

Hungarian Helsinki Committee

Accessible Letters of Rights in Europe

**Research Report on the Accessibility of Letters of
Rights in Hungary**



Hungarian Helsinki Committee

2016

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

***ACCESSIBLE LETTER OF RIGHTS IN EUROPE***

*A project led by the Hungarian Helsinki Committee and
funded by the European Union*

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1. Introduction

Directive 2012/13/EU of the European Parliament and of the Council on the right to information in criminal proceedings (hereafter: Directive 2012/13/EU) recognizes the importance of providing suspects and accused persons with information on their rights as well as information on the accusation and access to the materials of the case against them. The rights protected by Directive 2012/13/EU are inferred from and build on pre-existing minimum standards set out by Articles 5 and 6 of the European Convention Human on Rights (hereafter: ECHR), the related case law of the European Court of Human Rights (hereafter: ECtHR) and by Articles 6, 47 and 48 of the Charter of Fundamental Rights of the European Union (hereafter: Charter).

The right to information is a crucial building block of the right to a fair trial, and without it other rights which exist in law are, in practice, illusory.

For example, if a defendant does not know that s/he has a right to remain silent s/he is unlikely to exercise that right. This is particularly true for defendants without prior experience regarding the criminal justice system.

If a defendant does not know that s/he has the right to confidential communication with a lawyer (and to have a lawyer present in interrogations), s/he is less likely to ask for a lawyer, while EU law has recognized the importance of the right of access to a lawyer in Directive 2013/48/EU.¹ Where countries provide a right to free legal representation, failure to inform defendants of this possibility could prevent them from requesting free legal advice.

For defendants who do not understand the local language, access to translation and interpretation are crucial, and the right to these is now provided for by Directive 2010/64/EU.² If defendants are not informed of this right, they are unlikely to ask for an interpreter or for the translation of key documents.

Despite a clear right to information existing under the ECHR and the related case law, a major 2010 study, “An EU-wide Letter of Rights: Towards Best Practice” highlighted a high degree of variation across Europe in the level and accessibility of the information provided to defendants about their rights, and showed that inaccessible, technical language was used in many “Letters of Rights” provided to detained defendants. To address this problem, Directive 2012/13/EU

¹ Directive 2013/48/EU of the European Parliament and of the Council 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

² Directive 2010/64/EU of the European Parliament and of the Council on the right to interpretation and translation in criminal proceedings

specifically requires both information on procedural rights and also Letters of Rights designed for detained defendants to be provided in “simple and accessible language”.

In the framework of the project titled “Accessible Letters of Rights in Europe”, funded by the European Union and launched in 2015, the Hungarian Helsinki Committee (HHC) undertook a sociolinguistic survey to test whether the official Hungarian Letter of Rights was “simple and accessible” for non-lawyers. Working with experts of law, plain language and sociology, the HHC developed a series of control questions to assess the extent to which people understood the Letter of Rights, and performed a survey with 200 persons. Half of the participants were given information on their rights orally, as happens in Hungary at the beginning of interrogations, while the other half of the participants were given information in writing as happens when defendants are detained. (For the purposes of the survey, we combined all information provided for defendants, i.e. the texts of both the oral and the written information that defendants receive in the course of an actual Hungarian criminal procedure by any authority – this combined text will be referred to as “Letter of Rights” or LoR throughout the present report.) Subsequently, the participants were asked questions, aiming to check whether and to what extent they had understood the information given to them and whether they were aware of their procedural rights as included in Directive 2012/13/EU.

Drawing on information from the survey and on the indicative model Letter of Rights included in Directive 2012/13/EU, the HHC prepared an alternative Letter of Rights (hereafter: alternative Letter of Rights or alternative LoR), and re-run the survey with another 100 persons to test whether the language of the alternative Letter of Rights was more accessible.

2. Executive summary

In 2016 the Hungarian Helsinki Committee [HHC] tested how the accessibility of the Hungarian letters of rights can be measured statistically, and developed a new, alternative letter of rights with the contribution of a plain language expert, a sociologist and criminal lawyers.

Methodology

In the first wave of the survey, the HHC tested the currently applied letter of rights (a “test letter of rights” created from the combination of the text read out by police to suspects before the interrogation and the text that is provided to detained defendants after their interrogation) on 200 persons (whose compound was equivalent to the compound of the defendants according to their gender, age and highest level of education).

The researchers read out the letter of rights to 100 respondents and then asked them detailed questions about the information the text contained. Also in the first wave, there were another 100 respondents who could read the “test letter of rights” on their own, and after reading it, they had to answer the same questions as the ones to whom the letter of rights was read out. The goal of the research was to measure whether and to what extent the respondents could remember, understand and apply the information provided.

Based on the results of this survey, the HHC and the experts involved in the project changed the phrasing of the letter of rights and also completed it with information that is required by Directive 2012/13/EU, but is missing from the existing letters of rights. In the second wave of the research, the HHC tested the accessibility of the new text with the same methodology as in the first wave.

Results

The results of the survey suggest that the alternative letter of rights compiled by the HHC and the legal, plain language and sociology experts involved in the project was far more accessible than the current one, and it was easier to understand. The overall level of understanding of the existing letter of rights was 38,5 %, whereas it was 62% in the second wave of the survey, aimed at testing the alternative letter of rights.

The currently applied letter of rights was written by lawyers for lawyers, it seems to contain information important from the standpoint of legal professionals, and it is written in a technical legal language, containing a massive amount of references to particular articles of the Code of Criminal Procedure (without elaborating what the given article contains).

Lessons learnt

The Hungarian legal tradition (and this also applies to legal education) prefers technicality and texts that a lay individual can hardly understand, legal ‘jargon’ and the use of foreign (mainly Latin) phrases. Legal documents (judgments, petitions, etc.) are usually written in a non-accessible language, citing or echoing laws without elaborating on or explaining their actual meaning.

When compiling the alternative letter of rights, the HHC’s primary objective was to make it understandable to everybody, as it is intended for reading by members of the general public, mainly by a somewhat less educated and sometimes vulnerable.

The most important change, most probably entailing the biggest improvement, was that the technicality of the text was significantly decreased, and we attempted to eliminate terms used only in the legal technical language. ‘Translating’ and explaining the technical legal terms while maintaining the text’s accuracy was one of the biggest challenges, and related efforts resulted in a lengthier text, involving additional explanations of legal terms.

First of all, references to legislative provisions were deleted, since the inclusion of a reference to a particular paragraph of the relevant law without explaining what that paragraph contains does not provide added value. It is not only redundant information, but it also makes the text less comprehensive and unnecessarily increases its length.

Whenever it was necessary, the HHC included examples and explanations of the “hard” legal terms. By using less technical terms, the alternative letter of rights became much less formal in tone. Also, the text was made more personal: for example, instead of beginning a sentence with “the defendant has the right to...”, the reader was addressed: “you have the right to...”. The HHC even tried to use simple wording instead of ‘ordinary’, non-legal terms, for example the word ‘indigent’ was replaced by the word ‘poor’. In addition, survey results showed that shortening the parts on ‘obvious’ information could also be considered when drafting.

Some structural changes were also made. A table of contents was added, and the text became more structured (broken down into more paragraphs). Furthermore, titles and subtitles were included to each and every part of the text to make it easier to navigate in the document. We shortened the sentences and used bulleted items whenever it was possible. Results pointed out the relevance of formatting as well – bold letters attracted more attention, were read more carefully. Thus, changing the size of the letters, using larger print and including additional formatting (italic, coloured text, etc.) should be considered when drafting the new letters of rights, along with including drawings or infographics.

The HHC identified those most typical problems that a defendant may come across in relation to the individual rights, and tried to address briefly what the solution of those problems may be. By way of example, the current letter of rights provides information about the general right to a defence lawyer (“I inform you that you can hire a defence counsel or you can ask the police to

appoint one"). The suspect, however, has no chance to know from this sentence whether he/she can ask for another attorney if he/she is not satisfied with the work of the actual one. Therefore, in order to make the exercise of this general right more effective, we added detailed information to the text of the alternative letter of rights: "You cannot choose the attorney to be appointed for you, but you have the right to request that another one be appointed if you are not satisfied with the work of the actual one" [emphasis in original]. The proportion of correct answers to the question whether there is a chance to get a new lawyer if the current one fails to perform his/her activities, increased to 87.5 percent (second wave) from 32.35 percent (first wave).

