

PROCEDURAL RIGHTS OF THE SUSPECTS AND OF THE ACCUSED DURING THE CRIMINAL PROCEDURES ACCORDING TO THE NEW COMMUNITARIAN REGULATIONS

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Abstract

The communitarian legislator is concerned about the creation of minimal norms with the purpose of removing the obstacles standing in the way of the free movement of citizens within the territory of the Member States. The consolidation of the procedural safeguards recognized for the suspects, accused and wanted persons represents an element of analysis in this regard.

According to the Treaty on the functioning of the European Union (TFEU), the judicial cooperation in criminal matters within the European Union shall be based on the principle of mutual recognition of judgments and judicial decisions.

The transfer into practice of this principle is based on the premise that each Member State trusts the criminal justice systems of the other states. The extension of the principle of the mutual recognition depends on a series of parameters, which include protection mechanisms for the rights of the persons suspected and accused and common minimal standards, necessary for the smooth application of this principle

Keywords: *suspect, accused, wanted person, criminal procedures, procedural safeguards, fair trial.*

1 Introduction

Regarding the judicial cooperation in criminal matters, the communitarian legislator is preoccupied with the creation of certain communitarian judicial instruments having as area of application the consolidation of the procedural rights of the person suspected or accused during the criminal proceedings.

Until the present there has been adopted a number of measures regarding the procedural guarantees during the criminal procedures, among which we must mention the Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings, Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings and

the Directive 2013/48/EU of the European Parliament and of the Council of 22 October 2013 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. To these are added the Directive 2016/343/EU of the European Parliament and of the Council of 9 March 2016 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings, namely the Directive 2016/800/EU of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings.

2 The consolidation of the right to a fair trial during the criminal proceedings by recognizing the procedural safeguards for the suspects, accused or wanted persons

The purpose of the Directive 2016/343/EU is to establish a set of minimal norms common for the recipient Member States on certain aspects of the presumption of innocence, of the right to remain silent, of the right to not incriminate oneself, namely to be present at his own trial during the criminal proceedings.

The communitarian directive does not have for the moment a norm for transposing it in our national legislative system (Romania having the obligation to transpose the present directive until April 2018) reason for which we are trying to identify in this meaning the provisions inserted in the current Code of Criminal Procedure. [1]

Specifically, the current directive is applicable for natural persons in all the phases of the criminal proceedings, starting with the moment in which is first suspected or accused for the commission of an offence or of a presumed offence until a definitive decision establishing that the person is guilty of the offence is rendered.

2.1. The presumption of innocence

The presumption of innocence represents a fundamental human right, but also a basic rule in the modern criminal trial [2].

In the European Union the presumption of innocence is expressly stated by Art 48 of the European Union Charter of Fundamental Rights, which states that: “Everyone who has been charged shall be presumed innocent until proved guilty according to law”.

Internationally, the presumption of innocence is stated by Art 66 of the Statute of the International Criminal Court in Rome, according to which “Everyone shall be presumed innocent until proved guilty before the Court in accordance with the applicable law”.

Regarding the internal regulation, Art 4 Para 1 of the Code of Criminal Procedure, referring to the presumption of innocence, in the meaning that “Any person shall be considered innocent until a definitive criminal decision is being rendered” shall be completed with Art 99 Para 2 stating that the “The suspect or defendant beneficiaries of the presumption of innocence, not being compelled to prove his innocence and has the right to not contribute to his own accusation”.

The public implications of the presumption of innocence consists in the fact that for as long as the guilt of a suspected or accused person has not been proven according to the law, the declarations made by the public authorities, other than the one referring to guilt, must not refer to that person as being guilty [3].

Regarding the treatment applied to these persons in front of the judicial organs, the directive compels the Member States that through the transposition norms to guarantee the fact that the suspected and accused persons are not presented as guilty in public or in front of the court, by using certain means of physical constraint [4].

