

ТЕОРІЯ ТА ІСТОРІЯ ДЕРЖАВИ І ПРАВА, КОНСТИТУЦІЙНЕ ПРАВО. МІЖНАРОДНЕ ПРАВО

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LANGUAGE ASSISTANCE AS A PROCEDURAL SAFEGUARD INCREASING THE LEGAL SECURITY IN RELATION TO MIGRATION

АНОТАЦІЯ

Елена Ніколайова Купфершмідтова. Мовна допомога як процесуальна гарантія посилення правової допомоги, пов'язаної з міграцією. Основна увага в цій роботі зосереджена на спробі відобразити поточну ситуацію у галузі мови та мовної допомоги, що надається громадянам третіх країн, утримуваних у місцях позбавлення волі держав-членів ЄС. Авторка, зокрема, наголошує на труднощах із забезпеченням професійних послуг усного та письмового перекладу, особливо у випадках менш поширених та корінних мов, які здебільшого є рідними мовами для затриманих громадян. Таким чином, перед державами-членами ЄС постає нагальне завдання, оскільки обов'язок – забезпечити процесуальні гарантії, перелічені в Європейській конвенції з прав людини, та гарантувати основні права, серед яких є мовна допомога, безумовно, є одним із них. Повага та захист фундаментальних прав людини сприяє елементарному почуттю безпеки у всіх громадян країн-членів, які проживають на території ЄС, навіть серед громадян третіх країн, які прибувають до ЄС. Цей документ є результатом проекту Академії поліції в Братиславі «Міжкультурна комунікація з громадянами третіх країн у місцях тримання під вартою» (№ 241).

Питання стосовно форми послуг, що надаються для потреб громадян третіх країн, залишаються на розсуд національних органів влади кожної держави-члена та їхніх уподобань, якщо вони можуть бути представлені як докази для можливого провадження. Право на отримання інформації мовою, зрозумілою для громадян третіх країн, які в'їжджають на територію держави-члена, є однією з процедурних гарантій Європейського суду з прав людини. Свочасне надання інформації для вищезазначених цілей залежить від мовних знань затриманого. При перекладі мовою, яку розуміє затриманий, здебільшого враховується офіційна мова країни походження громадянина третьої країни.

Ключові слова: міграція, основні права людини, міжкультурне спілкування, процесуальні гарантії, поліція, ізолятори тримання, нелегальні іммігранти, мовна допомога, усний переклад, переклад, вторинне законодавство ЄС.

INTRODUCTION

The COVID-19 pandemic has affected migration in Europe significantly. Countries on a worldwide scale have restricted human mobility and international movements in order to minimize the spread of the pandemic. The pandemic has substantially reduced the number of irregular arrivals

¹ Information retrieved from: <https://migrationdataportal.org/regional-data-overview/europe>

² For more information: <https://iom.sk/sk/migracia/migracia-vo-svete.html>

to the European Union (hereinafter referred to as „the EU“) in the past months. In April 2020, the number of detections of irregular border crossing (IBCs) on Europe’s main migratory routes fell by 85 per cent from the previous month to around 900, the lowest total since Frontex began collecting border data in 2009. The record low numbers were mainly due to the restrictive measures implemented both by the EU Member States and by third-countries of transit and departure of migration.¹

However, migration is still one of the highly discussed challenges Europe is facing. According to the International Organization for Migration (hereinafter referred to as "IOM"), the total number of illegal immigrants and asylum seekers who arrived in Europe in 2019 was 82.3 million.² This number indicates third-country nationals coming to Europe by sea or land. Each Member State shall endeavor to address the issue of migration or its consequences in a manner appropriate to the country's national legislation, cultural or political environment. The European region still remains one of the most attractive destinations for immigrants. Even the number of illegal immigrants has decreased substantially during the last year, the effective and coherent approach to immigration and asylum remains a priority. The need to establish a common asylum system, a legal immigration policy and combating illegal immigration triggered the adoption of the EU Directive 2008/115/EC on an effective expulsion and repatriation policy, common standards for persons who are to return in a humane manner and in full respect of their fundamental rights and dignity (Directive 2008/115/EC of the European Parliament and of the Council).