3. Composing the test questions

3.1. Legal content of the questionnaire

In order to check our hypothesis that the alternative LoR was more accessible than the official texts we needed questions to test whether the LoRs(current and alternative) can be correctly understood. When determining the content of those questions, we had two main sources.

As a source of information, we sent a circular letter to the Hungarian Bar Association and three regional bar associations (Budapest, Debrecen and Szeged). In that letter, we asked the presidents of the bar associations to forward our circular to as many criminal defense attorneys as they could reach.

The circular requested the attorneys to list the most important problems in connection with the comprehension of the current LoR and it also asked them to indicate the ones among those problems that they most often meet in their practice. We also encouraged them to propose test questions they consider relevant for our purposes.

Fortunately, a great number of attorneys were happy to respond and they provided us with valuable insights concerning the relevant problems of the explanation given to the suspects of their rights. On the basis of those answers we composed a data sheet and from there we selected the answers that came up the most frequently.

By using the information we gained that way we could focus on the sensitive points of the present Letter of Rights in our questionnaire. The most common problem the attorneys indicated was that police officers tend to 'remain silent on the right to remain silent', especially in the starting phase of the police interrogation.³ That is why we put extra emphasis on questions designed to check the suspects' proper knowledge of their right to remain silent and to the presence of a defense lawyer. We also included a question to find out whether the interviewees understand that the law allows them to make untruthful statements to the authorities.⁴

3.2. Structure of the questionnaire

Hungarian police use basically two LoRs – a general one for all suspects and another one for those who are taken in pre-trial detention. In this sense the Hungarian practice follows the logic of the Directive 2012/13/EU (which also distinguishes between the rights of these two types of suspects), and they contain almost all the rights the Directive requires, but in structure that is different from the one suggested by the Directive. The general LoR contains some rights which –

³ Many attorneys also emphasized that the rights of the suspects are not necessarily restricted by whether they can understand the LoR but by the fact that police officers tend to push the suspects to answer their questions (thus often forcing out confessions) before giving any information about their rights. Based on our experience this may be a valid point but it falls outside the scope of our investigation.

⁴ The Hungarian Criminal Procedure Act allows the defendant to make untruthful statements to the criminal authorities with the exception of false accusations of other persons.

according to the Directive – should only be mentioned in the LoR for those who are in pre-trial detention (for example, the right to access to case materials).

That is why we could not test the comprehensibility of the two kinds of LoR's according to the structure of the Directive. We had to create a "test LoR" by putting the two LoR's (the general one and the one for the detainees) into one document, which we then divided into two parts (a general part concerning the rights of all defendants and a specific part concerning the rights of the detainees). The problem with this unified test LoR was that it became somewhat too long, but there was no better solution to test how accessible the existing texts are, given that we had the financial resources to make one survey with regard to the current LoR and another one in regards to the alternative LoR.

Thus, in the first part of the questionnaire we asked questions referring to the rights which all suspects have. The second part includes questions in relation to the specific rights of detained persons. Within each part of the questionnaire we concentrated on the rights established by the Directive.

As a result of focusing on rights of the defendants provided by the Directive, we had to ask some "unfair" questions. The reason for that is that the present Hungarian LoR does not include all the information that the Directive requires to be included in a LoR. (For instance, it does not inform the suspect about the maximum length of the arrest period at the police station before the court decides on the release or of the pre-trial detention, it says nothing about the conditions for eligibility to free legal aid etc.). We however obviously wanted to include information on these rights into the alternative LoR. In order to create full comparability we posed the same control questions to both groups of respondents (both those who got the existing LoR and those who were tested on the alternative LoR), which inevitably meant that we had to pose questions to the first group of respondents too about those rights that are not actually included in the existing LoR. In order to handle this issue we included as a possible answer the option "it is not included in the text". For instance, while the existing LoR does not mention whether the suspect must be informed about the charges in writing or orally, we still asked the question "Are the police obliged to inform you about the charges in writing or orally?". Here the possible answers were: (i) in writing; (ii) orally; (iii) it is not included in the text; (iv) I do not know; (v) information can be provided in either way. In such cases the substantively correct answer (under Hungarian law, it is sufficient to inform the suspect about the charges orally) had to be distinguished from the "procedurally" correct answer, namely that the current LoR does not contain this information.

3.3. Language and style of the questionnaire

Our purpose was to design questions which are as close to real life's problems and decision-making dilemmas as possible. Therefore, we avoided asking general, "text-book" questions and we rather described specific situations which often occur during the procedure of the police. (For example, 'Are you obliged to answer the questions of the police before your attorney

arrives?'). We were curious whether the present LoR serves as a practical and applicable guide in the criminal procedure or not.

We also tried to use clear and plain language when composing the questions in order to make the questions as easy to understand as possible. The reason for that was that the composition of our interviewees represented the composition of the suspects in Hungary with respect to the level of education. Since the level of education of the majority of the suspects is accomplished primary school or even lower we had to pay increased attention to accessibility when drafting our questions.

At the same time we did not want to ask questions which can be answered by relying on general knowledge. That is why we applied indirect and "tricky" questions which really test the comprehensibility of the LoR. Thus, we designed the questions and the lists of possible answers in a way which excludes, as far as this was possible, the possibility of giving a correct response by using pure logic, or common sense. In order to achieve this goal, in many cases, the answer that comes to mind first (intuitively) is the wrong answer. For example, under Hungarian laws, even if a suspect/accused chooses to remain silent, he/she will still have the right to ask questions from witnesses and make observations during the proceeding. Thus, the intuitive "no" answer to the question "If you do NOT answer to the police's questions, then can you comment the remarks made by others?" happens to be the wrong answer. Answering correctly required the full comprehension of the text of the Letters.

4. The methodology of the research

The goal of the research was to measure the understanding of the information as currently provided in the Hungarian criminal procedure, detect the weak points, modify the phrasing, and afterwards measure the understanding of the modified version.

4.1. Pre-research considerations

As the understanding of a text heavily depends on one's socio-economic characteristics (such as education, age, etc.), it was important to have a sample the compound of which is similar to that of the accused persons and suspects – at least in the most important dimensions – who have the highest chance to meet this document in real life. To reach this compound, we asked the National Penitentiary Headquarters to provide us with aggregated statistics on the pre-trial detainees a given time,⁵ containing their gender, age and highest level of education. Based on this, we could create a quota-table (see Table 1 below) that contained the adequate proportions for each cell. With the help of this quota-table it was possible to create a sample for the survey that is similar to the “population” of the defendants with regard to the above-mentioned three dimensions.

We assumed that the way how the defendant meets the information could also have an important effect. Information is provided in two ways in the actual Hungarian practice: (1) the police officer reads out the set of information for the defendant at the beginning of the interrogation, so they only have the opportunity to hear it once before the interrogation starts, while (2) detained defendants have the opportunity to read the text of the LoR, in which situation they have the possibility to read it in their own speed and even go back to the parts that are not easily understandable for them. (It must be added that this happens after the interrogation has taken place.) Based on this distinction, we divided the sample into two equal parts: the researchers read the text for the first half of the survey participants, while the second half of the survey participants had the opportunity to read the text on their own. It is important to mention that the quota-table (that helped to adjust the ratios of the sample similarly to the population of the defendants) was used separately in each part of the sample, so we can say that both parts of the sample had a compound equivalent to the compound of the defendants.

4.2. The research design

In the first wave of the survey we tested the currently applied LoR (to be fully accurate: the “test LoR” created from the combination of the text read out before the interrogation and the text that is provided to detained defendants after their interrogation) on 100 persons (whose compound was equivalent to the compound of the defendants according to their gender, age and highest level of education), for whom the researchers read out the LoR and then they were asked detailed questions about the information the text contained. Also in the first wave there

⁵ In Hungary, no aggregated statistics are available as to the respective characteristics of the defendants in general, that is why the sampling had to be based on the composition of pre-trial detainees.

were another 100 people who could read the “test LoR” on their own, and after reading it they had to answer the questions the researcher asked from them concerning the information the text contained.

