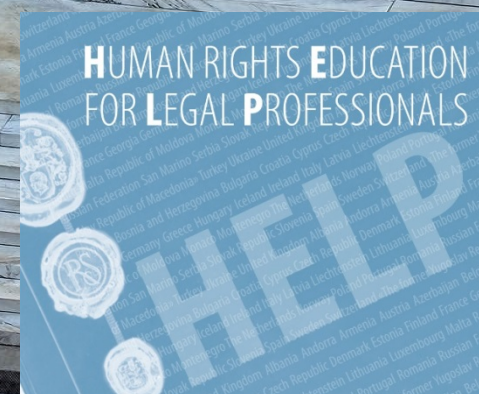




CoE HELP in Universities Information Event

## PROCEDURAL SAFEGUARDS IN CRIMINAL PROCEEDINGS & VICTIMS RIGHTS

Teresa Cabrita – 10 December 2020





# Overview

01

Drawing table

02

Course structure

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Key pedagogical  
features





# Drawing table

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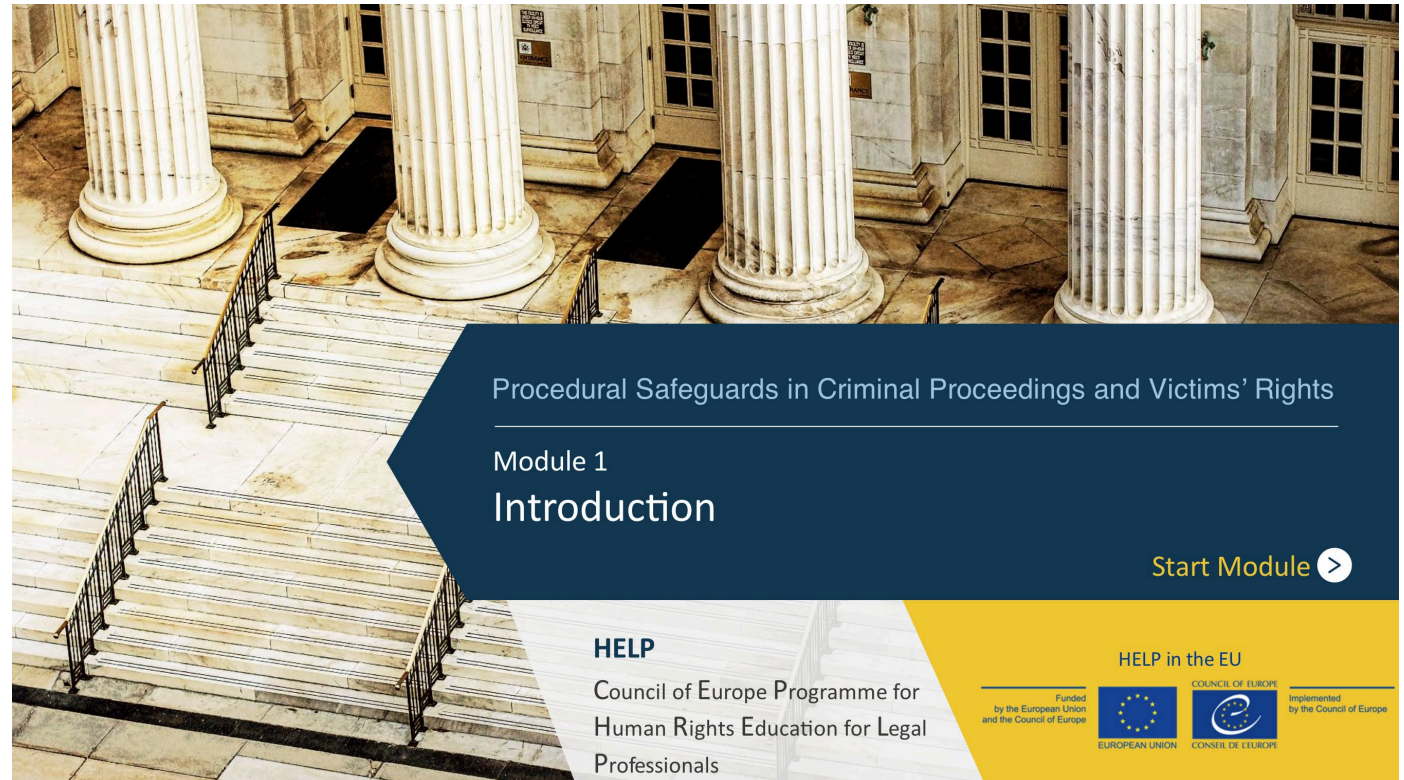
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# Course structure

## Module 1 – Introduction

- Legal Framework and EU Relationship
- Key concepts

Module - 1

## Module 2 – General Aspects of a Fair Trial

- Legal framework
- Institutional guarantees
- Procedural guarantees
  - Fairness (Administration of Evidence; Adversarial Proceedings; Equality of Arms; Reasoning)
  - Public Hearing