Subsequently, by means of Directive 2013/32/EU on common rules on procedures for granting and withdrawing international protection (recast) Regulation (EU) No 1095/2010 was adopted in accordance with the protection of fundamental human rights and freedoms granted to every human being. Moreover, Regulation (EU) No 439/2010 establishing a European Asylum Support Office (Regulation (EU) No 439/2010 of the European Parliament and of the Council) was also established as another key document in the field of migration and relevant to the area of migration policy applicable in all Member States of the EU. All of the above-mentioned documents form the most important framework in the field of migration and at the same time form a common framework for all Member States. The common framework was set and subsequently transposed into the national law of the Member States, with the main aim of further developing standards for procedures for granting and withdrawing international protection for arriving migrants. However, due to the scale of the migration crisis and the disproportionate influx of migrants into individual Member States, the application of the common framework is limited to minimum standards in some countries.

Thus, the primary aim of the present contribution is to map the current situation in the field of language assistance guaranteed as a procedural safeguard to the third-country nationals (also referred to as ‘migrants’) arriving into the Member States of the EU and being detained in the detention centres in the individual territories of the Members States. At the same time, the focus is paid also to the challenges that remain problematic in securing and providing professional translation and interpretation services, particularly into the less spread languages or minority languages that are in most cases the mother tongues of detained third-country nationals. Therefore, the Member States face a difficult task, as they have a duty to ensure the procedural guarantees set out in the European Convention on Human Rights, with language assistance being part of Article 5 - the right to liberty and security. The protection and observance of human rights at the state level guarantees the legal security of citizens, which contributes to increased legal certainty.

1 Detention of Third-Country Nationals

Detention remains one of the key tools in responding to migration and asylum flows. As stated in Directive 2008/115/EC, detention is only justified for the purpose of preparing for return or carrying out the expulsion process if the application of less coercive measures would not be sufficient. However, it is necessary to stress that in accordance with paragraph 17 of the above-mentioned Directive, third-country nationals detained in detention facility of a Member State should be treated in a humane and dignified manner with respect for their fundamental rights as is also required by the international and also national law of the respective Member States of the EU. Detention should, as a general rule, be carried out in specialized detention facilities. The grounds for detention are explicitly defined in Article 8 (1) 3 of the recast of the Reception Conditions Directive. It should be noted that Article 8 of this Directive also requires EU Member States to set out the grounds for detention in their national law as well as possible detention alternatives. In accordance with Article 9 of the International Covenant on Civil and Political Rights (ICCPR), the rights to liberty and security of person are recognized.

The ICCPR prohibits arbitrary arrests and detentions and requires that any deprivation of

personal liberty be in accordance with the law, and obliges the parties to allow persons deprived of their liberty to challenge their detention through the courts. These provisions apply not only to persons detained in criminal proceedings, but also to persons detained for mental illness, drug addiction or for the purposes of education or immigration. In the General Comment no. 8 of the Human Rights Committee it is stated that these provisions apply to all deprivation of liberty by arrest or detention, including the cases in the area of immigration control (for more detailed information see General Comment No. 8 of the Human Rights Committee). On 9 December 1988, the General Assembly of the United Nations (without voting) adopted the Body of Principles for the Protection of All Persons in Any Form of Detention or Execution of Sentences of Imprisonment, which explicitly states (Principle 4) that any form of detention or imprisonment and all measures affecting the human rights of a person in any form of detention or imprisonment shall be ordered by or under the effective control of a judicial or other body (Code of Principles for the Protection of All Persons in Prison or Imprisonment adopted by General Assembly Resolution 43/173). In addition, in accordance with Principle 11, a person must not be detained without being given an effective opportunity to be heard immediately by a judicial or other authority (the Code of Principles for the Protection of All Persons in Prison or Imprisonment adopted by General Assembly Resolution 43/173). The detainee has the right to a defense or assistance under the law, as provided by EU law, and, in addition, shall receive immediate and complete notification of any detention order. The right to communicate is therefore established as one of the fundamental human rights. The right to communicate in a language that the third-country national detained in the detention facility understands is also explicitly enshrined in the European Convention on Human Rights, in Article 5, which governs the right to liberty and security.