The questionnaire used in the survey contained 46, mainly closed questions with given answer-opportunities, and the goal of it was to measure whether and to what extent the respondent could understand and remember the information provided. Due to the structure of the questionnaire we could see which parts of the texts were harder to understand for the survey participants and detect the weak points.

Based on the results of this survey, the HHC and the plain language and legal experts involved in the project changed the phrasing of the LoR and completed it with information that is required to be included in it according to Directive 2012/13/EU. In the second wave of the research, we tested the accessibility of the new text with the same methodology as in the first wave (on 2x100 persons, with the same methods and same design) and with the same questionnaire, so the results of the two waves are comparable. (For the research design, see Table 2.)

Table 1: The quota-table of the sample, based on the statistics of the National Penitentiary Headquarters (total percentage)⁶

	Men		Women		Total
	18-39 years	40+ years	18-39 years	40+ years	
Maximum elementary school	39%	18%	3%	2%	62%
Vocational or secondary school, without high-school graduation	12%	8%	1%	0%	21%
High-school graduation or higher education	8%	7%	1%	1%	17%
Total	59%	33%	5%	3%	100%

Table 2: The research design

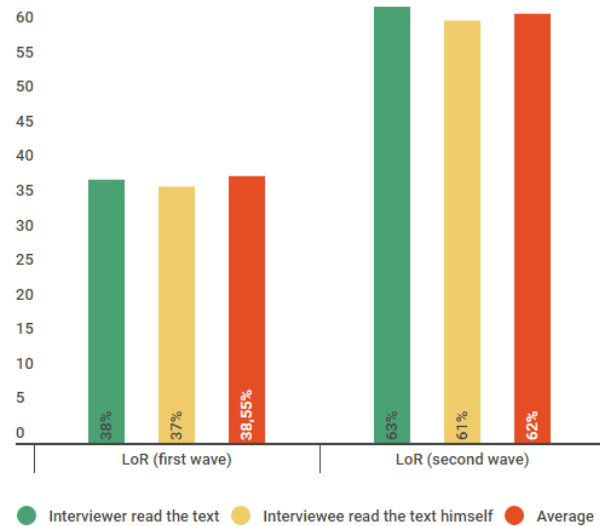
	Wave1	Wave2
Respondents hear the text	100 persons	100 persons
Respondents read the text	100 persons	100 persons

⁶ The original table received from the National Penitentiary Headquarters contained more detailed categories than Table 2, but as the number of respondents for whom we used this table was 100, we had to merge cells to have sufficient number of respondents in each category.

5. Summary of the survey results

5.1. The survey results

It is to be highlighted that the alternative LoR was far more comprehensive, and the survey results confirmed that the alternative LoR was far more accessible than the original one. The overall level of understanding of the first LoR was 38,5 % (not counting the questions the answers to which were not included in the LoR), whereas it was 62% in the second wave of the survey, aimed at testing the alternative LoR.

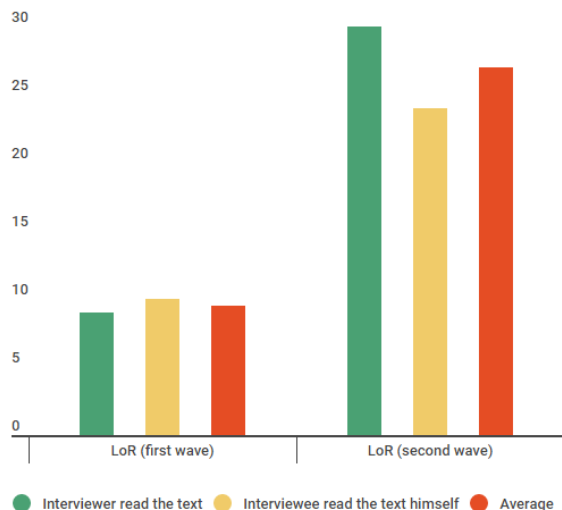


Accessibility of LoRs

It is worth discussing what we consider accessible, and what is considered a success when seeking to achieve accessibility. As Directive 2012/13/EU does not provide any guideline in this regard, we had to determine it ourselves.

In 2009 the Enterprise and Industry Directorate General of the European Commission issued a guideline on the readability of the labelling and package leaflet of medicinal products for human use (hereafter: Guideline).⁷ The primary purpose of the document was to provide guidance on how to ensure that the information on the labelling and package leaflet of medicines is accessible to and can be understood by those who receive it, so that they can use their medicine safely and appropriately. The guideline determined what the success criteria in this regard are. According to the Guideline the labelling and leaflet of medicines are considered accessible “when the information requested within the package leaflet can be found by **90% of test participants, of whom 90% can show that they understand it**. That means to have **81%** of test participants able to find the information and answer each question correctly and act appropriately. However, according to the Guideline it need not be the same 16 participants in each case. The success criteria will need to be achieved with each question. Results cannot be aggregated.”

⁷ Guideline on the Readability of the Labelling and Package Leaflet of Medicinal Products for Human Use, available at: http://ec.europa.eu/health/files/eudralex/vol-2/c/2009_01_12_readability_guideline_final_en.pdf



Number of questions, in case more than 75% of the respondents gave correct answer

In the present research we determined a lower ratio of understanding as a benchmark for accessibility, as the sample was selected based on the less educated and less literate population of pre-trial detainees. In the research, if **75 %** of the respondents gave the correct answer to our question, we declared that part of the second LoR accessible.

5.2. Explanation of the results

We analyzed the results of the two waves of interviews from three perspectives. First, we were curious whether we could achieve better results *in general* in terms of the text’s comprehensibility after re-drafting the current LoR. Then, we turned to the questions where the proportion of the correct answers has not changed significantly. Finally, we examined separately the change in the proportion of correct answers in relation to two questions which are of the greatest practical importance.

5.2.1 General comprehensibility of the new LoR

As for the first perspective, we had questions designed to check the knowledge about the information which was not (or only in a very indirect manner) included in the current LoR. Not surprisingly, the average proportion of correct answers⁸ has been overwhelmingly higher amongst participants of the second wave (see Q1, 2, 7, 9, 11, 12, 15-21, 22.1-7, 25.1, 25.4, 28, 30.1-7, 31-36, 39 and 41-44). The average proportion of correct answers in this wave has been 61.35 percent (see Table 3.). Amongst respondents of the first wave this proportion was only 30.65 percent. This suggests that without proper notification from the authorities or from his/her defense counsel, it is very difficult for a suspect to be fully aware of his/her rights and properly exercise them.

⁸ Correct answers in this context are meant as answers correctly addressing the substantive procedural issue and not the formally correct answer, namely the option “it is not included in the text”. The reason for this approach is that we wanted to measure what potential suspects can know on the basis of the texts about those real life issues that may come up in the framework of a criminal procedure.

The positive change in the proportion of correct answers shows that we could present the new information in an intelligible manner. Nonetheless, it is a difficult methodological question to determine whether the proportion of those who understood the relevant information is high enough to say that our text is comprehensible in general. After all, we agreed that the over 60 percent proportion of correct answers in a social group where almost two-thirds of the members' level of education is elementary school or lower, is a good sign in terms of intelligibility of any text. However, these results do not indicate whether the drafting style of the new LoR was better than the drafting style of the current one. That is why it is crucial to compare the proportion of correct answers with regard to those pieces of information that are included in both LoR's.

The results suggest that our efforts proved to be generally successful. In case of questions where the answers were included in both Letters (Q3-6, 8, 10, 13-14, 23-24, 25.2-3, 26.1-6, 27, 29, 37, 38, 40, 45-46), the proportion of correct answers was 50.4 percent in the first wave as opposed to 64.05 percent in the second one (see Table 3.).