Module - 2

## Module 3 – Specific Rights/Procedural Safeguards I – The Presumption of Innocence

- Legal basis
- What does it cover?
  - Unbiased Approach of the Accused
  - Burden of Proof
  - Public References
  - Presentation of the Suspect or Accused
- Remedies against breach

Module - 3

## Module 4 – Specific Rights/Procedural Safeguards II

- Legal Basis
- Specific Rights
  - Right to Information
  - Right to Remain Silent
  - Not to Incriminate Oneself
  - Right of Access to a Lawyer
  - Right to Legal Aid
  - Right to Interpretation
  - Translation

Module - 4

## Module 5 – Specific Rights/Procedural Safeguards III

- Specific rights
  - Right to Examine Witnesses
  - Right to be present at Trial
  - Right to Appeal
  - Right to an Effective Remedy
- Protection in the European Arrest Warrant (EAW) Proceedings

Module - 5

## Module 6 – Victims' Rights

- Key concepts
- Context for victims' rights in Europe
- Victims' needs
- Victims' rights in the CoE framework and in EU law
  - Right to Respectful Treatment
  - Right to Protection
  - Right to Support
  - Right of Access to Justice
  - Right to Restoration

Module - 6

Click each stage or drag the pointer to learn more



Previous

Next





## Course structure



Framework



Specific rights



Victims



## Course structure



### Framework

- Overview of legal framework
- Relationship CoE (ECHR) and EU (CFR, Directives)
- Key concepts (criminal charge, victim, mutual trust)
- Institutional guarantees (independent and impartial tribunal)
- Procedural guarantees (fairness and public hearing)



## Course structure



### Specific rights

- Presumption of innocence
- Right to information
- Right to remain silent and not to incriminate oneself
- Right to access a lawyer
- Right to legal aid
- Right to interpretation and translation
- Right to right to examine witnesses
- Right to be present at trial
- Right to appeal
- Right to an effective remedy





## Course structure



### Victims

- Definition of victim
- Victims' general needs (respectful treatment, protection, support, access to justice, restoration)
- Victims' specific needs
- Legal framework CoE and EU
- Duties of legal professionals



# Key pedagogical features



Accessible

Comprehensive

Practice-oriented

- Clear learning objectives
- No assumed knowledge (e.g., hierarchy of EU norms)
- Accessible language (also, EN | CZ | ES | FR | RO | SK )
- Glossary of key concepts
- Intro with key concepts (non-regression, ‘criminal charge’, victim, mutual trust, etc.)



# Accessible

## Module 6 - Victims' rights

### Key concepts - VICTIM

Before turning to each of these subjects, it is appropriate to start by defining the concept of a victim of crime.

