

CrossJustice Editor – Transposition tables

User Manual

The “Transposition tables” section is a tool that enables CrossJustice editors to enter in tabular format information on the correspondence or lack of correspondence between each provision (article and/or its structural elements) of the six directives in the scope of the CrossJustice Project and the transposing national provisions of the Member State for which the table is being completed.

To begin filling out the tables, the editor should press the “Transposition tables” button on the CrossJustice Editor home screen.

Directive	Transposition
CHAPTER 1 SUBJECT MATTER AND SCOPE	
Article 1 Subject matter This Directive lays down common minimum rules concerning:	<input type="checkbox"/>
(a) certain aspects of the presumption of innocence in criminal proceedings;	<input type="checkbox"/>
(b) the right to be present at the trial in criminal proceedings.	<input type="checkbox"/>
Article 2 Scope This Directive applies to natural persons who are suspects or accused persons in criminal proceedings. It applies at all stages of the criminal proceedings, from the moment when a person is suspected or accused of having committed a criminal offence, or an alleged criminal offence, until the decision on the final determination of whether that person has committed the criminal offence concerned has become definitive.	<input type="checkbox"/>
CHAPTER 2 PRESUMPTION OF INNOCENCE	
Article 3 Presumption of Innocence Member States shall ensure that suspects and accused persons are presumed innocent until proved guilty according to law.	<input type="checkbox"/>
Article 4 Public references to guilt 1. Member States shall take the necessary measures to ensure that, for as long as a suspect or an accused person has not been proved guilty according to law, public statements made by public authorities, and judicial decisions, other than those on guilt, do not refer to that person as being guilty. This shall be without prejudice to acts of the prosecution which aim to prove the guilt of the suspect or accused person, and to preliminary decisions of a procedural nature, which are taken by	<input type="checkbox"/>

A separate window appears where on the left side is showed the text of the selected directive. The right side is intended for filling out by the editor, who can at any time press the “Save table” button and save the entered data so far, and fill out the rest of the table within subsequent logins. Below is provided a brief description of the structure of the tables, as well as what information should be entered in the separate fields.

- Directive 343/2016
- Directive 64/2010
- Directive 800/2016
- Directive 1919/2016
- Directive 13/2012
- Directive 48/2013

I. Directive

In the first field CrossJustice editors should choose the respective directive. From the available drop-down list, containing the short titles of the six directives within the scope of the Project, the editor should select the one for which the table is being completed. After the selection is made, the text of directive’s provisions automatically appears/changes on the left side of the screen.

II. Country

Next, the editor should indicate for which of the 11 Member States covered by the Project is the table being filled out. Depending on the user’s profile, this field shows only the country or the countries for which the respective project partner is responsible.

- Germany
- Portugal
- Romania
- Sweden

Editors of project partners who are responsible for several countries should select one of them from the drop-down list.

Example: EUI editors should select one of the four Member States available in the drop-down list.

III. Transposition types

On a case-by-case basis and at the discretion of the editor, correspondence may be introduced at the level of an entire article of the relevant directive or at the level of an individual structural element of the provision (paragraph, alinea, point, letter, indent, etc.) by clicking the On/Off button, which is accessible on each row in the right half of the table.

The highest level of indicating correspondence is article of a directive. The headings of the directives' subdivisions (chapters, titles, sections) do not have to be referenced and therefore On/Off button is not provided for them.

Filling in information about the specific structural element of the selected directive starts with the On/Off button activating a drop-down list, whereby the editor must select one of three possible values: **Explicitly Transposed**, **De facto/indirectly implemented** or **No national implementation**.

Directive 343/2016		Bulgaria		Save table	Directive 343/2016	
Directive			Transposition			
CHAPTER 1 SUBJECT MATTER AND SCOPE						
Article 1 Subject matter This Directive lays down common minimum rules concerning:			<input checked="" type="checkbox"/> Select transposition Type			
(a) certain aspects of the presumption of innocence in criminal proceedings:			<input type="checkbox"/> Explicitly transposed			
(b) the right to be present at the trial in criminal proceedings.			<input type="checkbox"/> De facto/indirectly implemented			
			<input type="checkbox"/> No national implementation (either officially nor de facto/indirect)			

When the relevant transposition type is selected, the options „Add National act“ and „Add Comment“ become active. For the third type of transposition – "No national implementation", the only possible option is „Add Comment“.