Table 3: The proportion of correct answers in the two waves of interviews

Categories		Questions addressing the information <u>not</u> included in the current LoR [41 questions]	Questions addressing information included in both Letters [27 questions]
Proportion of correct answers	First wave	30.65%	50.4%
	Second wave	61.35%	64.05%

As it was mentioned above, the reason behind this result may be that although the present Hungarian LoR includes many of the rights the Directive requires to be included, it does not always emphasize the specific ways in which these rights can be exercised. One possible explanation may be that Central and Eastern European countries tend to adopt (or transpose) easily and rapidly general principles and rights. At the same time they often fail to elaborate the ways of enforcement of those principles and rights, and do not put emphasis on adjusting the practices of the organizations implementing these laws to the newly adopted legal norms.⁹

Example #1

The current LoR provides information about the general right to a defence lawyer (“I inform you that you can hire a defence counsel or you can ask the police to appoint one”). The suspect, however, has no chance to get to know from this sentence whether s/he can ask for another attorney if s/he is not satisfied with the work of the actual one (Q8). Therefore, in order to make the application of general rights more effective, we added detailed information to the text of the new LoR: “You cannot choose the attorney to be appointed for you, but **you have the right to request that another one** be appointed if you are not satisfied with the work of the actual one” (bold in the original). The proportion of correct answers increased to 87,5 percent (second wave) from 32.35 percent (first wave).

Example #2

The current LoR also contains the right to contact a defence lawyer. (“You have the right to contact [...] a defence counsel”, and it also includes that “You are entitled to ask information about your rights and duties from the court, from the prosecutor and from the police”). But the actual text remains silent on the duty of the police to help the suspect to contact an attorney (Q2). We resolved this problem by inserting the following sentence into the beginning of the new LoR: “You have the right to ask at any time the investigating authority (usually the police) **to inform you about your rights or to assist you in exercising rights**” (bold and underlined in the original). The proportion of correct answers in the first wave was only 15.45 percent, while in the second one it increased to 79.5 percent.

5.2.2 ‘Redrafting-insensitive’ information

As for the second perspective, there were questions where the proportion of correct answers was almost equally high in both waves irrespective of whether the relevant information was included in the current LoR or not (see Table 4.). One reason behind that outcome may be what we have called the ‘Hollywood-effect’: certain rights of the suspects are well known to the general public, often from movies, from the news or from other sources (for example, the right to call an attorney, Q1, 9 and 13).

Some other questions in this category can be answered relying solely on ‘common sense’ without any specific information on the particular rights concerned (for example, the right to urgent medical treatment during the detention period, Q25.2-3, 26.1, 26.4-5, 37, 39, 40 and 43).

What is more problematic is that there were a number of questions where – despite our efforts to convey the information in a clear and accessible manner – the majority of the interviewees gave incorrect answers in both waves (see Table 4.).

Table 4: Proportion of 'redrafting-insensitive' questions

Categories		Questions where the proportion of correct answers was almost <u>equally high</u> [12 questions]	Questions where the proportion of correct answers was almost <u>equally low</u> [13 questions]
Proportion of correct answers	First wave	79.2%	23.3%
	Second wave	87.85%	23.85%

We found that these questions (Q4, 16, 22.1-2, 22.4, 22.6-7, 26.3, 30.1-2, 30.7, 31 and 32) were mostly dealing with the 'counter-intuitive' and most complicated provisions of the Hungarian Code of Criminal Procedure(see examples in the text-box below). In these cases the use of plain language has not proven sufficient in itself. We need to provide a more detailed text in regard of the most important information or to find other means to make those counter-intuitive and complicated provisions easier to understand.

Example #3 The Hungarian Code of Criminal Procedure allows the defendant who chooses to remain silent to ask questions from the witnesses, experts and fellow-defendants. The current LoR says: "If someone refuses to make any statement during the procedure, it does not affect his/her right to ask questions, make comments and propose motions". We agreed that a lay person cannot fully comprehend the meaning of word "affect" in this context. That is why we wrote in the "general part" of the new LoR the following:

"In relation to your case, you have the right to

- make an observation at any time,
- to ask questions from anyone,
- make any proposal to the officials proceeding in your case.

You have all these rights even if you refuse to make statement." Our effort did not prove to be successful, as the proportion of correct answers was as low as 26.35 percent in the first wave and it increased only by 8 percent in the second one (Q26.3).

Given the counter-intuitive character of the provision in question (why would you have any right to ask questions in case you waive your right to speak at the very start of the procedure?) it might have been more expedient if we had provided this information in that part of the LoR which listed the implications of exercising the right to remain silent.

Example #4 The Hungarian Code of Criminal Procedure regulates the defendants' right to access case materials during the investigation in a very complicated manner. As a general rule, it allows access to materials related to procedural actions taken in the presence of the suspect (e.g. his/her own interrogation, his/her confrontations with witnesses or co-suspects). Then in a different part of the text, the code lists the procedural actions where the suspect can be present, and in another part it lists other types of case materials which are also accessible for the suspect (e.g. expert opinions). In addition to that, it allows, as a subsidiary rule, access to all materials where the access is not against the "interests of the investigation" (while it does not make clear who is to decide on the "interests of investigation").

The current LoR follows the structure of the Code of Criminal Procedure in this regard. We deemed this structure far too complicated and we presented the relevant information in one, separated part of the new LoR listing in bullet-points the types of accessible materials. Despite this, only 11.95 percent of the respondents of the first wave and only 5 percent of those of the second wave answered correctly the question whether they have right to access the report filed with the police triggering the investigation (according to the Hungarian laws, suspects do not have access to that document during the investigation, Q22.1).

This result may be partly because the provision is quite counter-intuitive (respondents might reasonably think that accessing the report of the case does not violate the interest of the investigation) and partly because we concentrated on listing the accessible materials while the types of restricted materials remained undetermined.

It seems that it would have been useful if we had made it explicit that "case materials are generally not accessible during the investigative phase with the exceptions listed below..."

5.2.3 Two crucial questions

As we mentioned above, defense lawyers informed us about the “Achilles-heels” of the enforcement of defense rights in Hungary, namely that suspects are not adequately informed on the right to remain silent if the attorney is not present. There is no need to say why this knowledge is crucial for effective defense. Our question with regard to this information was as follows: “Are you obliged to answer the questions of the police if your defense counsel is not present because of her/his own fault?” (Q5b).

The current LoR starts with the general notification: “you have the right to remain silent” and in another part of the LoR, in a quite deceptive manner, warns the suspect that “if the defense counsel is properly informed by the authorities about the time and venue of a certain procedural action, the authorities can start the action even in the absence of the defense counsel”. This phrasing suggests that the defendant has to answer the questions of the police in that situation unless s/he chose to remain silent at the starting phase of the procedure. Thus, the very low proportion of the correct answers in the first wave was not an unexpected result (24.4 percent).

In the new LoR we tried to make the “right to refuse to answer in the absence of the attorney” clear by inserting the following sentence into the text: “The investigative authority **may start your interrogation even in the absence of your attorney** if he/she was duly notified. **But even in such case you are not obliged to testify**”(bold in the original). As a result of adding this information, the proportion of correct answers has doubled (51.5 percent). This shows that giving detailed information, tailored to the particular situation serves effective defense better than providing general information based on the text of the law. When making a new LoR in the future, the drafters may highlight even better this information, as cca. fifty percent proportion of correct answers is still not too high especially in the light of the question’s importance.

It needs further examination to find how this knowledge could be made more common amongst citizens. As the defense counsels indicated, the practical problem is that the police do not inform the suspect about this right at all (only after the defendant has made his/her statement).

The other striking result of the interviews with the respondents of the first wave was the extremely low proportion of those who knew that they had the right to make untruthful statements to the criminal authorities (9.45 percent). Being unaware of this right can have a very detrimental effect on the defense strategy. Lack of this knowledge can also make defense

more difficult for an innocent person (because s/he may have different reasons for not telling the whole truth).