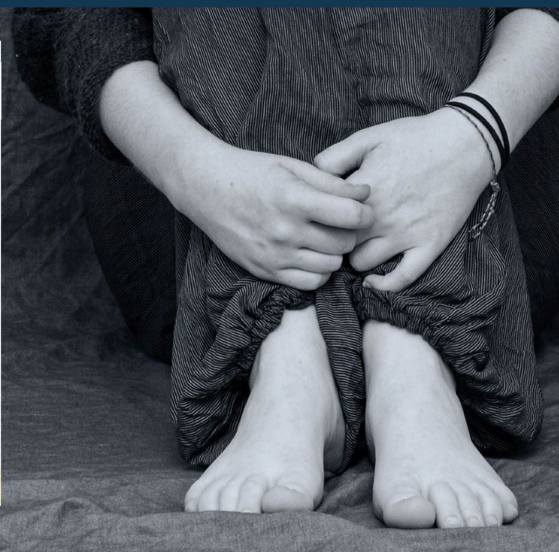
Basic definition

Extended understanding

Definition in EU Victims Rights' Directive

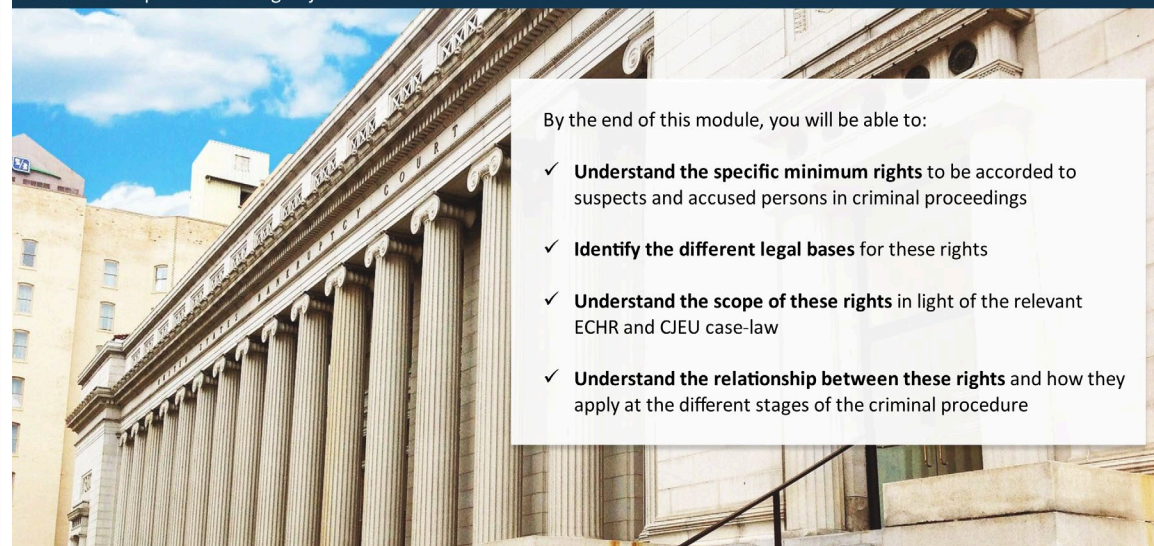
Special situations

*Click on each header for more information.*



## Module 4 - Specific Rights/Procedural Safeguards II

### Introduction: Specific learning objectives



By the end of this module, you will be able to:

- ✓ **Understand the specific minimum rights** to be accorded to suspects and accused persons in criminal proceedings
- ✓ **Identify the different legal bases** for these rights
- ✓ **Understand the scope of these rights** in light of the relevant ECHR and CJEU case-law
- ✓ **Understand the relationship between these rights** and how they apply at the different stages of the criminal procedure



# Key pedagogical features



Accessible

Comprehensive

Practice-oriented

- Exhaustive overview of CoE and EU frameworks
- Balance both perspectives: accused, victims
- Module structure: focus on specifics
- Links to cases (facts & findings)
- Additional resources





# Comprehensive

## Module 6: Victims' rights

### The Council of Europe legal framework for victims of crime

The Council of Europe has adopted a number of legal instruments that seek to afford better protection of their rights in national legal systems. Click on the year instrument(s) were adopted each year. We will look at each of these instruments in

The Convention on the Prevention of Terrorism

The Convention on 'Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism

The Convention on Action against Trafficking in Human Beings

1950

1977

1983

1985

1987

Click each stage or drag the pointer to learn more



## Module 6: Victims' rights

### The European Union legal instruments for victims of crime

The European Union has adopted a number of legal instruments that seek to address victims' needs, and to afford better protection of their rights in national legal systems. We will look at each of these instruments in this part of the module. Click on the years below to find out what instrument(s) were adopted each year.

The Victims Rights' Directive

2000

2001

2004

2011

2012

2017

Click each stage or drag the pointer to learn more

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# Key pedagogical features



Accessible

Comprehensive

Practice-oriented

- Pop-ups (articles, case-law, additional materials)
- Videos (e.g., historical aspects; download transcript)
- Links to infographics (e.g., FRA)
- Knowledge check



# Practice-oriented

Module 4 - Specific Rights/Procedural Safeguards II


Example from the case law: nature and degree of compulsion

[Jalloh v Germany](#)

**Facts:**

Upon his arrest on suspicion of involvement in a drug dealing offence, Mr Jalloh was seen swallowing a small plastic bag, which was believed to contain drugs. On authorisation of the public prosecutor, an emetic was forcibly administered in order to provoke the regurgitation of the bag. In the hospital, he was held down and immobilised by four police officers. By force, the doctor injected him with apomorphine and administered the emetic through a tube introduced into his stomach through the nose, which resulted in Mr Jalloh regurgitating one bag containing cocaine.

**Findings:**



[Click to close](#) X

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Module 4 - Specific Rights/Procedural Safeguards II

Right to information about one's rights

[Information about one's rights](#) [Information about the accusation against him](#) [Access to the case materials](#)

**Case 1 – Paola**

On New Year's Eve, the police in Paris are informed of a hit-and-run incident close to the Notre-Dame cathedral. The victim, a 62 year old woman, passes away at the scene.

Nearby traffic cameras shows a car with Italian license plates registered to Paola B., a 19 year-old Italian national. Paola is in Paris for the holidays and is staying at a Youth Hostel downtown.

Two police officers are sent to the hostel to identify the suspect. Paola does not speak French.

**What rights does Paola have and how must the authorities proceed?**


[01](#) [02](#) [03](#)

Q1 – Presumption of innocence

The right to be presumed innocent until proven guilty in accordance with the law means that (choose all that apply):

- ☐ An accused should never be asked to present evidence of his innocence
- ☐ It is for the prosecution to establish that the accused committed the offence
- ☐ Judges cannot start their examination of the case with the preconceived idea that the accused is guilty of the offence
- ☐ Presumptions of law, such as one that establishes a presumed intent to distribute drugs for anyone caught with more than 10 daily personal-use doses, violate a person's presumption of innocence

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Thank you for your time

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