Regarding the burden of the evidence in establishing the guilt of the suspected or accused persons, this shall be the responsibility of the criminal investigation authorities, within the limits currently stated by the legislations of the

Member States, thus not disturbing any of the prosecutor's obligations or the obligations of the court competent to search for incriminatory or exculpatory evidences, neither the right of the defence to present evidences in accordance with the internal law applicable. Moreover, Art 6 Para 2 states that "any doubt regarding the guilt shall be in favour for the suspected or accused person, including when the court assess the possibility of acquitting that person". The existent internal legislation at this moment states in accordance with the directive, thus Art 4 Para 2 of the Code of Criminal Procedure states that "after the administration of all the evidences, any doubt in the belief of the judicial organs shall be interpreted in the favour of the suspect or defendant".

Thus, we ascertain that the texts inserted in the actual Code of Criminal Procedure are in agreement with the communitarian recommendations, although in these circumstances we are wondering if, in the absence of an express regulation the presumption of innocence shall operate during the criminal procedures performed in front of the judicial organs in the situation of the procedure for the agreement to recognize the guilt, in the meaning that also for this situation the defendant is presumed innocent until the rendering of a definitive decision to validate the agreement? In other words, we consider that it is necessary a reconfirmation of the guarantee of this procedural right during the same special procedure. It is thus a matter of reflection which, from our perspective, needs to be clarified with the implementation of this directive.

2.2. The right to remain silent

The right to remain silent represents another procedural right recognized and guaranteed by the communitarian norm for the suspect or defendant. Specifically, the communitarian legislator requested the Member States that through their transposition norms to guarantee for the suspected or accused persons the right to remain silent and to not self-incriminate regarding the offence for which are suspected or accused of [5].

Which is the correct interpretation for this regulation? By the fact that using these rights by the suspect or defendant must not be considered by the judicial organs as a proof of the recognition of the offence by the aimed person.

In the present, the current Code of Criminal Procedure [6] welcomes the communitarian exigencies in this area, thus in Art 10 Para 4 of the category "General Principles" is found the obligation of the judicial organs to present to the suspect or defendant the procedural safeguards he is entitled to, "Before being heard, the suspect or defendant must be aware of the right to make no statement". We must note that because the legislator makes no reference regarding the phase of the criminal procedure in which the person shall be notified about this right in the virtue of Art 10 Para 4, we consider that it was taken into consideration the functioning of this procedural safeguard regarding each hearing of the suspect or defendant, in all procedural phases.

For the amendment of the above mentioned, the legislator emphasizes the benefits of this guarantee in Art 83 Let a) which states in the category of the procedural rights of the suspect or defendant that "During the criminal trial, the defendant has the following rights: a) the right to make no statement during the criminal trial, being aware of the fact that if he refuses to make statements he shall not suffer from an unfavorable consequence...".

Regarding the preventive measure of imprisonment, Art 209 Para 6 state that "Before the hearing, the criminal investigation organ or the prosecutor is forced to bring to the attention of the suspect or defendant the fact that he has the right to be assisted by an attorney of his choice or appointed ex officio and has the right to make no statement, except the information about his identity, being aware of the fact that anything he says may be used against him in the court".

Regarding the adoption of the preventive measure of the arrest of the defendant by the judge of rights and freedom, or by the judge in the preliminary chamber, Art 255 Para 8 states that "Before hearing the defendant, the judge for rights and freedoms shall bring to his attention the offence for which he is

accused of and the right to make no statement, mentioning also that anything he says may be used against him in court”.

Not least, Art 374 Para 2 of the Code, regarding the procedural phase of the preliminary explanations for the defendant, states that “The president explains to the defendant the charges against him, notifies him regarding the right to remain silent...”

The right to silence of the suspect or defendant refers also to the right to not contribute in the self-incrimination. Thus, this final guarantee may be analyzed as involving the right to make no statement regarding the charges he faces, in other words, he has the freedom to not answer all questions or to certain of them.

