Report of the High-Level Forum on the Future of EU Criminal Justice

This report synthesises the discussions and the key insights raised by participants and should not be considered as representative of an official position of the EU institutions or of the Member States.

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List of Abbreviations/Acronyms

AI – Artificial Intelligence

CJEU – Court of Justice of the European Union

DG JUST – Directorate-General for Justice and Consumers, European Commission

EAW – European Arrest Warrant

EIO – European Investigation Order

EPPO – European Public Prosecutor's Office

EU – European Union

HLF – High-level Forum on the Future of EU Criminal Justice

JHA – Justice and Home Affairs

JITs – Joint Investigations Teams

TFEU – Treaty on the Functioning of the European Union

WP – Working Party

List of participants

Presidency of the Council of the EU

General Secretariat of the Council of the EU

European Parliament (LIBE Committee)

European Commission

European Anti-fraud Office (OLAF)

European Public Prosecutor's Office (EPPO)

European Union Agency for Criminal Justice Cooperation (Eurojust)

European Union Agency for Law Enforcement Cooperation (Europol)

European Judicial Network (EJN)

European Union Agency for the Operational Management of Large-Scale IT Systems (eu-LISA)

European Union Agency for Fundamental Rights (FRA)

Member States' representatives

European Criminal Bar Association (ECBA)

Council of Bars and Law Societies of Europe (CCBE)

Confederation of European Probation (CEP)

EuroPris

Fair Trials Europe

Representatives from academia

Practitioners

Introduction

Over the past two decades, the European Union has built a comprehensive and coherent legal and policy framework leading to the creation of a European area of criminal justice. Through the mutual recognition of judgments and judicial decisions, enhanced judicial cooperation, robust procedural safeguards and, where appropriate, approximation of laws, the EU has responded to evolving challenges - including cybercrime, terrorism, and cross-border organised crime - while seeking to maintain high standards of fairness, effectiveness, and resilience within national justice systems.

As the EU embarked on a new institutional cycle at the end of 2024, it was considered crucial to assess the state of play and define strategic priorities for the years ahead. The new mandate of the European Commission offered the right momentum to shape a forward-looking agenda that is responsive to emerging threats, legal and technological developments, and the evolving expectations of citizens and practitioners alike.

The groundwork for this reflection had started already in the Council's Strategic Guidelines and Council discussions on key aspects of EU criminal justice, such as model provisions, mutual recognition instruments, and the digitalisation of justice.

Building on these foundations, the Commission, together with the Polish EU Council Presidency, decided to launch the first High-Level Forum on the Future of EU Criminal Justice (HLF), in February 2025, with a view to taking stock of the progress made so far and to building a shared vision of the future for EU criminal justice. Such vision should respond to the ever-changing challenges that stem from serious criminal activities and enable a more effective fight against crime throughout the prosecution chain.

The Forum gathered more than 100 participants, including high-level representatives of the Member States, the Commission, the Council, the European Parliament, relevant EU bodies and agencies, as well as various external stakeholders, namely representatives from academia, practitioners, defence lawyers' associations, civil society and other organisations/networks. The four plenary meetings were co-chaired by the Commission and the rotating Presidency of the Council of the EU, having been initiated under the Polish Presidency and continued under the Danish Presidency.

The main objective of the High-Level Forum was to gather input and have a better understanding of the priorities of all relevant stakeholders who were invited to share their views on important issues for the future of EU criminal justice. It is important to emphasise that the High-Level Forum was not a decision-making body, nor was it intended to replace existing institutional mechanisms, including impact assessments, but served as a platform for consultations on the basis of discussion papers prepared by the Commission and the exchange of perspectives to help shape a shared vision for future action.

The High-Level Forum focused on four interrelated priority areas set by the Commission:

- **Substantive criminal law**: addressing newly emerging threats and ensuring that the existing rules are coherent, up-to-date, and effective;
- **Procedural criminal law**: enhancing judicial cooperation across borders, strengthening mutual recognition, and proposing further minimum rules on the protection of individual rights where necessary for strengthening mutual recognition;
- **Digitalisation of criminal justice:** leveraging technological advances to strengthen justice systems while safeguarding due process and fundamental rights;

- **EU agencies and bodies:** strengthening the role of Eurojust, Europol and the EPPO and enhancing consistency of their mandates as well as cooperation and coordination among them.