The three transposition types and the information about the corresponding national implementing measures that should be provided for each of these types are explained below, accompanied by examples.

1. Explicitly transposed

This hypothesis covers cases where, in order to transpose a provision of a directive, a Member State has explicitly adopted a specific new act and/or provision (respectively acts and/or provisions), or has adopted amendments to an existing act (acts).

For each provision of a directive the editor must indicate the relevant corresponding provision(s) of **the national act(s)** by which the provision of the directive is transposed into the national legal order of the respective Member State. "**National Act**" means a legislative instrument (law or regulation) published in the Official Journal of the Member State. When such a national act exists, the editor should use the "Add National act" option:

Directive	Transposition
CHAPTER 1 SUBJECT MATTER AND SCOPE	
Article 1 Subject matter This Directive lays down common minimum rules concerning:	<input checked="" type="checkbox"/> Explicitly transposed + Add Comment + Add National act
(a) certain aspects of the presumption of innocence in criminal proceedings:	<input checked="" type="checkbox"/>
(b) the right to be present at the trial in criminal proceedings.	<input checked="" type="checkbox"/>

In cases where the provision of the respective directive has been transposed through other types of implementing measures **different from a legislative instrument** (e.g. administrative, organisational, budgetary measures), the “Add comment” option should be used and these measures should be described in free text.

1.1. Adding a new national act („Add National act“)

The “Add National act” option opens a window in which the editor should complete the title of the act and its translation into English, a link to its publication on a freely accessible website and/or its European Legislation Identifier (ELI), where available. This way the act will be saved as a separate record, which after saving the information via the "Save table" button appears in the list of acts in the "Legislation" section of the CrossJustice Editor Tool.

In the first field (“Title of the national legal instrument”) the editor may select an act from the drop-down list or enter the title of a new act. The drop-down list shows the acts that have already been uploaded to the “Legislation” section of the CrossJustice Editor Tool. When such an act is selected, the information in the fields below will be filled in automatically.

Add national act ✕

Title of the national legal instrument *

Select or enter legislation ▼

codice di procedura penale

Select or enter legislation ▼

Link to the national legal instrument

ELI

✓ Save

➡

Add national act ✕

Title of the national legal instrument *

codice di procedura penale ✕ ▼

Title in English *

Criminal Procedure Code ✕ ▼

Link to the national legal instrument

https://www.normattiva.it

ELI



✓ Save

If the national legislative instrument is not present in the “Legislation” section, the editor will have to complete the required information in the fields below. After pressing the “Save” button the act will appear automatically in the “Legislation” section. The rules applicable to section “Legislation” and described in the CrossJustice Legislation Editor Manual must be followed when filling out these fields.

After saving the act, the editor could add more acts in the same way, if the relevant article of the directive or its structural element has been transposed by several national acts and/or their provisions.