2.3. The right to be present in your own trial

The Member States recipients of the current communitarian norm are also compelled to insure that through the implementation norm the persons suspected and accused have the right to be present in their own trial, on the contrary being recognized the right to a new trial or another means of appeal, which would allow the reexamination of the case file, including the analysis of new evidences, which could lead to the annulment of the initial decision [7].

Nevertheless, Art 8 Para 2 states an exception, in the meaning that a trial which could lead to a decision regarding the guilt or innocence of the person suspected or accused may occur in the absence of the concerned person, with the condition that:

The person suspected or accused should have been informed in due time regarding the trial and the consequences of his absence;

The person suspected or accused who has been informed regarding the trial be represented by an attorney, who has been appointed either by the suspected or accused person or ex officio, by the state;

The text thus drafted in the communitarian norm raises the question if the right to be present in his own trial is analysed simply in relation to a trial with multiple hearings or it is also applicable for simplified procedures after an

exclusively or partially written procedure or of a procedure without any hearings. We consider that complying with the interpretation offered by the CJEU, the right to a fair trial aims all the procedural forms above mentioned.

Also, the communitarian legislator requires from the Member States to insure for the suspected or accused persons the right to access an efficient means of attack in case their rights stated by the current directive are violated.

What does it mean “an efficient means of attack?” We consider that it refers to a means of attack stated by the legislative system of each Member State recipient of the implementation, which has as effect the placement of the suspected or accused persons in their initial situation, prior to the occurrence of the violation.

3 Procedural safeguards recognized for children who are suspects or accused persons in criminal proceedings [8]

The Directive 2016/800/EU represents another communitarian legal instrument which completes the communitarian norm above mentioned, stating a series of procedural safeguards applicable: a) for children who are suspects or accused persons in criminal proceedings; b) for children who are the subject of the procedures regarding the European arrest warrant based on the Framework Decision 2002/584/JHA (wanted persons); c) for children who initially were not suspects or accused, but who become suspects or accused persons during the interrogations conducted by the police or another enforcement authority; d) for the persons who were under the age of 18, at the moment in which they began to be the subject of the procedures, but who subsequently turned the age of 18 and the application of the current directive or of certain provisions is appropriate, considering all the circumstances of the case, including the degree of maturity and vulnerability of the aimed person [9]; e) for children who are deprived of their freedom, regardless of the phase of the criminal procedures.

Member States have the obligation that through their norms of implementation be sure that, for the following situations, the following safeguards

are complied with and applied by the competent authorities, for the minor suspects, defendants or wanted:

a. When the children are informed regarding the fact that they are suspects or accused persons in criminal procedures, they shall be promptly informed regarding the fact that are the beneficiaries of the following rights:

- The right that the holder of the parental responsibility be informed, including the right of the minor to be accompanied by the holder of the parental responsibility during different phases of the procedure, other than the hearings;

- The right to legal assistance; children who are suspects or accused during certain criminal procedures have the right to an attorney in accordance with the Directive 2013/48/EU [10];

- The right to the confidentiality of communication with the attorney. Such communication shall include meetings, correspondence, telephone conversations and other forms of communication permitted under national law;

- The right to the protection of their private life¹¹;

- The right to legal assistance [12].

b. During the criminal procedure, they shall be informed about the fact that they have the following rights:

- The right to an individual assessment [13];

- The right to a medical examination [14];

- The right to the limitation of the deprivation of freedom and the use of alternative measures, including the right to the periodical re-examination of the detention;

- The right to be accompanied by the holder of the parental responsibility throughout the hearings;

- The right to be physically present during the hearings [15];

- The right to use effective means of attack;

c. Are entitled to a specific treatment during their deprivation of freedom.

These procedural safeguards shall be applied where appropriate:

i) For the suspects or accused minors until the definitive establishment of the fact that the suspected or accused person has committed an offence including, where applicable, until the moment of the issuance of a definitive decision for conviction and the solution of any means of attack;

ii) For the minors who are wanted persons, from the moment of their arrest within the Member State of execution.