The High-Level Forum was organised around four plenary meetings, held throughout 2025, each preceded, where necessary, by targeted technical meetings to prepare the discussions. In particular:

- The first plenary, held on 4 and 5 March 2025, focused on substantive and procedural criminal law, identifying recent developments, gaps, and opportunities for greater coherence, effectiveness, and rights protection across the EU.
- The second plenary of 20 and 21 May 2025 addressed the subjects of mutual recognition, digitalisation, and the role of EU institutions, agencies, and bodies, laying the groundwork for deeper discussions on how these tools and actors can better support judicial cooperation and system interoperability.
- The third plenary of 1 and 2 October 2025 revisited selected topics (i.e. the future of the EU Anti-fraud Architecture, EU rules on pre-trial detention and material detention conditions, and the enhancement of ex-third pillar instruments) based on stakeholder feedback, providing an opportunity for follow-up discussions and initial convergence on potential policy directions.
- The fourth and final plenary of 1 December 2025 was dedicated to concluding the work of the High-Level Forum, including by adopting this final report.

This report synthesises the key insights, priorities, and policy directions raised by participants. It aims to reflect the various, sometimes contradictory views expressed during the meetings and to provide a reflection for continued dialogue among EU institutions, bodies, offices and agencies and external stakeholders, namely representatives from academia, practitioners, defence lawyers' associations, civil society and other organisations/networks, committed to a modern, fair, and resilient European criminal justice area, and to complement other important discussions held in different fora. It does not represent an official position of the EU institutions or of the Member States and is not intended to constitute the basis for possible future legislative initiatives, nor to prejudice the Commission's right of initiative for future action. Wherever the Commission decides to take action, such action will be accompanied by the necessary impact assessments.

Chapter 1 – Substantive Criminal Law

The landscape of EU substantive criminal law has undergone significant changes in recent years, notably following the new legal framework introduced by the Lisbon Treaty. Such framework is founded on the principle of mutual recognition and has equipped the EU with enhanced mechanisms to develop and, where appropriate, approximate criminal law across Member States, promoting a more cohesive and effective approach to tackling cross-border crime, notably in the areas of particularly serious crime covered by Article 83(1) TFEU[1] and where it is essential to ensure the effective implementation of EU policies pursuant to Article 83(2) TFEU.

In an era defined by rapid technological advancement and increasingly sophisticated criminal activities, the EU faces the pressing need to combat emerging threats that transcend national borders. Furthermore, the new geopolitical scenario has further highlighted the importance of a unified EU approach in specific areas of substantive criminal law. In addition, as also outlined in the Commission's 'ProtectEU Strategy'[2], serious and organised crime stands among the most urgent and fast-changing security challenges across the EU. Criminal networks are becoming increasingly active online due to fast-moving technology, the rise of digital tools, and growing global instability. In this complex and multi-faceted scenario, national efforts can be further complemented at the EU level to provide meaningful protection to citizens. At the same time, criminal law, both at national and at the EU level, can only be used as a last resort, when other less intrusive means, including actions on crime prevention, prove to be ineffective, and in line with the principles of proportionality and subsidiarity.

Against this background, the HLF reflected on the possible need to update and/or go beyond the existing EU *acquis* in the field of substantive criminal law to ensure that our criminal justice systems remain effective and resilient in the face of evolving challenges and crime trends. Discussions focused on some horizontal considerations on the EU's approach to criminal justice in the future, as well as on several areas of crime in which EU action could have an added value.

First, participants overall stressed the need to continue the efforts to ensure a coherent and consistent approach when developing EU criminal law. In that sense, Member States recalled that this ambition builds upon Council Conclusions on the acquis from 2002 and 2009. In addition, already in a 2011 Communication[3], the Commission also outlined the principles that should guide EU criminal legislation (notably necessity, proportionality, *ultima ratio*) and highlighted the need that such legislation, in order to have a real added value, is to be kept consistent and coherent. Member States' representatives overall strongly supported the continuation of relevant exchanges on this topic, e.g. in the context of the Council-led discussions on the "model provisions" started under Belgian EU Council Presidency in June

[1] Such areas include terrorism, trafficking in human beings and sexual exploitation of women and children, illicit drug trafficking, illicit arms trafficking, money laundering, corruption, counterfeiting of means of payment, computer crime, organised crime and, further to Council Decision (EU) 2022/2332, the violation of Union restrictive measures. All of these areas, except for illicit arms trafficking, have already been subject to criminal law approximation measures.

[2] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions *on ProtectEU: a European Internal Security Strategy*, COM/2025/148 final.

