



State of play regarding the transposition of Directive 2016/343 on the presumption of innocence

ERA Conference Lisbon
27-28 February 2020

Introduction

- **Fourth instrument** adopted for strengthening the procedural rights of suspects and accused persons
- Referred to in the Stockholm Programme (section 2.4)
- Directive (EU) 2016/343 adopted on **9 March 2016** - Transposition period ended on **1 April 2018**

Main elements of the Directive (1)

- Scope of the Directive
- Content of the Directive
 - ✓ No public references to guilt before proved guilty (public statements made by public authorities and judicial decisions)
 - ✓ Presentation of suspects and accused persons: measures of physical restraint

Main elements of the Directive (2)

- Content of the Directive
 - ✓ Burden of proof and *in dubio pro reo*
 - ✓ Right to remain silent and right not to incriminate oneself
 - ✓ Right to be present at the trial and right to a new trial
 - ✓ Remedies (art. 4(2), 7(5) and 10)

State of play regarding transposition

- Notifications to the Commission :
Complete transposition: now all Member States except one partial transposition
- Infringement proceedings for non-communication (11 Member States)
- Completeness and conformity check together with external contractor

Preliminary conclusions

The Directive is not fully implemented in all Member States – it is not only about the principle of presumption of innocence but about rights deriving from the principle

Issues: Scope of the rights; Public references to guilt; Presentation of suspects and accused; Right to be present at the trial (*in absentia* judgments)

Thank you for your attention!

European Commission
DG Justice and Consumers
Unit Criminal Procedural Law

Dr. Fabien Le Bot