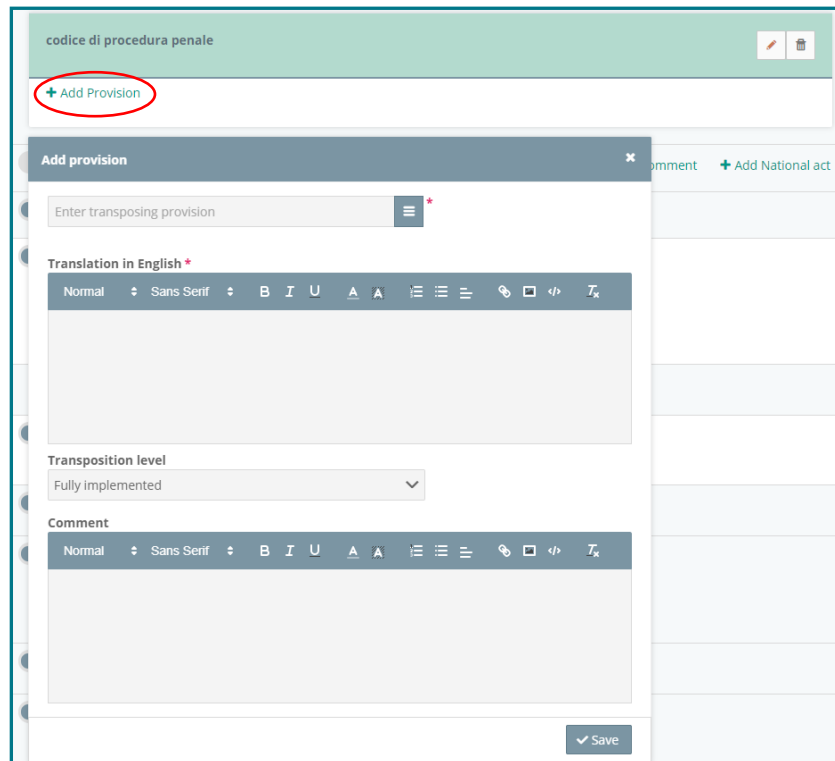
It is theoretically possible a single national act (with all its provisions) to transpose one provision of a directive. Then the editor will only enter information in the "Add national act" form and there will be no need to fill in the "Add provision" form described in the next section 1.2.

In such special cases, the editor may provide further clarification by using the general comment option (see section 1.3 “Add a general comment” below).

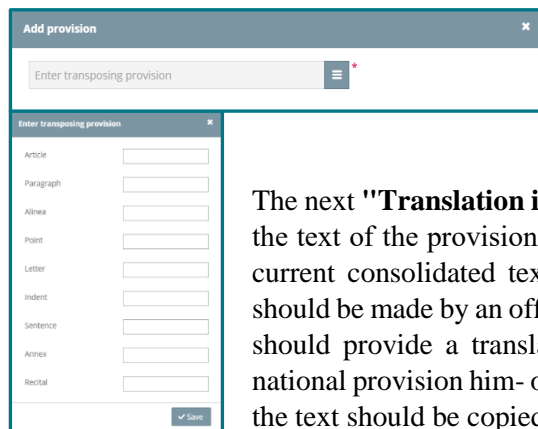
Once the national act information referred in section 1.1 is saved, the act will be displayed as a separate record in the green bar. By using the buttons to the right, the completed information about the act can be edited  or deleted. 

1.2. Adding a provision of a national act (“Add Provision”)

When the national act is indicated, the "Add provision" option to the left becomes active. It opens a new form in which the editor must enter the number of the provision, its text in English, the level of transposition (fully or partially implemented) and a comment when necessary.



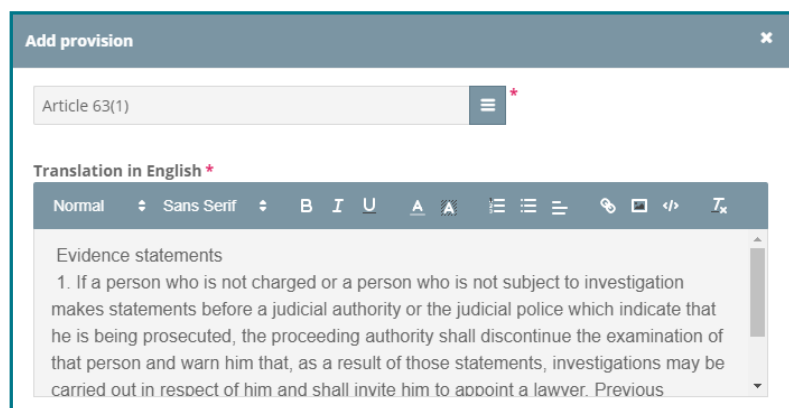
First in the „Add provision“ form is the required **“Enter transposing provision”** field. When it is clicked, a pre-set form appears in which the editor must fill in the exact number of the national provision. Depending on the citation criteria adopted in national law, the number of the provision and, where applicable, its structural elements (paragraph, alinea, point, letter, etc.) shall be entered. Where the number of the relevant



provision or its structural element contains a letter, it shall be recorded in accordance with the language and punctuation rules of the respective Member State.