[3] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *Towards an EU Criminal Policy: Ensuring the effective implementation of EU policies through criminal law*, COM(2011) 573 final, 20.9.2011.

2024 and continued under the Hungarian EU Council Presidency with a report issued in December 2024 and under the Polish and Danish EU Council Presidencies, with a view to achieving more consistency and coherence across EU criminal law initiatives. The Council is expected to adopt its 'Conclusions on Model provisions for EU criminal law' at the upcoming JHA Council on 8-9 December. The exchanges on the draft model provisions were followed up also in the European Parliament: they were discussed by the political groups and the outcome thereof was endorsed at political level. Emphasis was put on the fact that any model provisions for EU criminal law should remain of a flexible, non-binding nature, as they cannot affect the prerogatives of the EU institutions.

Second, Member States overall underscored the importance of focusing on ensuring the proper implementation and effective application of the existing EU *acquis*.

Underlining the need to follow an evidence-based approach for future legislative initiatives, the HLF first explored the possible need to revise existing EU criminal law instruments. In this context, most participants expressed openness for looking into a revision of the 2008 Framework Decision on the fight against organised crime, especially with regard to the possible need for updated minimum rules on the definitions and criminal offences as well as effective, proportionate and dissuasive penalties, with some participants strongly in favour of a revised legal framework to effectively combat criminal organisations. Some Member States' representatives also expressed openness to revise the 2004 Framework Decision on drug trafficking; in this regard, in particular some Member States' representatives highlighted the need to await the conclusions of the 11th cycle of mutual evaluations to ensure that any legislative initiative is based on factual analysis.

With regard to the PIF Directive, Member States' representatives overall also expressed caution about the necessity of revising it at this stage, preferring to await the outcome of the ongoing negotiations of the Anti-corruption Directive and the third report of the PIF Directive, while acknowledging the need to ensure coherence between legislative instruments.

Some participants, including some Member States' representatives and academics, also referred to the need for EU criminal law to address the challenges raised by AI. Besides the need to assess whether existing instruments are fit-for-purpose in addressing crimes committed by means of AI tools, some participants expressed an interest in further exploring the possible added value of a legislative instrument tackling AI-enabled crimes (e.g. the use of deepfakes) as well as the question of whether national systems are adequately equipped to regulate criminal liability in AI settings. In this context, participants overall expressed the view that criminalisation should be technologically neutral and that criminal provisions should be flexible enough to apply to prohibited conduct regardless of the technology used.

Furthermore, the HLF suggested to combine a security-centered approach with a value-based approach in EU criminal law. To this end, participants from academia and defence lawyers' associations especially recalled the need to focus on the adoption of EU criminal law Directives as a means of safeguarding and upholding the EU values as set out in Article 2 TEU. In particular, many participants, including both the majority of Member States' representatives and external stakeholders, stressed the need to resume discussions on the criminalisation of hate speech and hate crime at EU level. Given the absence of progress on a Council decision extending the list of 'EU crimes' under Article 83(1) TFEU to include hate speech and hate crime, the Commission is considering a legislative initiative to approximate the definition of hate offences committed online based on the existing areas of crime listed in the Treaty. In this regard, the Fundamental Rights Agency (FRA) referred to the outcome of their large-scale surveys showing the impact of hate victimisation on a wider range of grounds than the ones

currently referred to under EU law[4]. At the same time, representatives from academia stressed the importance to reflect the delicate balance between hate speech offences and the right to freedom of expression. Furthermore, while a few Member States' representatives expressed interest in considering the possible criminalisation of certain aspects of gender-based violence, others highlighted the possible lack of a cross-border element. In this regard, FRA pointed to the key results of the EU gender-based violence survey published by Eurostat, FRA and EIGE, showing the overall prevalence of violence against women in the EU[5].

In addition, external stakeholders and some Member States' representatives also mentioned foreign interference in the EU democratic process, including sabotage of critical infrastructure, as an area where further reflection on possible criminalisation measures would be desirable.

The HLF also discussed the possible need to criminalise violations of intellectual property rights, a topic that found support for possible further initiatives by a few Member States as regards the counterfeiting of medical products, and provided that any such initiatives are supported by an evidence-based approach and fully respect the principle of proportionality.

