the European judicial area – A Green Paper on the application of EU criminal justice legislation in the field of detention, June 2011, available at:

<http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0327:FIN:en:PDF>.

¹⁰ Source: European Court of Human Rights statistics, 2009-2013.

19. The right to interpretation and translation, for example, is widely recognised and protected by law throughout the region, but in practice the right is not implemented with the thoroughness and breadth imagined by the Interpretation and Translation Directive. There are gaps in protection for example in terms of the documents which must be translated for the defendant, whether proceedings are interpreted in their entirety, whether the defendant or suspect's linguistic needs are adequately assessed and whether accommodations are provided for suspects with hearing or sight impairments, whether interpretation is of sufficient quality, and whether there is in fact access to interpreters in the police station following arrest. For example in Macedonia, interpretation is provided only in the courtroom, and defence lawyers are often tasked with sourcing interpreters for languages other than Albanian (for which interpreters are usually provided by the court).
20. The rights protected by the Right to Information Directive, which include suspects' right to information about rights, a letter of rights, and access to information and evidence, were in a state of flux in many represented jurisdictions due to ongoing reforms. Participants in Kosovo have campaigned specifically to support the roll-out of a Letter of Rights in police stations, but so far this has not been implemented. Similarly in Macedonia, provision of information about rights to suspects was only verbal, and research conducted by participants had indicated that just over half of suspects had a real understanding of what their rights were upon arrest.
21. Access to evidence and case files was identified as a major problem by some participants. Also, documents which are essential to challenging the lawfulness of the arrest or detention, are often not available to arrested persons or their legal representatives. In Montenegro, for example, participants reported broad prosecutorial powers to derogate from the defence's right of access to case materials, with limited ability to appeal decisions denying access. Draft law reforms propose further curbs on judicial review of prosecutorial decisions to deny access to materials. In Serbia, defence access to case materials is currently being considered for legislative reform as part of a larger amendment to the Criminal Procedural Code. As it stands, in practice prosecutors frequently fail to provide exculpatory materials to the defence, requiring significant pre-trial litigation over disclosure issues.
22. Participants from all represented jurisdictions reported problems in practice with access to a lawyer as protected by the Access to a Lawyer Directive. Common issues included a lack of independence in the appointment of ex-officio lawyers, poor quality of legal aid provision, and a practical lack of access to lawyers in the police station. It was reported in some jurisdictions, such as Macedonia, that lawyers frequently did not turn up at police stations when summoned, particularly at unsociable hours, or that they were denied access to the police station when they did appear. It was reported that in Serbia, police would wait for a named lawyer for only four hours and then proceed with interrogation with an ex-officio lawyer who was often of poor quality.
23. Limitations on legal aid reportedly impede meaningful access to a lawyer in many cases; for example in Serbia, legal aid is only provided in cases where defence is mandatory, such as in prosecutions where the potential sanction is 8 years of imprisonment or longer. Problems also

existed with the confidentiality of communications between lawyers and suspects, and during medical exams of suspects.

24. Without being formally transposed into law in the represented jurisdictions as they must be in EU Member States, participants described the impact of the Roadmap Directives as declaratory in nature, lacking the enforcement power that gives them greater reform potential in the EU. Problems with remedies for violations of the rights protected by the Roadmap Directives, whatever their source in national law, was identified by all jurisdictions. It was therefore agreed that the primary role of the Roadmap Directives for EU accession countries was to work to integrate them as guidelines for reform and benchmarks in the EU accession process.