The reason for the very high proportion of wrong answers may partly be that the opportunity to lie to the authorities is highly counter-intuitive – a right that simply does not exist in many other countries (including the United States where most of the crime movies come from). The other reason may be that the current LoR does not provide direct information on this right. In a ‘tricky’ way, it only warns the defendant about the legal consequences of false accusation of other persons. It is not expectable from an ordinary person to realize that the ban on false accusation implies the right to tell other than the truth provided that it does not constitute false accusation of another person at the same time.

That is why we made this right explicit by phrasing the new LoR this way: “you can say anything in your defense, **you are not obliged to tell the truth**, but you may not falsely accuse others of the perpetration of a crime, a petty offence, an infraction punishable by administrative penalty or disciplinary infraction” (bold in the original). As a result of the direct wording, the proportion of correct answers has increased to almost six times higher than in the first wave (54 percent). Although the increase is impressive we cannot ignore that this proportion is barely over fifty percent. Thus, there is also space here to improve the quality of the new model LoR in terms of its intelligibility.

6. Accessibility

As discussed earlier, the results of the survey suggest that the alternative Letter of Rights compiled by the HHC and the legal, plain language and sociology experts involved in the project was far more accessible than the current one, and it was easier to understand. The currently applied Letter of Rights was written by lawyers for lawyers, it seems to contain information important from the standpoint of legal professionals, and it is written in a technical legal language, containing a massive amount of references to particular articles of the Code of Criminal Procedure (without elaborating what the given article contains). These references are obviously not understandable to lay persons. The Hungarian legal tradition (and this also applies to legal education) prefers using texts that a lay individual can hardly understand, prefers technicality, legal 'hocus-pocus' and the use of foreign (mainly Latin) phrases. Legal documents (judgments, petitions, etc.) are usually written in a non-accessible language, citing or echoing laws without elaborating on or explaining their actual meaning.

When compiling the alternative Letter of Rights, the HHC's primary objective was to make it understandable to everybody, as it is intended for reading by members of the general public, mainly by a somewhat less educated and sometimes vulnerable population (see also the aspects of sampling for the sociolinguistic survey), and not for reading by lawyers who are (or should) be aware of the rights of the defendant in the criminal procedure.

There are numerous reasons behind the result that the alternative Letter of Rights developed by the HHC proved to be more accessible than the current one. Some factors influencing the outcome are closely related to the nature and the special characteristics of the Hungarian language. However, some of the factors identified will most probably be useful also for non-Hungarians, as they are not related solely to changing the wording of the Letter of Rights, or are not language-specific.

Although we did not have the resources to measure which factor contributed to what extent to the increased accessibility of the text, we could draw conclusions from the results. Also, a significant part of the amendments were made in strong cooperation with the plain language expert, but some of the changes that had to be made to serve the improved comprehensiveness of the text were also obvious on a pure common sense basis.

The most important change, most probably entailing the biggest improvement, was that the **technicality** of the text **was significantly decreased**, and we sought to eliminate terms used only in the legal technical language. 'Translating' and explaining the technical legal terms while maintaining the text's accuracy was one of the biggest challenges, and related efforts resulted in a lengthier text, involving additional explanations of legal terms. First of all, references to certain pieces of legislation were deleted, as including a reference to a particular paragraph of the relevant law without explaining what that paragraph contains does not provide added value. It is not only redundant information, but it also makes the text less comprehensive and

unnecessarily increases its length. Whenever we thought it was necessary, we included **examples** and **explanations** of the “hard” legal terms. By using less technical terms, the alternative Letter of Rights became much **less formal** in tone. Also, the text was made more personal: for example instead of beginning a sentence with “the defendant has the right to...”, we addressed the reader, by writing “you have the right to...”. We even tried to use simple wording instead of ‘ordinary’, non-legal terms, for example instead of the word ‘indigent’, we used the word ‘poor’. In addition, survey results showed that shortening the parts on ‘obvious’ information could also be considered when drafting.

We have also made some structural changes. Despite our aim to shorten the text (as suggested by relevant studies and also by simple common sense), the alternative Letter of Rights became **longer**, partially due to the added information that was not included in the current Letter of Rights handed over to defendants, and also because of the added explanations of certain legal terms. As it was suggested, a **table of contents** was added, and the text became more fragmented (meaning **more paragraphs**), and we included **titles** and **subtitles** to each and every part of the text to make it easier to navigate in the text. We have aimed to **shorten the sentences** and to use **bulleted items** whenever it was possible. Results pointed out the relevance of formatting the letters – **bold letters** attracted more attention, were read more carefully. Thus, changing the size of the letters, using larger print and including additional formatting (italic, colored text, etc.) should be considered when drafting the new Letters of Rights, along with including drawings or infographics.

In the alternative Letter of Rights we have aimed to organize the text according to the order of the questions, but it might need additional discussions to determine the proper **order** of the parts of the text. The main factor in this regard could be the usual order of the criminal procedure’s elements (i.e.: the right to remain silent will be included prior the issue of the consequences of telling or not telling the truth).

An interesting observation was that whereas we believed that the way of conveying the information (i.e. whether it is read out the respondent or whether he/she can read it) would have a significant impact on the level of comprehension, this was not the case.

Out of the 46 questions, in the first wave (examining the accessibility of the existing LoR), there were altogether six questions in relation to which there was a statistically significant difference between the proportion of right answers on the basis of the way of communicating the information. In five of these six cases, the proportion of good answers was higher when the respondents were provided with a written text that they could read themselves.

In the second wave (examining the alternative LoR), there were only four questions with regard to which the way of conveying the information had a statistically significant impact: in three cases the text read out to the respondents was more comprehensible, and in the case of one question, a higher proportion of respondents gave a correct answer when they could read the LoR for themselves.

A possible explanation for the results is the lower level of education of the respondents, and the problems in literacy this may entail. If the suspects have problems understanding what they are reading, then there may not be a big difference between the level of comprehension when the text is read out to them or when they read it themselves, especially when the text is formulated in an accessible manner, which was the case with the alternative LoR. When on the other hand the text is highly technical, then the possibility to read it, and go back to it when something is unclear, seems to help to a certain extent, however, when this is the case, the overall level of comprehension will be very low either way.

This however does not mean that a written letter of right should not be produced and provided. Our survey modelled in a way the first interrogation (the respondents had to comprehend the text within a short period of time and apply the knowledge right away), however, in a criminal procedure, the information on rights can and must be reapplied on multiple occasions (subsequent interrogations, and other investigative actions, the court phase, etc., and additionally the suspect has the right to refuse to testify and only agree to an interrogation after he/she has studied the information provided to him/her), so having the rights in a written format, which the defendant can keep with himself/herself and revisit whenever necessary, is very important for the ability to fully exercise one's rights.

Where these results must be taken into account is (i) the further refinement of the alternative LoR(ii) the examination of ways how the text could be made even more easily comprehensible for those with reduced literacy (e.g. infographics), and (iii) the development of additional means – outside the scope of the LoR – to inform the public about defense rights (information campaigns, short films, etc.).

Annex 1 – Current Letter of Rights in Hungary

As per Article 117 (2) of the CC, I warn you that you are not obligated to testify, may refuse to testify or to respond to any of the questions in the course of the questioning, but may freely decide to testify at any time even if you have previously refused to do so. I warn you that anything you say or provides may be used as evidence

As per Article 117 (2) of the CC, I warn you that if you refuse to testify, this fact does not interfere with the continuation of the proceedings. The refusal to testify shall not affect your right to ask questions, or to make objections or motions.

In accordance with Article 268 (1) of Act C of 2010 on the Criminal Code, I warn you that any person who falsely accuses another person before an authority of the perpetration of a crime or conveys to the authority any forged evidence against another person relating to a crime is guilty of a felony of false accusation punishable by imprisonment.

In accordance with Article 269 of Act C of 2010 on the Criminal Code, I warn you that any person who before an authority falsely accuses another person of the perpetration of a petty offence or an infraction punishable by an administrative penalty; falsely accuses before an authority or an official exercising disciplinary authority another person of having committed a disciplinary infraction; conveys any forged evidence against another person to an authority or a official exercising disciplinary authority relating to a petty offence or an infraction or disciplinary infraction punishable by an administrative penalty; shall be guilty of a petty offence and punishable by imprisonment.