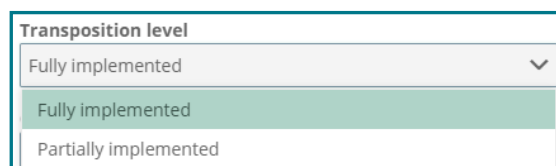
The next **“Translation in English”** field is also required. The editor must record there the text of the provision in English, in its latest revision. “Latest revision” means the current consolidated text of the provision, as amended. If possible, the translation should be made by an official governmental institution. If this is not possible, the editor should provide a translation from an unofficial source or translate the text of the national provision him- or herself. For acts already entered in the “Legislation” section, the text should be copied from this source.

Example: Entering Article 63, paragraph 1 codice di procedura penale:



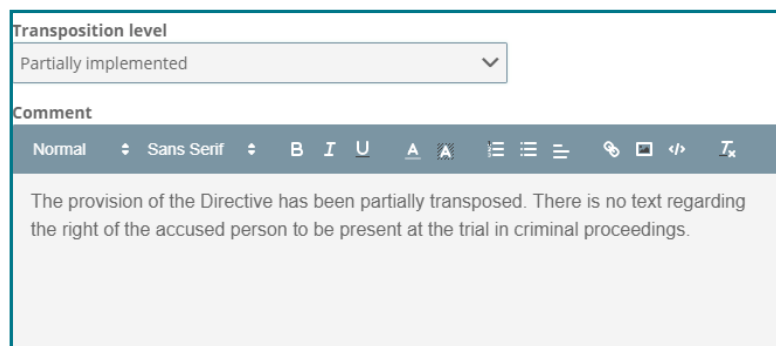
The screenshot shows a form titled "Add provision". The first field contains the text "Article 63(1)". Below it, the "Translation in English" field is active, showing a rich text editor with the text: "Evidence statements
1. If a person who is not charged or a person who is not subject to investigation makes statements before a judicial authority or the judicial police which indicate that he is being prosecuted, the proceeding authority shall discontinue the examination of that person and warn him that, as a result of those statements, investigations may be carried out in respect of him and shall invite him to appoint a lawyer. Previous".

The next field is the **“Transposition level”** field, in which the editor must select one of the two options on the drop-down list, depending on whether the provision of the directive is fully or partially implemented.



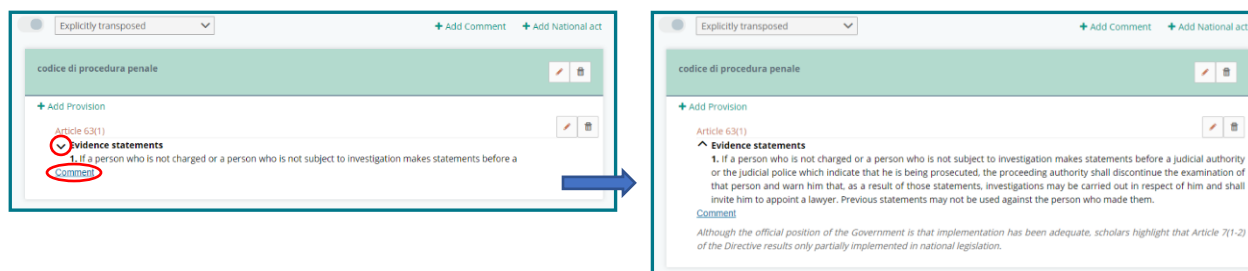
The screenshot shows the "Transposition level" dropdown menu. The current selection is "Fully implemented". The dropdown list is open, showing two options: "Fully implemented" (highlighted in green) and "Partially implemented".

The last field – “Comment”, is intended for adding a comment by the editor on the entered national transposing provision in particular. This field is optional and is left to the editor’s discretion. However, if “Partially implemented” is marked in the “Transposition level” field, the editor should use the comment box and describe in free text why the transposition is partial – which part of the provision of the directive is not implemented:



The screenshot shows the "Transposition level" dropdown menu set to "Partially implemented". Below it, the "Comment" field is active, showing a rich text editor with the text: "The provision of the Directive has been partially transposed. There is no text regarding the right of the accused person to be present at the trial in criminal proceedings."