3.1. The right for the holder of the parental responsibility to be informed, including the right of the minor to be accompanied by the holder of the parental responsibility during different phases of the criminal procedure

Regarding the national regulation of these procedural rights, it is necessary to state that the current Code of Criminal Procedure dedicates for the special category of minors a special procedure in Title VII, the chapter titled “The procedure in cases referring to juvenile offenders”. Specifically, the legislator has identified for minors, during the two procedural phases, the criminal investigation, namely the trial, the procedural rights to which they are entitled to. Thus, regarding the criminal investigation, Art 505 Para 1 states that when “the suspect or defendant is a minor under the age of 16, at any hearing or confrontation of the minor, the criminal investigation authority shall summon his parents or, where appropriate, his guardian, curator or the person in whose care or under whose supervision the minor has temporarily been placed.

3.2. The right to legal assistance from a lawyer

Which is the moment from which the children may benefit from the assistance of an attorney? By anticipating the answer to this question, the directive states that “children shall be assisted by a lawyer from whichever of the following points in time is the earliest:

a) Before they are questioned by the police or by another law enforcement or judicial authority. At this phase, the assistance refers to the right to have private meetings and to communicate with the lawyer;

b) Upon the carrying out by investigating or other competent authorities of an investigative or other evidence-gathering act. Children shall be assisted by a

lawyer at least during the following procedural actions: group recognitions, confrontations, reconstructions;

c) Where they have been summoned to appear before a court having jurisdiction in criminal matters, in due time before they appear before that court;

d) When they have been presented to a judge or to a court competent to rule upon detention in whichever phase of the procedures;

e) During detention.

Therefore, we understand the importance of the lawyer's presence throughout the criminal procedures thus, in case no lawyer is present, the competent authorities shall postpone the interrogation of the child or the performance of other investigations or evidence-gathering acts for a reasonable time, allowing the arrival of the lawyer, or the appointment of one, if the child has not appointed a lawyer himself. For instance, the decision to conduct an interrogation in the absence of the lawyer could be the object of a jurisdictional control.

In our national system we identify provisions regarding the judicial assistance of minors aged between 14 and 18. Specifically, Art 90 Para 2 Let a) of the actual Code of Criminal Procedure states that "For the juvenile suspect or defendant, the judicial assistance shall be mandatory".

3.3. The right to an individual evaluation

Regarding the application of this measure it is necessary to clarify certain aspects. These shall be performed by specialized personnel aiming, as it is possible, a multidisciplinary approach and, where is necessary, with the involvement of the holder of the parental responsibility or of another professionally specialized adult. When an individual evaluation is performed, shall be taken into consideration a series of indicators such as the personality and degree of maturity of the child, the economic, social and family environment from which he originates, as well as any other vulnerability of the child.

The extent of the detailed individual evaluation may vary depending on the circumstances of the case, of the e measures possible to be adopted if the child

is found guilty of that offence and, not least, it is taken into consideration if recently the child was subjected to another individual evaluation.

The purpose of the individual evaluation is to establish the individual features of the child, which could be used by the competent authorities:

- In order to establish if a specific measure to be adopted is for the best advantage of the child;
- In order to establish the opportunity of adopting a preventive measure regarding the child;
- In order to establish the opportunity of adopting a decision or measure during the criminal procedures, including in the case of ruling a decision for conviction.

3.4. The right to audio-video recording of the interrogation

The interrogation of children by the police or by another law enforcement or judicial authority during the criminal procedures shall be recorded, when this is possible, considering, among other of the presence of the lawyer and if the child is deprived of freedom or not, with the condition that the superior interest of the child be always considered as primordial. Nevertheless, questions may be addressed without any recording, only for the establishment of the child's identity. If the interrogation is recorded, this shall be mentioned in a written and verified minutes.