Under Article 179 (3) of the CC, I advise you of the right to choose a defense counsel or to request the appointment thereof.

I warn you that the participation of the counsel for the defense in the procedure is mandatory, and in case of failing to retain a counsel for your defense within three days, the defense counsel will be appointed by me.

Under Article 43 (2) of the CC, you have the right to receive information on the subject of suspicion, to be present at the hearing of an expert, at inspection, reconstruction of events or facts, presentation for identification, and inspect the documents affecting you in the course of the procedure.

You have the right to be afforded sufficient time and opportunity for preparing your defense, present facts to your defense at any stage of the procedure, and to make motions and objections, file for legal remedy, and receive information from the prosecutor and the investigative authority concerning your rights and obligations during the criminal proceedings.

You are entitled to contact your defense counsel, and, in case you are foreign citizen, the representative of the consulate of your native country and communicate with them both in writing and orally without control, until the filing of the bill of indictment based on the decision of the prosecutor, thereafter on the decision of the court, conduct oral communication with your relatives personally under supervision, and written communication under control.

Under Article 43 (5) of the CC, I warn you that you shall report your place of residence or place of stay and any change therein to the court, prosecutor or investigative authority within three working days after moving, which conducts criminal proceedings against him or her. Unless regulated by the law otherwise, upon the failure to report the above, in addition to imposing a disciplinary penalty, you may be obliged to pay the resulting costs.

Under Article 70/B (2) of the CC, I advise you that until the conclusion of the investigation, you may receive a copy of the expert opinion and of documents produced on investigative actions where your presence is authorized by this Act; or of other documents, provided that this does not interfere with the interest of the investigation. Under paragraph 5, you may receive a copy of the documents produced during the investigation, which you are entitled to be present at pursuant to Article 193 (1), of which once you shall be provided for free of charge.

Under Article 176 (1) of CID, defendants with a native language other than Hungarian must be ensured to make comments in his/her mother tongue in writing, which must be added to the case file along with its translation.

I advise you that the competent consulate – or if the person concerned has multiple citizenships, the consulate according to the citizenship chosen by the defendant – shall be notified of the fact of the interrogation of a foreign defendant by the investigative authority through the Ministry of Foreign Affairs if the defendants so requests. The notification of the consulate may not cause delay to the commencement of the interrogation of the defendant. The member of the consulate present at the interrogation may not ask questions from the person being interrogated, may not make comments or motions

I inform you that should the duly notified defense counsel not be present, it shall not be an obstacle to performing the investigative action.

* * *

Pursuant to an international treaty promulgated by law, in the event of a procedure instituted

a) against a foreign citizen suspect or b) due to the criminal offence committed to the injury of a foreign citizen victim the presence of a member of the authority of the foreign state in the investigatory action shall be allowed. The notification may be omitted if any delay would pose a danger. In such a case, the authority of the foreign state shall be notified of the concluded investigative action subsequently and without delay.

The questioning of a foreign citizen as a suspect or witness may be attended by the official of the consulate of his country, in the case of a provision of an international treaty promulgated by law also the official of the foreign state may be present. If you are a foreign detainee, making contact with these authorities is only allowed if you consent to do so.

If you are a foreign citizen, you are entitled to turn to the diplomatic or consular officer of your native country and keep contact with them. If you are a foreign detainee, making contact with these authorities is only allowed if you consent to do so.

You are entitled to a healthy accommodation in a place meeting hygienic standards, to nutrition which is appropriate in light of your health status and activities carried while in detentions, to medical care and to proper clothing. During the execution of punishments and measures, the medical care appropriate for your health status shall be provided for primarily by the Central Penitentiary Hospital, by its chronic aftercare department operating in the Szeged High-Security Prison and the IMEI, and you are obliged to avail yourself of this service.

The court shall examine the motion to terminate the pre-trial detention in its merit, and deliver a decision thereon with the explanation of the reasons. Repeated motions may be rejected by the court without substantial justification unless the defendant or the counsel for the defendant cites new circumstances unless three months has elapsed either from the order or the extension of the pre-trial detention.

The bail is a sum of money the amount of which is determined by the court, which guarantees the presence of the defendant at the investigative actions. The court may terminate the previously ordered pre-trial detention, if the pre-trial detention was ordered because of the risk of escape or hiding of the defendant or for other reasons there is reasonable cause to believe that the presence of the defendant in procedural actions cannot be otherwise guaranteed, and – considering the criminal offence and the personal circumstances – it has probable cause to believe that the presence of the defendant in procedural actions may be ensured by the deposit of bail. Bail may be offered and provided by the defendant or another obligor instead of him before the court to decide upon the pre-trial detention. The court shall hold a meeting – unless offered at the hearing - on the acceptance of the bail offered and hear the prosecutor, the defendant, the counsel for the defendant and the person who offered the bail. If the counsel for the defendant does not attend the meeting despite the notification, the meeting may be held in his absence. The court shall determine the amount of bail taking into consideration the personal circumstances and financial status of the defendant. Concurrently with the acceptance of bail,

the court may also order a home curfew or house arrest. On accepting the bail, the court may also decide in its decision terminating the pre-trial detention.

Anyone affected by the dispositions in the decision of the prosecutor or the investigative authority may submit a complaint against it within eight days following its communication. The complaint has no suspensive effect. In exceptionally justified cases the authority having made the decision or deciding upon the complaint may suspend the execution of the decision until the complaint is judged. The person having filed the complaint – in the case of repealing or modifying a decision, those to whom the decision had been communicated – shall be notified of the decision. The decision upon the complaint may not be subject to further legal remedy. The complaint submitted against ordering arrest shall be dispensed with if the prosecutor submits a motion to the court to order pre-trial detention.

Anyone affected by the dispositions in the decision of the prosecutor or the investigative authority may submit a complaint against it within eight days following its communication. If the prosecutor does not agree with the complaint, he/she shall forward it to the prosecutor at a superior level without delay. The superior prosecutor shall make his/her decision upon the complaint 15 days from receiving it. If the superior prosecutor finds the complaint well-founded, he/she shall amend the impugned decision, repeal the decision and order its re-examination, or reject it.

The decision of the investigating judge may be appealed by the party who was notified of such decision. Any appeal against a decision communicated by way of an announcement shall be lodged immediately after the announcement. Those entitled to appeal but have not been present at the announcement of the decision may lodge an appeal within three days following the session. Decisions communicated by way of a postal delivery may be appealed by those entitled within three days following the service thereof. The investigating judge shall forward the appeal against the decision to the appellate court competent to consider the appeals without delay after the receipt thereof or after the lapse of the deadline for appeals. Regardless of an appeal, the order for a coercive measure entailing the restriction or deprivation of personal freedom may be executed. The appeal of the prosecutor against the termination of a coercive measure entailing the restriction or deprivation of personal freedom – unless termination was motioned by the prosecutor – based on documents shall have a suspensive effect.

The detained defendants are entitled to be present at investigative measures unless provided for by the law otherwise and inspect the documents affecting him or her in the course of the procedure.

The suspect and the counsel for the defense shall be enabled to inspect all case files – with the exception of those treated confidentially – that may serve as the basis for the indictment. The deadline for the inspection of the documents shall be notified to the suspect and the counsel for the defense, the detained suspect – at his own request – shall be brought to the designated

room on that date. The suspect and the counsel for the defense are entitled to inspect the case files even after the scheduled date of inspection of case files.

Annex 2 – Amended Letter of Rights in Hungary

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Information on the rights of suspects during a criminal investigation

You are being suspected by the ([name of X investigative authority] of having committed [name of crime].

The essence of that crime is as follows:

You have [description of the relevant elements of suspected criminal activity] in [name of the place] on [date].

1. General Information

You are not obliged to say anything to the investigative authority in relation to the above-described suspicion until you had consulted an attorney (defence counsel). You are not obliged to make a testimony even if you think you do not need an attorney.