2 Language Assistance as a Procedural Safeguard for the Third-Country Nationals Detained in the Detention Facilities in the EU Member States

As referred to in Article 5 (1) 2 of the European Convention on Human Rights (hereinafter referred to as 'ECHR'): *"Everyone arrested shall be informed without delay, in a language he or she understands, of the reasons for his or her arrest and of any charges against him"* (Article 5 of the European Convention on Human Rights). Consequently, according to Article 14 of the ECHR, *"the rights and freedoms granted by this Convention must be ensured without discrimination based on any ground, such as sex, race, color, language, religion, political or other opinion, national or social origin, nationality, minority, property, gender or other status"* (Article 14 of the European Convention on Human Rights).

Thus, from the cited paragraphs it is clear that a person who does not sufficiently understand or speak the language used by the authorities responsible for his/her arrest, detention or imprisonment must be informed without delay in a language he/she understands (...) and, if necessary, provide free assistance from an interpreter in connection with securing procedural acts. The detained person also has the right to the assistance of a legal adviser, to be informed of this right and to be provided with legal counselling. All these principles have been successfully transposed into the EU secondary legislation in the form of the listed (see below) Directives, and these principles form an integral part of the ECHR. The documents of secondary legislation of the EU as well as the Convention are relevant documents for all Member States, so that the principles laid down are legally binding also under the national law of each Member State.

The legal basis for language assistance for third-country nationals and the rules for communication within official contact with respective authorities form part of the following documents:

- Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection;
- Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals;
- 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;
- Regulation (EU) No 182/2011 of the European Parliament and of the Council 439/2010 of 19 May 2010 establishing a European Asylum Support Office;
- Regulation (EU) No 182/2011 of the European Parliament and of the Council Regulation (EC) No 640/2013 of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a thirdcountry national or a stateless person;
- Commission Recommendation (EU) 2017/432 of 7 March 2017 on ensuring more effective returns in the implementation of Directive 2008/115/EC;

• Commission Recommendation of 1 October 2015 establishing a common "Handbook on Return" to be used by the competent authorities of the Member States in carrying out return tasks (C (2015) 6250 final).

The documents themselves clearly define the requirements to ensure proper communication with the competent authorities through an interpreter. "(...) *Within the meaning of Article 1 of the Geneva Convention or as beneficiaries of subsidiary protection, each applicant should have effective access to proceedings, cooperation and proper communication with the competent authorities in order to be able to provide relevant evidence concerning his case, (...) In addition, the procedure for examining an application for international protection should normally give the asylum seeker at least: the right to remain in the Member State pending a decision by the determining authority; access to the interpretation service when submitting your case in case of an interview with the authorities; (...) The right to be informed at crucial moments during the proceedings of his legal position in a language he/she understands; and the right to an effective remedy before a court in the event of a negative decision*"³

In compliance with the above-listed documents, the third-country nationals concerned have the opportunity to obtain legal advice, representation and, where necessary, linguistic or in other words language assistance. For the purposes of this Article, language assistance is defined as assistance which covers both translation and interpretation services provided to someone who does not speak the language of the country in which he/she is detained. The difference between interpretation and translation is not negligible, although in the case law of the European Court of Human Rights (hereinafter referred to as 'ECtHR') the two concepts are largely interlinked, as Article 6 para 3 e) the ECtHR refers only to "interpretation". Language assistance includes not only the obligation to provide a translation of the decision (already covered by Article 12 (2)), but also the obligation of interpreters to provide assistance for the needs of third-country nationals, so that the third-country national has the opportunity to take appropriate action. Every foreigner detained in the EU Member State has the right to interpretation during police interrogations, hearings and meetings with a lawyer and the right to have translated at least all the relevant documents so he/she may be able to take appropriate legal steps. The issue of language assistance for detainees is explained in point 22 of Directive 2010/64/EU as follows:

*(22) Interpretation and translation under this Directive should be provided in the native language of the suspected or accused persons or in any other language that they speak or understand in order to allow them fully to exercise their right of defence, and in order to safeguard the fairness of the proceedings.*⁴