3.5. The right to a protected private life

Children's private life during the criminal procedures must be protected. For this purpose, the recordings and writings must be confidential, and the hearings in which children are involved must be held without the public. The national legislation is in consensus with the current directive. Thus, concerning the trial, Art 509 Para 1 of the new Code of Criminal Procedure states that "the hearing shall not be public", while Art 3 states that "when the defendant is a minor aged under 16, the court, if it considers that the administration of certain evidence shall have a negative influence on the child, may order his removal

from the hearing. Under the same conditions, may be temporarily removed from the court also the parents or the representatives”.

3.6. *The limitation of the deprivation of freedom*

The measure of the deprivation of freedom shall be ordered for a child in any phase of the criminal proceedings, but it shall be limited to the shortest appropriate period considering the age and individual situation of the child, as well as the circumstances specific to the case. Thus, the detention shall be ordered for children only as the final solution. The objectivity of the application of this measure is guaranteed by the fact that:

- Any detention shall be based on a motivated decision, which represents the object of a jurisdictional control of a court;
- Such decision is, also, subjected to a periodical re-examination, at reasonable periods of time, by a court, ex officio or at the request of the child, of the child’s lawyer or of a judicial authority, other than a court;
- Every time it is possible, the competent authorities shall use alternative measures in exchange for the detention.

Using the modification of the Code of Criminal Procedure, the Romanian legislator has chosen to completely waive the punishments applicable for minors who are criminally liable and to apply only educative measures, privative of freedom or not, in the hope of having satisfactory results in the educational activity and for the social reintegration of the minors. Thus, regarding the minors, the application of the educative measures non-privative of freedom represents the rule, while the exception is represented by the measures depriving of freedom [16].

3.7. *The right to a medical examination*

This right is available for the minors deprived of freedom. Specifically, they are entitled to a medical examination, every time it is necessary, with the purpose of evaluating their physical and psychical general condition.

Who has the right to ask for a medical examination? The medical examination shall be performed either at the initiative of the competent authority, if there are clues motivating such measure, or at the request of the child, of the holder of the parental responsibility or the child's lawyer. This must be as non-invasive as possible and be performed by a doctor or other medical professional.

What is the benefit of this right? The answer is given by the communitarian norm which states that the results of the medical examination shall be taken into consideration in the determination of the child's capacity to be subjected to an interrogation, to other acts of investigations or evidence-gathering actions or to any other measures taken or foreseen to be taken against the minor.

3.8. Specific treatment for the privation of freedom

Member States have the obligation to state in their norms of transposition measures guaranteeing that:

- Minors deprived of freedom are kept separate from adults, including the minors found in police custody, being insured their physical and mental development, the right to education and training, including for children with physical, sensorial or educational handicaps, the access to programs encouraging their development and social reintegration. Art 264 of the Law No 254/2013 [17], with subsequent modifications, also states that the "accommodation of minor persons detained or placed into custody shall be made separate of adult persons, with the compliance of the principle of separation based on sex;

- For exceptional circumstances, when practically it is not possible, the children may be kept together with the adults, but in an appropriate manner compatible with the superior of the child;

- When a child deprived of freedom ages 18, he shall be presented with the possibility of continuing to stay separated by the rest of the detained adults, when it is justified and when this measure is compatible with the superior interest of the child who is detained together with the adult.

Given the lines established by the current directive, we consider that all minors deprived of freedom, accused or convicted for a criminal offence, shall be incarcerated in detention centres specially designed for persons of the same age, offering detention regimes adjusted to their needs and having a personnel trained for working with youth. Also, we agree with the recommendations of the directive in the meaning that taking into custody minor inmates requires special efforts in reducing the risks for long term social maladjustment. This means a multidisciplinary approach, calling upon the competences of a wide range of professionals (especially teachers, instructors and psychologists), to answer the individual needs of the minors, also considering the necessity of the cumulative performance of the following objective requirements:

a) *Material conditions of the detention [18];*

b) *Programs of physical activities and for the intellectual stimulation and programs referring to generalized stimulation systems, allowing the minors to benefit from supplementary privileges in exchange of a good behaviour [19];*