D. Drivers of Criminal Justice Reform: assessing the role of EU accession

25. In light of the largely progressive and expanding stance the EU institutions have taken toward suspects' rights in recent years through negotiation and adoption of the Roadmap Directives, Fair Trials was interested to explore with participants whether the EU accession process presented an opportunity to move forward law reform initiatives in the area of fair trial rights in their own jurisdictions and to what extent the Roadmap Directives could be integrated and leveraged in that process.
26. It was noted that public and political attitudes toward the prospect of EU accession were not uniformly positive throughout the region. European Commission President Juncker stated recently that he intended to "pause" any new accession to the Union for at least five years, which may have the effect of further discouraging accession-minded countries from actively pursuing compliance with emerging EU law in the area of criminal procedural rights. Furthermore, some states, such as Kosovo, are pursuing accession to the Council of Europe simultaneously with the EU and the prospect of EU accession often felt too remote to be a real motivator for reform when judges and civil society were still struggling to implement ECHR standards. Nonetheless civil society organisations in Kosovo were consulted by the EU delegation in relation to the accession progress reports and there has recently been an increase in engagement from EU institutions.
27. In Macedonia, where public opinion has recently hardened against EU accession, Council of Europe standards were felt by some participants to be a more relevant set of standards. However other participants still felt that EU accession provided an important motivating factor for law reforms, especially in the absence of other major levers of reform, and there was some effort to create a coordinated body of civil society actors to engage in accession-related advocacy activities. In general, it was felt that much new legislation was designed to be in accordance with the EU acquis, but that EU law was poorly understood, translated and transposed.
28. However in Serbia, Montenegro and Albania, it was felt that the prospect of EU accession provided a key opportunity for governments to display openness to reforms in the area of fair trials, which could be effectively an important window for civil society advocacy to ensure that the standards adopted are as principled and enforceable as possible. In Serbia in particular,

where Chapter 23 negotiations are already underway, civil society actors across a multitude of sectors, including NGOs, bar associations, academics and trade unions, have organised themselves to ensure that the EU accession process is fully engaged with citizens and a rights-based agenda leading to sustainable and accountable institutions. The coalition is formally consulted on all accession-related action plans and progress reports. This is especially important since the Serbian government has declared some of the negotiations to be secret from the public, primarily in relation to security issues dealt with under Chapter 24, but including some justice issues in Chapter 23 negotiations.

29. In Albania, EU accession is still considered to be an important driver of reform and provided a key opening for the advancement of a human rights agenda. On the justice agenda, the government has so far excluded civil society actors, relying on a close circle of judiciary and prosecution contacts. Consultation of civil society organisations with the Ministry of Justice has been occasionally productive, but is advanced only on an ad hoc basis. Civil society organisations have formed an Advisory Council for the Committee of Integration, but they are usually consulted too late to be of sufficient influence. Participants reported that the EU delegations are in some ways more open to the contributions of civil society and human rights organisations than the government institutions.
30. Clearly, EU accession does not provide the only or even the primary lever of justice reform all across the region. Participants also identified country-specific development funding (such as US presence in Kosovo) and classic advocacy strategies such as strategic litigation, engagement with national Parliaments, and ongoing monitoring and reporting as important mechanisms of reform. However, there was a consensus that the EU accession process is a unique opportunity for coordinated national and international collaboration toward major systemic reforms that should be capitalised upon to the maximum extent possible. It was noted that the pre-accession period was in some ways a more opportune time to capitalise on the possibilities of EU accession than post-accession, given the experience of some newer member states of the EU, such as Hungary, who have made retrogressive steps on rights protection since becoming EU Member States.
31. The need for a strong, coordinated, rights-based response from civil society is key to a successful strategy to ensure that the EU accession process results in improved rights protection and democratic legitimacy.

E. The role of regional networks in promoting reform

32. Given the unique regional and transnational stakeholders and interests in the EU accession process, and the common issues and strategies identified in many of the Western Balkan countries seeking EU accession, Fair Trials was keen to discuss the role of networks in regional justice reform efforts. The strength and effectiveness of Fair Trials' campaigns has been attributable in large part to our Legal Experts Advisory Panel (LEAP), a large and active network of NGOs, legal practitioners and academics concerned with fair trial rights which has over 130 members representing all 28 EU Member States. The network functions as a source of information and expertise as to the dynamic situation of fair trials protection in EU Member

States as they struggle to implement the Roadmap Directives and negotiate the Future Roadmap Directives, with members able to compare practices and strategies across jurisdictional and national borders.