However, it should be noted that in some cases it may be difficult for competent authorities to ensure a sufficient number of interpreters/translators, especially if third-country nationals speak indigenous languages or their mother tongue is a less common language and the availability of interpreters/translators is generally limited in such cases. The availability of interpreters is one of the factors influencing the availability of an effective remedy. Even if the EU Member State institution is able to ensure the presence of an interpreter for official communication with the competent authority, the quality of the interpretation or translation services provided is a matter of the individual Member State in accordance with point 24 of the respective Directive 2010/64/EU, However, it should be noted that in some cases it may be difficult for competent authorities to ensure a sufficient number of interpreters/translators, especially if third-country nationals speak indigenous languages or their mother tongue is a less common language and the availability of interpreters/translators is generally limited in such cases. The availability of interpreters is one of the factors influencing the availability of an effective remedy. Even if the EU Member State institution is able to ensure the presence of an interpreter for official communication with the competent authority, the quality of the interpretation or translation services provided is a matter of the individual Member State in accordance with point 24 of the respective Directive 2010/64/EU, which states as follows:

*(24) Member States should ensure that control can be exercised over the adequacy of the interpretation and translation provided when the competent authorities have been put on notice in a given case.*⁵

Ensuring accurate interpretation or translation remains a priority for the benefit of the detained third-country nationals, but also for the benefit of the competent authorities, that determine

³ Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection.

⁴ Directive 2010/64/EU available online at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32010L0064>

⁵ Directive 2010/64/EU available online at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32010L0064>

which individuals can stay in the country and who must leave. In addition, in the case of particularly important meetings which may lead to further legal proceedings at the European or international level, the authorities of the Member States must ensure that interpreters providing interpretation services are competent and have knowledge of both languages, and at the same time are also able to identify and use appropriate means of interpretation, the understanding and observance of the rules of confidentiality are strictly followed and impartiality and understanding of their role as an interpreter is ensured without departing from the role of adviser, legal adviser or other tasks, etc. However, for the purposes of translation/interpretation services provided on the behalf of the third-country nationals detained in the detention facility across the EU countries the eligibility criteria for interpreters/translators for official communication with the competent authorities vary from one Member State to another. All language services requirements are set for a single purpose: to ensure meaningful access to relevant information for third-country nationals so that they are able to understand their current situation, taking into account fundamental human rights as a priority. However, the process of providing information to third-country nationals staying illegally on the territory of individual Member States is affected by several factors. It is worth noting that the language provisions in EU secondary legislation are often subject to interpretation, in particular regarding the form and scope of language assistance, the quality requirements and the professional competence of the interpreter/translator.

3 Provision of Language Assistance to the Third-Country Nationals in Selected EU Member States

Language mediation remains an important and very sensitive issue, as it is, on the one hand, an integral part of the asylum procedure and has a direct and non-negligible effect on communication between the national authorities of the individual EU Member States and on the other hand, it affects the destiny of the third-country national applying for the asylum in the respective Member State of the EU. Taking into account the quality and efficiency of services provided, it is important, especially in the case of the so-called *first-line* or *destination countries*⁶, which have to deal with a high number of asylum seekers, so that asylum seekers understand each stage of the process and that the authorities are able to properly assess and take into account all the details of the applicant's circumstances. For instance in Italy, being the country directly affected by the system of hotspots, the main goal is the fast identification, registration and processing of migrants. In Italy, a third-country national is detained in hotspots for several days and then placed in a detention center. The stay in the detention center is significantly affected by the lack of cultural mediators, interpreters and translators into all languages. This is a persistent problem, in particular with interpretation/translation into the languages of sub-Saharan Africa remaining the most problematic. The third-country nationals coming to Italy come in most cases from Nigeria, Eritrea, The Gambia, Sudan, Senegal, Somalia, Mali, Bangladesh, Guinea and Côte d'Ivoire. Upon arrival in Italy, the hotspots provide information on the possibility to apply for asylum and individual types of stay in four world languages, i.e. Italian, English, French and Arabic. In view of the fact that the command of world languages is rather rare for incoming migrants, the information in question is provided by the European Asylum Support Office (EASO), as part of the ACCESS project, and by the Office of the United Nations High Commissioner (UNHCR) and in the framework of the ASSISTANCE project, the International Organization for Migration (IOM), assists in less widely used languages, i.e. Kurdish and its extended dialects – Kurmanji, Sorani and Tigrinya. Thus, provision of high standards of language assistance in a wide range of languages remains a challenge not only for Italy, but also for many EU Member States, especially if the asylum seeker speaks only his or her mother tongue, which appears to be an indigenous language or a lesser-used language. There is also the possibility that asylum seekers may speak the language of the country in which they are applying for asylum, e.g. in the case of Colombians or Venezuelans registered in Spain. In cases where a common language is absent, the interpretation of procedural acts in a language that can be reasonably assumed to be understood by the asylum seeker shall become a particular priority. The language barrier must never affect the human rights of third-country nationals and the decision of national authorities on the residence of third-country nationals in their territories.