Concretely, the national Framework-Law No 254/2013, in its version modified in 2016, refers in Art 295 to the “Educational project for the educational centre” as representing “the general framework for projecting and implementing the standardized offer of the educational activities, of psychological and social assistance, established based on the personal needs of the inmates, in order to ease their social reintegration. The educational project of the centre identifies the areas of intervention, allowing the emotional, cognitive and skills development of the inmates, so that throughout the period of their detention to be created conditions for the improvement of their educational, psychological and social status. Also, the minors according to Art 313 have the right to education and the obligation to frequent the classes of the mandatory general education. The right to education includes all the activities of learning performed by each inmate, for the purpose of achieving knowledge, skills and abilities significant from a personal, civic, social and occupational perspective.

c) *Appointment of trained personnel* – Art 294 Para 2 of the Law No 254/2013 (modified in 2016) states that “the didactic personnel necessary for the functioning of schools within the centres is insured by the county board of education, according to the law...”

d) *Promoting contacts with the outside world* – any restriction for these contacts must be exclusively based on serious imperatives of security or circumstances related with the available resources.

3.9. The regulation of certain means of complaint, both inside and outside of the administrative system of the institutions, representing fundamental guarantees against bad treatments applied in the institutions for minors
[20]

4. CONCLUSIONS

We consider that the current Code of Criminal Procedure, though it refers to a series of regulations within the limits established by the communitarian policy in this area, though it is necessary a clarification of the reasons for the recognition of these fundamental safeguards.

The Romanian courts consider that the current code completely insures the compliance of the communitarian legislative requirements, also considering the fact that this normative document is consensual with the ECHR recommendations on the guaranteeing of the rights for the suspect or defendant, the limits of the coercive state powers, the insurance of evidence systems allowing the avoidance of judicial errors and the guarantee of human dignity.

On the other hand, regarding the minors, they must enjoy a special attention throughout the procedure for their potential of development and social reintegration is maintained. Thus, the authorities must insure that the minors are capable of understanding and follow these procedures and to use their right to a fair trial, thus preventing the relapse.

References:

[1] The current Code of Criminal Procedure, published in the Official Gazette No 486/15 July 2010, has entered into force starting with 1 February 2013 and has been modified and amended

until nowadays by: Law No 63/2012 on the modification and amendment of the Romanian Criminal Code and of the Law No 286/2009 on the Criminal Code, published in the Official Gazette No 258/19 April 2012; Law No 255/2013 for the application of the Law No 135/2010 on the Code of Criminal Procedure and for the modification and amendment of certain normative acts including criminal procedural provisions, published in the Official Gazette No 515/14 August 2013; G.E.O No 3/2014 for the adoption of certain measures for implementation necessary for the application of the Law No 135/2010 on the Code of Criminal Procedure and other normative documents; G.E.O No 82/2014 for the modification and amendment of the Law No for the modification and amendment of the Law No 135/2010 on the Code of Criminal Procedure, G.E.O No 82/2014.

[2] S.G. Barbu, *Dimensiune constituțională a libertății individuale*, Hamangiu Publ.-house, Bucharest, 2011, p. 359

[3] Nevertheless, it is not forbidden for the public authorities to share public information regarding the criminal procedures when this is absolutely necessary for reasons related to the criminal investigation or to the public interest. See in this regard, Art 4 Para 3 of the Directive 2016/343/EU.

[4] As an exception, the Member States shall apply the measures of physical constraint generated by the circumstances specific to the cause, related to the security or designed to prohibit the suspected or accused persons to come into contact with third party persons.