With a view to ensuring that the EU framework continues to provide meaningful protection to EU citizens and enhance clarity and coherence in the existing and future initiatives, the HLF reflected on the importance of:

1. Focusing on the correct implementation of the existing EU acquis in this area and ensuring consistency and coherence among future criminal law legislative initiatives, including by bringing forward the discussions on the model provisions for EU criminal law.
2. Exploring whether the existing EU substantive criminal law *acquis* is still fit-for-purpose in view of the new AI tools and developments, and, if not, whether there is a need to adapt existing EU legislation or, where necessary, adopt new EU legislation to tackle AI-enabled crime.
3. Considering the possible need and adequacy of the legal bases to adopt new EU criminal law initiatives to uphold the respect of the EU values, notably in the area of hate offences, and possibly also regarding certain aspects of gender-based violence and foreign interference in the EU democratic system.
4. Exploring the possible need to criminalise the violations of intellectual property rights, notably regarding the counterfeiting of medical products.
5. Considering the views expressed by the HLF and in the context of the 11th cycle of mutual evaluations in view of the Commission's legislative proposal for modernised rules on organised crime and in the evaluation of Council Framework Decision 2004/757/JHA laying down minimum provisions on the constituent elements of criminal acts and penalties in the field of illicit drug trafficking.
6. Exploring the possible adoption of non-legislative measures to promote and support the action of the Member States in the field of crime prevention, including on the basis of Article 84 TFEU.

[4] FRA surveys on hate (and discrimination) affecting different minority groups, including rates of reporting hate-motivated crime, include surveys on: *Anti-Muslim Hatred (*2024, 2017*)*; *Antisemitism (*2024, 2018, 2013*)*; *People of African descent (*2023, 2018); *LGBTIQ people (*2024, 2020, 2013); and *Roma and Travellers (2024,* 2021, 2019, 2011).
[5] Eurostat-FRA-EIGE (2024), EU gender-based violence survey - Key results.

Chapter 2 – Judicial Cooperation and Mutual Recognition in Criminal Matters

Effective judicial cooperation lies at the heart of the European Union's Area of Freedom, Security and Justice. Strengthening mutual recognition of judgments and judicial decisions in criminal matters, while ensuring robust protection of fundamental rights, is vital for the effective investigation and prosecution of crime and the delivery of justice.

While recent developments have significantly enhanced operational capacity and law enforcement cooperation, stakeholders have on various occasions drawn attention to the need to reinforce the judicial dimension of cross-border cooperation, by addressing existing gaps and enhancing coherence across existing instruments.

Against this background, while acknowledging that the EU has already developed a robust legal framework in the field of judicial cooperation, the HLF engaged in reflections on whether existing instruments fully deliver on their objectives and remain fit in a post-Lisbon framework.

Feedback and exchanges of views were initiated in the first and second plenary sessions and continued in the third, with particular focus on ex-third pillar instruments, in light of the preliminary results of the Commission's study on their modernisation.

The HLF discussions focused on the possible need to address operational gaps, opportunities presented by new technologies and legal challenges posed by older legal instruments through a combination of targeted legislative refinements and practical, non-legislative solutions.

Regarding a possible targeted revision of the EIO, Member States' representatives generally supported amendments clarifying the issues presented in the final report on the Council's 10th round of mutual evaluations and the recommendations of the High-Level Group (HLG) on access to data for effective law enforcement. In particular, the use of technical tracking devices and devices recording communications and the interception of telecommunications were mentioned by several Member States as areas requiring action. Defence lawyers' associations and representatives from academia also proposed reinforcing the role of defence rights in cross-border investigations, introducing dual legal representation and ensuring that proportionality aspects are taken into account when resorting to judicial cooperation instruments, so that the use of EIO should be favoured instead of more coercive measures such as the EAW, as well as the introduction of a rule of speciality. No general consensus was however expressed with respect to these considerations, and some Member States expressly flagged that the EIO and the EAW have distinct and non-interchangeable objectives.

On the introduction of new rules governing the use of videoconference for remote participation in court hearings in cross-border cases, the majority of Member States supported the establishment of such rules for suspects and accused persons who are present in another Member State, while a small number of Member States showed scepticism on establishing rules for this purpose, specifically with regard to fundamental national procedural principles regarding the right to be present at trial and the limited exceptions to these principles. Attention was drawn both by some Member States' representatives and other stakeholders, namely defence lawyers' associations and civil society, to the importance of ensuring that fundamental rights, equality of arms, and the integrity of judicial proceedings are fully respected when using digital tools. Among those Member States that supported rules on the virtual participation in court hearings, some stressed that national courts must have the discretion to decide whether remote participation through the use of videoconference is appropriate or not in a specific case.

Moreover, some called for embedding such rules within the EIO framework, while others preferred a separate regulatory approach.