Once the required fields are completed in the “Add provision” form, the system allows the record to be saved. After saving it, the filled in information is visualised in the way shown on the picture below to the left, with only the first text line of the provision appearing, while the comment made remains hidden:



The editor can view the full text of the provision and the comment by clicking the downwards arrow icon and the “Comment” link. Subsequent editing or deletion of the text of the provision entered is possible by using the respective buttons on the right.

The editor can further add a number of provisions through the “Add provision” option, if in the case in question the provision of the directive has been transposed by several provisions of the cited national act.

Thus, once all national acts and provisions transposing the respective structural element of the directive have been exhaustively listed, the editor can move on indicating the correspondence for the next structural element of the directive.

1.3. Add a general comment

Directive	Transposition
CHAPTER 1 SUBJECT MATTER AND SCOPE	
Article 1 Subject matter This Directive lays down common minimum rules concerning:	<input checked="" type="radio"/> Explicitly transposed + Add Comment + Add National act
(a) certain aspects of the presumption of innocence in criminal proceedings;	<input type="radio"/>
(b) the right to be present at the trial in criminal proceedings.	<input type="radio"/>

This option should be used in cases where the editor intends to make a general comment on the transposition of a particular article of a directive (or a structural element thereof), such as:

- Describing national implementing measures other than legislative acts (administrative, organisational, budgetary etc.) through which the requirements laid down by the relevant provision of the directive are being introduced into the national legal system of the Member State;
- Indicating that the provision of the directive has been transposed by the several national acts entered by the editor and making a general comment on the implementation rather than completing unnecessarily repetitive comments on each national implementing act;
- Clarifying that the provision of the directive has been transposed with the adoption of a whole new national act and therefore no provisions of that act are to be cited.

2. De facto/ indirectly implemented

The second type of transposition covers situations where a provision of a directive is not explicitly transposed, but de facto (indirectly) introduced into national law, since there is already a rule of law (or rules) governing the matter in question in accordance with that provision. In this case, editors should select the **De facto/ indirectly implemented** option from the drop-down list in the “Transposition type” field. As a result, the “Add National act” and “Add Comment” buttons appear.

<p>1. Member States shall take appropriate measures to ensure that suspects and accused persons are not presented as being guilty, in court or in public, through the use of measures of physical restraint.</p>	<div>De facto/indirectly implemented ▾</div> <div>+ Add National act</div> <div>Article 7(1-2) of the Directive seems fully implemented by the current provisions of the criminal procedure code</div> <div>Article 7(1-2) of the Directive results only partially implemented in national legislation/does not result implemented...</div> <div>Although the official position of the Government is that implementation has been adequate, scholars highlight that...</div> <div>Наказательно-процесуален кодекс</div> <div>+ Add Provision</div> <div>Article 15(3)(3)</div> <div>✓ Evidence statements</div> <div>1. If a person who is not charged or a person who is not subject to investigation makes statements before a judicial authority</div>
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The forms that opens after pressing the “Add National act” and “Add Comment” buttons should be filled out in accordance to the above described methodology in Section 1 “Explicitly transposed”.

3. *No national implementation (either officially nor de facto/indirect)*

In cases where CrossJustice editors have determined that a particular article / a structural element of an article of a directive has not been transposed into the national legal system of the respective Member State (i.e. legislative, administrative, organisational, budgetary or other measures have not been adopted), the **No national implementation (either officially nor de facto/indirect)** option should be selected from the drop-down list of the “Transposition type” field. Once this option has been selected, only the “Add Comment” button appears. The editor should enter a comment in the form that opens explaining the reasons for the absence of national implementing measures.

<p>CHAPTER 2 PRESUMPTION OF INNOCENCE</p> <p>Article 3 Presumption of Innocence Member States shall ensure that suspects and accused persons are presumed innocent until proved guilty according to law.</p>	<div>No national implementation (e... ▾)</div> <div>No implementation was deemed necessary by the legislator.....</div> <div>OR</div> <div>breach of EU law.....</div>
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