[5] Art 7 Para 5 of the Directive 2016/343/EU

[6] In the former Code of Criminal Procedure, the provisions aiming the right to remain silent did not had a unitary statement, thus they were inserted separately being mentioned in totally different institutions namely in the area of the evidences, in the area of the prevention measures, as well as in the mentions regarding the trial. This true fundamental guarantee was inserted in different times in the former Code of Criminal Procedure by the Law No 281/2003, namely by the Law No 356/2006. Concretely, we mention Art 70 Para 2 of the former Code of Criminal Procedure which aimed the procedure of hearing the defendant and which stated that "It shall be brought to the attention of the defendant...the right to make no statement, also by presenting him with the fact that anything he says may be used against him in a court of law". Art 143 Para 3 of the former Code of Criminal Procedure is also relevant for our debate, according to which "The prosecutor or the criminal investigation authority shall bring to the attention of the defendant that...he has the right to make no statement, also by presenting him with the fact that anything he says may be used against him in a court of law". A final essential modification supporting the guarantee of the right to silence has been brought to Art 322 on the judicial investigation, of the former Code of Criminal Procedure by the Law No 356/2006, thus "The president...shall explain for the defendant what is the guilt he is being accused of. Also, he shall notify the defendant regarding the right to make no statement, mentioning that anything he says may be used against him in court".

[7] Art 9 of the Directive 2016/343/EU; it is recommended that through the norms for implementation be offered a special attention for the persons suspected or accused considered as vulnerable. See in this regard the Commission Recommendation of 27 November 2013 on procedural safeguards for vulnerable persons suspected or accused in criminal proceedings; in the meaning of the current directive are considered as vulnerable persons suspected or accused the persons who are not capable of understanding or effectively participate in the criminal trial because of their age, mental or physical condition or any other disabilities.

[8] Directive 2016/800/EU of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings.

[9] The Member States may decide to stop applying the current directive when the person of interest has turned the age of 21

[10] Art 16 Para 1 of the Directive 2016/800/EU

[11] Art 14 of the Directive 2016/800/EU

[12] Art 18 of the Directive 2016/800/EU

[13] Art 7 of the Directive 2016/800/EU

[14] Art 8 of the Directive 2016/800/EU

[15] Art 16 of the Directive 2016/800/EU

[16] For serious offences for which the legislator has stated the imprisonment for 7 years or more or life imprisonment; or for minors who have committed multiple offences.

[17] Regulation of 10 April 2016 for the application of the Law No 254/2013 on the enforcement of sentences and of measures involving deprivation of liberty ordered by the judicial bodies during criminal proceedings

[18] See in this regard Art 135 of the Regulation of 10 April 2016 for the application of the Law No 254/2013 on the enforcement of sentences and of measures involving deprivation of liberty ordered by the judicial bodies during criminal proceedings

[19] See in this regard Art 188-196 of the Regulation of 10 April 2016 for the application of the Law No 254/2013 on the enforcement of sentences and of measures involving deprivation of liberty ordered by the judicial bodies during criminal proceedings

[20] See in this regard Art 129 of the Regulation of 10 April 2016 for the application of the Law No 254/2013 on the enforcement of sentences and of measures involving deprivation of liberty ordered by the judicial bodies during criminal proceedings

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Directive 2013/48/EU of the European Parliament and of the Council of 22 October 2013 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

Commission Recommendation of 27 November 2013 on procedural safeguards for vulnerable persons suspected or accused in criminal proceedings

Code of Criminal Procedure, published in the Official Gazette No 486/15 July 2010, entered into force starting with 1 February 2013 and modified and amended until the present by: Law No 63/2012 for the modification and amendment of the Romanian Code of Criminal Procedure and of the Law No 286/2009 on the Criminal Code, published in the Official Gazette No 258/19 April 2012; Law No 255/2013 for the application of the Law No 135/2010 on the Code of Criminal Procedure and for the modification and amendment of certain normative acts stating in the area of the criminal procedures, published in the Official Gazette No 515/14 August 2013; G.E.O No 3/2014 for the adoption of measures for the implementation of the Law No 135/2010 on the Code of Criminal Procedure and for the implementation of other legislative documents; G.E.O No 82/2014 for the modification and amendment of the Law No 135/2010 on the Code of Criminal Procedure

Regulation of 10 April 2016 for the application of the Law No 254/2013 on the enforcement of sentences and of measures involving deprivation of liberty ordered by the judicial bodies during criminal proceedings