Concerning further legislative needs, the Member States' representatives generally agreed on the importance of prioritising the implementation of the existing *acquis*. Nevertheless, a few Member States highlighted additional areas where further legislative or policy development could support more effective judicial cooperation in criminal matters. These included, depending on the Member State, ensuring the full enforceability of confiscation orders, particularly in relation to unexplained wealth; facilitating access to real-time communications; and providing rules for cross-border asset recovery during the execution phase. More generally, many Member States' representatives called on the Commission to take action on data retention to ensure lawful and effective access to data. Defence lawyers' associations and one Member State's representative also raised the need for the establishment of mechanisms for the effective cross-border service of summons and related procedural documents.

As concerns the EAW Framework Decision, since the instrument is largely seen as functioning well, the vast majority of Member States' representatives considered that a revision of the EAW is not necessary, with only few Member States being open to discuss a possible targeted revision. The large majority of Member States considered that the Framework Decision itself and the extensive and evolving case law of the CJEU already provides the necessary flexibility and ensures fundamental rights' protection, making thus legislative revision unnecessary, and favoured non-legislative measures such as updates to the EAW handbook, whenever justified, updates of the Eurojust overview of case-law of the CJEU on the EAW, and enhanced trainings to address potential practical issues. Defence lawyers' associations, representatives from academia and civil society nevertheless stressed the need for a more ambitious review, highlighting in particular proportionality concerns and the development of alternatives to the EAW. Defence lawyers' associations and civil society also sought clear and codified grounds for refusal based on the breach of fundamental rights. FRA referred to the findings of its research confirming the need for clarity on proportionality and refusals based on a breach of fundamental rights[6]. The European Parliament stressed that already in 2014 it requested a legislative initiative to remedy and clarify certain aspects of the EAW, and to make sure less intrusive measures are given precedence in judicial cooperation[6].

With regard to other pre-Lisbon detention framework decisions[7], a clear consensus emerged among the Member States and other stakeholders that implementation and soft-law measures must be intensified to improve coherence. Around one third of the Member States, as well as defence lawyers' associations and representatives from academia called for or were open to discuss the modernisation of the other detention-related Framework Decisions, with some

[6] European Parliament resolution of 27 February 2014 with recommendations to the Commission on the review of the European Arrest Warrant (2013/2109(INL)).

[7] Namely:

- Council Framework Decision 2008/909/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union, OJ L 327, 5.12.2008;
- Council Framework Decision 2008/947/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments and probation decisions with a view to the supervision of probation measures and alternative sanctions, OJ L 337, 16.12.2008;
- Council Framework Decision 2009/829/JHA of 23 October 2009 on the application, between Member States of the European Union, of the principle of mutual recognition to decisions on supervision measures as an alternative to provisional detention, OJ L 294, 11.11.2009;
- Council Framework Decision 2008/675/JHA of 24 July 2008 on taking account of convictions in the Member States of the European Union in the course of new criminal proceedings, OJ L 220, 15.8.2008.

supporting targeted revisions to improve efficiency and consistency of, for example, the Framework Decision on the transfer of prisoners, while other Member States noted that better implementation, awareness, and non-legislative measures should take priority over legislative change. A large number of Member States indicated that they would need to await the full results of the Commission Lisbonisation Study to be able to define their position.

As concerns the Framework Decision on financial penalties, a majority of Member States called for or were open to targeted amendments, mainly to address scope, proportionality and procedural rights issues, with several calling for excluding road traffic offences. A smaller group of member States argued that no legal gap exists and preferred to wait for the implementation of the CBE Directive[8] before considering changes.

As concerns the Framework Decision on conflicts of jurisdiction, the large majority of Member States opposed binding criteria for solving conflicts of jurisdictions, favouring Eurojust guidelines, recommendations, and better data-sharing, also considering the recent adoption of the Regulation on the transfer of proceedings in criminal matters[9]. Eurojust also underlined that its casework shows that Framework Decision 2009/948/JHA[10] is a valuable tool often relied upon in case of parallel proceedings. Defence lawyers' associations and representatives from academia, on the other hand, called for the establishment of a comprehensive binding instrument on the prevention and settlement of conflicts of jurisdiction for legal clarity and coherence. They noted that the existing approach based on voluntary consultations among national judicial authorities under Eurojust's coordination, as provided by Framework Decision 2009/948/JHA [11], creates uncertainty and limits the ability of the defence to anticipate or challenge jurisdictional decisions.