Information on remedies should also be available in a language that the third-country national understands or can reasonably be presumed he/she understands. Whether the information is provided in written or oral form depends on the receiving Member State. In most cases, the information is provided in the form of leaflets or reference materials. The possibility of standardized

⁶ The country that is a destination for migration flows (regular or irregular).

⁷ The country through which migration flows (regular or irregular) move; this means the country (or countries), different from the country of origin, which a migrant passes through in order to enter a country of destination.

templates would streamline the work of the administration and contribute to transparency, as well as significantly contribute to reducing the cost of interpretation services. It could also partially address the persistent problem of a lack of interpreters from/to lesser-used languages. In this paper, the lack of qualified and competent interpreters is not the subject of the analysis, but it is necessary to pay special attention to this topic, because the setting of qualification criteria directly affects the outputs of interpreting services provided for the needs of detention facilities. While in some countries, usually in the so-called *transit countries*⁸) the qualification criteria are high as they require higher education and specialized training, e. g. in case of Slovakia in order to ensure effective communication between foreigners placed in detention and the competent authorities, interpreters and translators ensuring official communication with the competent authorities within individual procedural acts are selected from the list of forensic experts, translators and interpreters of the Ministry of Justice of the Slovak Republic. The translator, who ensures the translation of official documentation or information materials, is also selected from the list of forensic experts, translators and interpreters of the Ministry of Justice of the Slovak Republic. However, on the basis of the background documents, the interpretation request is formulated only for the purposes of procedural acts and official communication with the competent authorities. In other countries, e.g. in Sweden which is considered to be a so-called *destination country*, there are no rules setting out the qualifications of an interpreter and only account is taken of whether the interpreter "*speaks two languages*". In fact, the current situation regarding the interpretation/translation services provided for the third-country nationals in detention facilities in Sweden affects significantly the personal security of an immigrant who is completely dependent on interpretation, especially in the case of an asylum interview. However, quality assurance is crucial for protecting access for individuals with limited language skills. The ability to effectively express the meaning, style and often the tone of the original source is very important, as it can affect the results of the interview with the asylum seeker and, consequently, the stay in the country. In some cases, interpreters seem to lack the skills needed to meet the interpreter's requirements, or sometimes they simply translate incorrectly, which has serious consequences for the asylum seeker. Due to persistent problems related to the lack of competent and qualified interpreters, many countries have started to use audio/video conferencing to provide asylum seekers with the opportunity to communicate their needs. However, the use of this form of interpretation has its pitfalls, which include a lack of privacy, the absence of an interpreter at the place of detention, etc. In view of the fact that interpretation services are provided free of charge to third-country nationals and that Member States are responsible for all costs associated with these services, national authorities are responsible for selecting individual interpreters. Given that interpreters mostly rely on visual and audio stimuli to determine the meaning of translated speech, the use of technology is said to often suffer from poor sound quality or is interrupted during an interview and hearing is insufficient and frustrating for both parties, asylum seekers but also for the representatives of national authorities, especially when dealing with emotionally demanding situations.

The Member State is free to choose whether to provide a written translation of the relevant information or oral interpretation, provided that the context and content are clear to the third-country national and that he/she understands his/her current legal situation. The provision in Article 5 of the recast of the Reception Conditions Directive 2013/32/EU requires Member States to make all reasonable efforts to ensure a translation into a language that the person concerned actually understands. The lack of interpreters is not considered to be an objective reason for not fulfilling this right of third-country nationals. In cases of extremely rare languages for which there is an objective shortage of interpreters, Member States are required to provide at least general information sheets explaining the main elements of the standard form in at least five languages most commonly used by illegal immigrants entering the territory of a Member State.