You have to right to be informed of:

- **exact suspicion against you,**
- if later an indictment is submitted in your case, the charges pressed against you,
- should the suspicion or the charges change, the exact changes to them.

The information can be shared both orally and in writing.

It is not you who has to prove that you are innocent, but **it is the authorities that have to prove that you are guilty.**

In relation to your case, you have the right to

- **make an observation at any time,**
- **to ask questions from anyone,**
- **make any proposal to the officials proceeding in your case.**

You have all these rights even if you refuse to make any testimony or statement.

You may ask the official of the investigative authority (typically they are police officers) at any time to inform you of your rights and assist you in exercising your rights.

You have the right **to seek legal remedy** against those decisions of the investigative authority and the public prosecutor that affect you, which means you may submit complaints and appeals. The officials of the investigative authority and the public prosecutor are obliged

to inform you of the details of how to seek remedy (deadlines, how these remedies are handles, etc).

Should your place of residence or your notification address change, you are obliged to inform the investigative authority of the new address within three days. Failing to do so may result in imposing a financial sanction against you, and in certain cases, even an arrest warrant may be issued against you.

2. What can you during an interrogation?

If you are interrogated as a suspect, **you have the right to remain silent, that is, you may refuse to make a testimony**. However, even in such cases, you are obliged to share your personal details (e.g. name, mother's name, date of birth, address) with the authority.

If you refuse to testify

- it does not mean that you have confessed to having committed what you are suspected of,
- it does not stop the investigation in your case,
- you can not present your own defense, but you can change your mind at any time and make a statement -you may even choose to answer only some of the questions.

If you testify

- you can present your own defense.
- you can say anything in your defense, **you are not obliged to tell the truth**, but you may not falsely accuse others of the perpetration of a crime, a petty offence, an infraction punishable by administrative penalty or disciplinary infraction. Doing so will be qualified as a crime.
- anything that you say to or share with the police can be used both for your defense and against you.
- you can change your mind at any time during the interrogation and decide to refuse to make any further statement. You can also choose to answer only some of the questions.
- you may ask for time to think at any time.
- you have the right to choose to testify in writing.

3. Right to criminal defense

You have the right to be defended by an attorney (defense counsel).

If defense is mandatory in your case (you can ask the investigative authority whether this is the situation) and you do not retain a lawyer, then it is the obligation of the authorities to appoint an attorney for you:

- before your first interrogation, if you are detained,
- in any other case within three days after your first interrogation.

You may not choose the defense counsel appointed for you, but if you are not satisfied with his/her performance, **you make ask the authorities to appoint a new attorney for you.** If you have an attorney appointed by the authority, it does not necessarily mean that the lawyer's fee will be borne by the authority instead of you. Should you be found guilty by the court, you will be obliged to pay the attorney's fee.

In what other case may you ask for an attorney to be appointed for you?

You have the right to ask for an appointed attorney even if defense is not mandatory in your case but:

1. you can not afford to pay for an attorney, or
2. it is necessary for your interest for other reasons.

1. If you do not have money for an attorney.

If you are in a poor financial situation you can ask for the so-called personal exemption from costs. If you are granted this exemption, the state will bear the cost of your attorney instead of you.

You can ask for personal exemption from cost if,

- you are homeless, or
- you are the beneficiary of regular social allowance, or
- you are the beneficiary of elderly people's allowance, or
- you have no properties (except for the apartment you live in and the typical household objects) and
 - if you live alone, your monthly income is less than twofold of the minimum pension (in 2016 it is 57,000 HUF),
 - if you do not live alone, the per capita income of the family is less the minimum pension (in 2016 it is 57,000 HUF).

If you ask for personal exemption from costs but it is rejected and later you are found guilty by the court, you will have to pay the attorney's fee.

2. If it is necessary in your interest for any other reasons, e.g. your case is complicated.

In such cases, it is up to the authority to decide whether you are entitled to an attorney. If the decision is no, you still have the right to retain an attorney for yourself.

Preparation for the interrogation

You have the right to be afforded enough time and opportunity for the preparation of your defense before your interrogation, and also to consult your lawyer about your case. The conversation between you and your attorney may not be controlled by anyone. The lawyer is bound by the obligation of confidentiality, which means that you may tell him/her anything, he/she may not share it with others including the investigative authorities.

The investigative authority **may start your interrogation even in the absence of your attorney** if he/she was duly notified. **But in such case you are not obliged to testify.**

4. What are you entitled to know in relation to the criminal procedure?

During the investigation you have the right to be present at:

- the hearing of experts,
- inspections (inspection of a person, an object or a scene),
- reconstruction, and
- presentation for identification (e.g. the victim may select from several people those whom he/she saw at the crime scene or select an object related to the crime which he/she earlier saw)

When an expert is present in any of the listed cases, you have the right to ask him/her questions.

You are entitled to read

- the minutes taken at the events listed above,
- the minutes of your own interrogation, and
- the expert opinions.

You can also receive a copy of these documents. You may also inspect other documents affecting you provided that this does not interfere with the interest of the investigation

After the conclusion of the investigation, the police have to show you all the files serving as the basis of the bill of indictment. You and your attorney can read and get a copy of them. The first copy is free, for any other, you have to pay. You may also receive a free electronic copy of the files, but you must provide a USB stick, a CD or DVD for this purpose.

5. What other rights do you have if you are a foreigner or do not speak Hungarian?

If you are a foreign citizen

If you are a foreign citizen, you have the right to contact an official representing your country or inform him/her (e.g. consul). The investigative authority shall assist you with this upon your request, but you may be interrogated even if an official representing your country is not present. You are entitled to contact the official of the consulate or embassy of your own country personally, via phone or letters at any time. The official of the consulate or embassy may be present at your interrogation (or other investigative action) but may not ask question, make an observation or motion.

If you do not speak Hungarian

If you do not speak Hungarian good enough to defend yourself properly, you can use your native language or any other language you know during the criminal procedure.

You have the right to testify or make any statement in writing in a language you understand which must be added to the case file along with its translation. **You only need to be given written translation of those documents** which are delivered to you officially by post or other means (e.g. summons, decisions, bill of indictment, judgement).

You do not need to pay for the interpreter's fee. The interpreter may not share with others what you tell him/her outside your interrogation. The interpreter is obliged to assist you also when communicating with your attorney. If you are not satisfied with the quality of interpretation, you may request a new interpreter to be appointed for you.

6. Further rights of detainees

If you are detained, you still have the right to consult your lawyer without control (both personally and via phone) or send and receive letters. If the prosecutor or the court permits, you may also talk and correspond with your relative or another person, but this communication shall be controlled. If you are a foreigner, you can communicate with the officials representing your native country also without control.

Arrest

One form of detention is arrest which may last for a maximum of 72 hours. Longer than that you may only be detained if the court orders your pre-trial detention. It is possible to submit a complaint against the arrest as well, but in case the prosecutor makes a motion to order pre-trial detention that complaint shall not be judged.

How is pre-trial detention ordered?

The prosecutor may submit a motion to the court to order your pre-trial detention. Before the court hearing, you must receive those case files which serve as the basis of the motion for ordering your pre-trial detention.

At the court hearing you may ask for your release, but also that instead of pre-detention

- house arrest is ordered, or
- you should be released along with ordering a ban on leaving a designated area, or
- your release upon bail .

Bail means that you are set free if you deposit a certain amount of money determined by the court. This is a guarantee that you will not escape during the criminal procedure. Should you still escape, you lose the bail. Release upon bail is only possible if your pre-trial detention was ordered by the court or proposed by the prosecutor exclusively for the reason that the risk of your escape from the criminal proceedings exists.

If your pre-trial detention is ordered by the court:

- the decision must contain a reasoning for the pre-trial detention.
- you can appeal against the decision immediately but will be detained until the decision upon your appeal.
- you have **the right to inform** of your pre-trial detention **one of your relatives or any other person named by you.**
- **if you are a foreign citizen,** you have **the right to inform** an official representing your country (e.g. the consul).

When will the pre-trial detention be reviewed?