33. Participants expressed interest in joining and becoming fully integrated LEAP members; to facilitate closer relationships with actors in EU Member States. This was viewed as preferable to the establishment of a discrete Western Balkans-specific network, due to the benefits of increased integration with the EU and European legal experts. This would also avoid duplication with existing Balkans-specific legal networks, some of which contained a justice focus but none of which focused on an EU dimension. There was recognition, however, of the need for some regional-specific work on procedural rights and the potential contribution of Fair Trials to such work was recognised. There was also a desire on the part of participants to be part of a network that is sustainable, with a lifespan longer than a one or two year funding stream.
34. LEAP's model of a combination of lawyers, NGOs, and academics was also viewed positively by participants, many of whom have constructive relationships with local bar associations and lawyers but who pointed to the need to work more collaboratively with legal practitioners. In some jurisdictions, there was perceived to be some tension or competition between bar associations and NGOs undertaking legal aid work, which created barriers to effective collaboration. The partners are very interested in joining the LEAP-network as a cross-border actor promoting fair trial and defence rights.
35. A key benefit to increased communication with EU actors was the possibility of influencing not only governments in accession countries, but also EU governments involved in accession negotiations and oversight. Fair Trials and LEAP could provide an important bridge between civil society in Western Balkan countries in the process of accession, EU institutions and EU domestic governments with a role to play in the process.
36. Trainings provided by Fair Trials, on the Roadmap Directives and more generally on using these and other tools strategically in advocacy and litigation, could support the participants in using the EU accession process to further criminal justice reforms. These could be undertaken, where appropriate, with existing LEAP members or other relevant actors from the Western Balkans. Participants would also be keen to build on Fair Trial's expertise in ECtHR interventions and would consider joint interventions in strategically important cases useful.

F. Conclusions

37. Criminal justice issues generally, and procedural rights of suspects specifically, are areas of interest for organisations in the Western Balkans region. Procedural rights are relevant to the effective functioning of systemic legislative reforms aimed at increasing the efficiency of criminal justice systems, reducing backlogs, and improving judicial and prosecutorial independence, but have been largely overlooked in the reform process in most cases. Where improvements have been made to procedural rights protections, these too often suffer from a lack of robust implementation.

38. The Roadmap Directives provide a useful framework for advancing procedural rights in the region, insofar as the rights provided for by both the Roadmap Directives and Future Roadmap Directives are insufficiently protected at present. However, awareness of these measures is not high enough and therefore the standards do not feature on either the reform agendas of regional governments nor in pre-accession negotiations where these have been opened. Particular problems exist around certain aspects of the right to interpretation and translation including assessment, quality and availability of interpretation, provision of information about rights and charges, and access to a lawyer in the police station. In relation to the Future Roadmap Directives, there was particular concern around adequate provision of legal aid and protection of the presumption of innocence.
39. Until EU accession takes place, the improved enforcement mechanisms offered by the Roadmap Directives in the form of the potential for European Commission monitoring and infringement proceedings and the potential for engagement of the CJEU are obviously not available. Therefore their primary benefit lies in codifying European standards for simpler advocacy, training, implementation and guidance to governments and other stakeholders.
40. Though regional governments are at varying stages of progress through the EU accession process, and despite the fact that further EU expansion is not likely to happen in the next five years, most participants still felt that the EU accession process provided a window for law reform on criminal justice issues that should not be overlooked. Coordinated civil society engagement reflecting the concerns of citizens is key to ensuring that a rights focus is maintained and sustained by democratic commitment.
41. Regional networks bringing together actors in both pre-accession countries and in existing EU member states was seen as key to ensuring that expertise on European law and the EU accession process was shared, that effective advocacy strategies and best practices were replicated and coordinated across jurisdictions, and that civil society organisations in accession countries had maximum communication and impact on relevant EU actors involved in the negotiation process.

**Annex A
Participants**

	Name	Country	Organisation
1	Vjollca Mecaj	Albania	Albanian Helsinki Committee
2	Edlira Papavangeli	Albania	Albanian Helsinki Committee
3	Anton Nrecaj	Kosovo	CLARD
4	Adnan Isufi	Kosovo	Kosova Rehabilitation Centre for Torture Victims (KRCT)
5	Alban Muriqi	Kosovo	Kosova Rehabilitation Centre for Torture Victims (KRCT)
6	Drilon Iseni	Macedonia	Macedonian Helsinki Committee
7	Lazar Sandev	Macedonia	Macedonian Young Lawyers Association (MYLA)
8	Dalibor Tomović	Montenegro	Human Rights Action
9	Milan Antonijevic	Serbia	YUCOM (Lawyers Committee for Human Rights)
10	Vladimir Hrle	Serbia	European Criminal Bar Association
11	Dusan Pokusevski	Serbia	Belgrade Centre for Human Rights
In attendance			
12	David Vig – Open Society Foundations		
13	Milovan Grba – British Embassy Podgorica		
14	Ivan Vukcevic – British Embassy Podgorica		
Fair Trials International Staff			
15	Jago Russell – Chief Executive		
16	Libby McVeigh – Head of Law Reform		
17	Rebecca Shaeffer – Law Reform Officer		