CONCLUSION

One of the main objectives of the European Migration Network (EMN) is to provide information on the current situation, outputs and statistics on migration, integration and international protection at EU and Member State level. In order to identify the challenges associated with migration, they encountered the following: "*(...) ensuring adequate language transfer (interpretation), the implementation of coercive measures, and extensive reinsurance legislation and case law; the assistance in the field of interlingual and intercultural communication is one of the main priorities in addressing migration issues not only at European level. The police, courts and the Migration Office, as well as lawyers, are currently struggling with the current problem of*

⁸ For more information (available in Slovak only): https://www.hrl.sk/assets/files/obsah/74-zaistenie_a_alternativy_k_zaisteniu_v_slovenskej_republike_-_narodna_sprava.pdf

*securing official or non-official interpreters from the various languages spoken by foreigners*¹⁸

The right to linguistic assistance is one of the fundamental rights guaranteed not only in the ECHR but also in a right enshrined in secondary EU legislation, making it binding for all EU Member States. Questions concerning the form of services provided for the needs of third-country nationals remain in the hands of the national authorities of each Member State and their preferences, if they can be presented as evidence for possible proceedings. The right to be provided with information in a language understood by third-country nationals entering the territory of a Member State is one of the procedural guarantees of the ECHR. The exact timing of the information provided for the above-mentioned purposes depends on the language skills of the detainee. When interpreting into a language that the detainee understands, the official language of the third-country national's country of origin is taken into account in most cases. An individual approach is preferred and the physical presence of an interpreter is more advantageous for asylum seekers, but difficult for national authorities to achieve.

The choice of interpreter remains in the hands of the national authorities under the national law of each Member State. A common framework for ensuring the quality of interpretation services and the qualifications of individual interpreters remains an unanswered question, as qualification criteria vary from one Member State to another. The scope of the information provided should enable the third-country national to understand the remedies and their current legal status.

Linguistic (as well as cultural) mediation is one of the fundamental human rights guaranteed by the national legislation of the Member States, secondary EU legislation, but also international law. Respect for human rights and the way in which they are guaranteed in the state is one of the key factors influencing the sense of security in the state and also having a significant impact on migrants' prospects in deciding where to settle. EU countries are undoubtedly an attractive place to live, as the ECHR guarantees procedural guarantees, including communication in the language of foreigners coming to the territory of EU Member States.

Interpretation and translation from different languages (in particular in case of less used languages) is a serious problem in all EU Member States. Authorities must currently look for appropriate measures to ensure adequate interpretation for foreigners, otherwise they run the risk that the detention order will be rejected on the grounds of a violation of the right to receive an interpreter in a language understood by the foreigner. In this situation, the relevant authorities of the EU Member States cannot evade their duty simply by pointing out that the relevant interpreters are not available. Complications with the provision of adequate interpretation in official acts do not contribute to facilitating the situation in everyday communication with foreigners. However, the obligation to allow a third-country national arriving into the territory of the Member State access to information in a language he or she understands is enshrined in law not only at European level but also within the national law of all EU Member States. To provide multilingual information materials, or compile information material that could be distributed in a uniform format in all languages of foreigners arriving in the EU, would facilitate and speed up the work of all participants including the courts but especially the migration authorities in all Member States.

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SUMMARY

The focus of the present paper lies on the attempt to map the current situation in the field of language/linguistic assistance provided to the third-country nationals detained in the detention facilities of the EU Member States. The author, particularly, stresses out the difficulties in ensuring the professional translation and interpreting services especially in cases of less-spread and indigenous languages that are in most cases mother tongues of the detained nationals. Thus, EU Member States face a formidable task as the obligation to ensure the procedural safeguards listed in the European Convention on Human Rights are guaranteed, and the fundamental rights are protected, and the language assistance is definitely one of them. Respect and protection of fundamental human rights contributes to the elementary sense of safety in all Member States nationals living in the territory of the EU, even in the third-country nationals arriving into the EU. The present paper is the output of the project of the Academy of the Police Force in Bratislava: Intercultural Communication with the Third-Country Nationals in Detention Facilities (No. 241).

Keywords: migration, fundamental human rights, intercultural communication, procedural safeguards, police, detention facilities, illegal immigrants, language assistance, interpreting, translation, EU secondary legislation.