If you are in pre-trial detention, you can ask at anytime to terminate it or to apply less restrictive measure (house arrest, ban on leaving a designated area, bail). But the court is only obliged to carry out an in-merit examination of your request if:

- if you justify it with **new facts** or other circumstance, **or**
- **three months have elapsed** since the submission of your last such request.

At certain intervals, the court is obliged to review your pre-trial detention automatically. You can ask the court or your attorney about these intervals when ordering pre-trial detention.

How long may pre-trial detention last?

The pre-trial detention ordered during the investigation may last until 1, 2 or 3 years depending on the gravity of the crime you are suspected of. If the crime in the suspicion is punishable with at least 15 years of imprisonment or with life-long imprisonment, you may be held in pre-trial detention for longer than 3 years.

7. What kind of supply are you entitled to while in detention?

You may wear your own clothes while in pre-trial detention. During your detention you are entitled to:

- a healthy placement meeting hygienic standards ,
- nutrition suitable for your health condition,
- medical care.

During your detention, the supply suitable for your health condition shall be primarily provided by different institutions within the penitentiary system. These are the services that you are obliged to avail yourself of.

Annex 3 – Questions asked from the respondents

1. Do you have the right to a lawyer in case suspected by any offense, or you are entitled to legal aid only in more serious criminal crime?
2. Is the police obliged to help you establish a contact with a lawyer?
3. Can you ask the police to appoint a defense counsel if participation of the defense counsel is otherwise not mandatory?
4. If the police appoints a defense counsel for you, can you choose in person between the counsels?
5. If the venue and time of the police interrogation is notified to your lawyer in time, but the lawyer did not respond anything, can the police begin your interrogation?
6. If your defense counsel has notified the police that she/he will probably be late and it is also possible that she/he cannot be there during the interrogation, can the police begin your interrogation?
7. If you have already answered voluntarily the questions of the police without the presence of your defense counsel and you are repeatedly interrogated, are you obliged to respond to further questions if your defense counsel appointed or mandated in the meantime is not in present?
8. Can you ask another defense counsel from the police if you are not satisfied with the first appointed defense counsel for some reason?
9. Can you discuss with your defense counsel in private the possible answers to the questions and which rights are you entitled proceeding the interrogation of police?
10. Does the police have the right to check the conversations or the correspondence with your defense counsel for security reasons or for the sake of successful investigation?
11. Can your defense counsel tell the police what did you discuss with her/him related to your case out of the interrogation?
12. Are you entitled to have a defense counsel for free if you have no money to pay for a lawyer?
13. Is the police obliged to tell you what crime are you suspected in every case or just in case if you ask it?
14. How detailed should the police tell you what crime are you suspected? Please select from the answer card that you consider appropriate!
15. In what case the police should notify you about the crime you are suspected has been changed?
16. Should the information on the suspicion be given in written or oral form?
17. If you do not speak the Hungarian language, do you have the right to an interpreter for free of charge provided by the police?
18. Is the appointment of an interpreter for you is mandatory if Hungarian language is not your mother tongue but you speak Hungarian to the extent which is necessary in everyday affairs?
19. If an interpreter is appointed for you, is the interpreter required to help you to talk to your defense counsel or just your statement made before the police can be translated by her/him?
20. Is the interpreter subjected to the obligation of secrecy concerning that you told her/his in relation to the case - regardless of the interrogation?
21. Can you ask for another interpreter if you are not satisfied with the first appointed interpreter?
22. In case you do not speak Hungarian, is it mandatory to give you translated copies of the following documents? So, is it mandatory to give a translated copy of the report of the case? And the....

- a. report of the case?
 - b. testimony of the witnesses uncovered by the police?
 - c. summons?
 - d. expert opinions?
 - e. resolution concerning detention?
 - f. minutes of your own interrogation?
 - g. minutes of inspection on the scene?
23. Are you obliged to answer questions of the police in respect of the criminal offense suspicion?
24. Is it possible to cease the investigation by the police without any statements by you in respect of the criminal offense suspicion?
25. If you answer to the police's questions, then...
- a. you shall say the truth?
 - b. may you answer some questions but decide to do not to others?
 - c. if you change your mind during the interrogation, may you decide that you no longer answer?
 - d. may you say you are willing to answer questions only in writing?
26. If you do NOT answer to the police's questions, then ...
- a. can you respond to selected questions if you prefer to do so?
 - b. can you comment the remarks made by others (eg. witnesses)?
 - c. may you ask others during the questioning of them (eg. from witnesses during the confrontation)?
 - d. may you make a proposal/motion to conduct evidentiary procedure (for example to order an expert by the police)?
 - e. may you decide later that you answer the questions?
 - f. may the court evaluate later that you indirectly confessed the commission of the crime by remaining silent?
27. May your pre-trial detention be ordered on the ground that you did not give a detailed confession on the matter?
28. Are you entitled to ask for a pause for reflection during the interrogation?
29. What does the text of "you have access to the documents concerning your case" in the information document mean?
30. Please tell about each documents listed below; based on the text, do you have the right to access or not during the investigation or you consider it not apparent from the text or you cannot decide. Thus, based on the text, can you access to the report of the case? And the...
- a. report of the case?
 - b. testimony of the witnesses uncovered by the police?
 - c. expert opinions?
 - d. resolution concerning detention?
 - e. minutes of your own interrogation?
 - f. minutes of inspection on the scene?
 - g. any other documents concerning the interrogation?
31. Which documents you have the right to access aftermath the investigation?
- a. all the documents prepared in the sort of the investigation
 - b. those documents which are the ground for reasonable accusation
 - c. those documents to which the prosecutor gave its endorsement to access
 - d. it is not apparent from the text
 - e. do not know

- f. do not answer
32. Which documents do you have the right to request a copy?
- a. any of the documents
 - b. those documents which record such acts where you were present
 - c. those documents to which you have the right to access in the investigation
 - d. it is not apparent from the text
 - e. do not know
 - f. do not answer
33. Which documents prepared in the investigation you have the right to request a copy aftermath the investigation?
- a. any of those documents which you have the right to access during the investigation
 - b. those documents which are essential in your defence
 - c. those documents to which you have the right to access in the investigation
 - d. it is not apparent from the text
 - e. do not know
 - f. do not answer
34. What do you know about the expenses of requesting a copy?
- a. it is mandatory to pay the expenses
 - b. one copy is free of charge, the others are payable
 - c. all the copies are free of charge
 - d. it is not apparent from the text
 - e. do not know
 - f. do not answer
35. May you request copies on electronic device?
36. Whom do you entitled to notify if the police decides about arrest or the court decides about pre-trial detention?
- a. only one family member
 - b. if there is no family member can be informed, then anyone that you identify
 - c. only your employer
 - d. anyone that is identified by you
 - e. is not apparent from the text
 - f. do not know
37. If you are a foreign national, are you entitled to notify someone else?
38. Whom as are you entitled to notify?
39. Does the police obliged to help establish contact with the officials of the consulate of your country?
40. Do you have the right to emergency medical treatment while being in detention?
41. Up to how long can you be detained at the police station before the court decides on your release or your pre-trial detention?
42. What documentation the authority is required to give you before the court decides on the issue of pre-trial detention?
- a. all document prepared in the investigation
 - b. those documents on which your pre-trial detention is based
 - c. the prosecutor's motion, which calls for the imposition of pre-trial detention
 - d. it is not apparent from the text
 - e. do not know
 - f. do not answer

- 43.If the court ordered your pre-trial detention, then: can you appeal against the decision?
- 44.If the court ordered your pre-trial detention, then: what intervals can you apply for parole break?
- a. as often you prefer
 - b. monthly
 - c. every three months
 - d. it is not apparent from the text
 - e. do not know
 - f. do not answer
- 45.If the court ordered your pre-trial detention and you request again for release, then: in what cases the court is obliged to deal with your request for parole break?
- a. in each case
 - b. if a new argument, new ground is occur
 - c. if three months have passed since the last
 - d. if having a new defense counsel
 - e. is not apparent from the text
 - f. do not know
 - g. do not answer
- 46.Can you say any other, more moderate solution, which can replace the pre-trial detention?