Finally, the Joint Investigation Teams (JITs) framework was generally considered to function well in practice and, at this stage, not to require further forward-looking developments. Defence lawyers' associations, representatives from academia and civil society nonetheless noted that a clearer legal framework on the law applicable to JITs should be established, together with firm safeguards in terms of access to documentation with respect to the establishment and operation of JITs.

[8] Directive (EU) 2024/3237 of the European Parliament and of the Council of 19 December 2024 amending Directive (EU) 2015/413 facilitating cross-border exchange of information on road-safety-related traffic offences, OJ L, 2024/3237, 30.12.2024.
[9] Regulation (EU) 2024/3011 of the European Parliament and of the Council of 27 November 2024 on the transfer of proceedings in criminal matters, OJ L, 2024/3011, 18.12.2024.
[10] Council Framework Decision 2009/948/JHA of 30 November 2009 on prevention and settlement of conflicts of exercise of jurisdiction in criminal proceedings, OJ L 328, 15.12.2009.
[11] *Ibid.*

With a view to enhancing effective judicial cooperation in criminal matters, identifying new areas of action and ensuring better clarity and coherence in the existing tools, the HLF reflected on the importance of:

1. Examining targeted amendments to the EIO Directive, in line with the outcome of the 10th round of mutual evaluations and possibly taking into account the recommendations of the High-Level Group on Access to Data.
2. Exploring, after identifying the appropriate instrument, rules on remote participation via videoconference in cross-border court hearings for suspects and accused persons, while fully respecting fair trial guarantees and the principle of immediacy, through the development of robust and approximated procedural safeguards, appropriately adapted to the specificities of videoconferencing.
3. Highlighting the already effective and well-functioning system of the EAW, but considering to further strengthen the effectiveness of the functioning of the EAW Framework Decision by prioritising and enhancing preferably non-legislative measures, including continuous updates to the EAW guidelines and handbook and enhanced trainings. Reflections will continue on additional ways to further enhance the functioning of the EAW in the future.
4. Improving coherence of the pre-Lisbon Framework Decisions via targeted amendments of the Framework Decisions or via non-legislative measures taking into account the findings of the Lisbonisation Study.
5. Maintaining an open dialogue and examining the opportunity to develop rules for cross-border investigations for the purpose of asset recovery in the execution phase, as well as the other topics mentioned in the discussions.
6. Pursuing, as a matter of legislative priority, the preparation of an Impact Assessment on the need for EU rules on data retention.

Chapter 3 – Procedural Safeguards in criminal proceedings

Since 2010, the EU has adopted six directives on procedural safeguards for suspects and accused persons[12], based on Article 82(2)(b) TFEU, which provides for minimum rules at EU level on the rights of individuals in criminal proceedings to the extent necessary to facilitate mutual recognition of judgments and judicial decisions and police and judicial cooperation in criminal matters having a cross-border dimension. Such rules shall take into account the differences between the legal traditions and systems of the Member States. The implementation of the principle of mutual recognition of judgments and judicial decisions in the EU's Area of Freedom, Security and Justice relies on the premise that Member States trust one another's criminal justice systems. The process of adopting minimum rules on procedural rights in the Member States, following the Stockholm Programme, served this precise purpose.

In addition to legally binding instruments, the European Commission has adopted three non-binding recommendations to further enhance procedural safeguards, notably on safeguards for vulnerable persons[13], on legal aid[14], and on material detention conditions and pre-trial detention[15].

All these instruments in essence contribute to ensuring the right to a fair trial and the rights of defence as enshrined in Article 6 of the European Convention of Human Rights and by Articles 47 and 48 the Charter of Fundamental Rights of the European Union in all Member States.

Looking ahead, in the broader effort to improve judicial cooperation and address remaining gaps in the current framework, the advancement of this acquis on procedural safeguards is considered important, both by ensuring its full and effective implementation and by identifying and addressing areas where protection remains inconsistent or insufficient and further action appears necessary. This also requires building a coherent short- to long-term vision for the future of criminal procedural law in the EU, ensuring that the framework remains fit for purpose and responds to new realities in an evolving legal and technological landscape.

Against this background, the HLF reflected on the possible need to update the existing EU acquis in the field of procedural criminal law to ensure that the EU procedural rights framework remains effective in meeting emerging needs. This is essential for strengthening mutual trust among Member States, facilitating cooperation in cross-border criminal matters and upholding

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[12] Namely:
- Directive 2010/64/EU on the right to interpretation and translation in criminal proceedings, OJ L 280, 26.10.2010.
- Directive 2012/13/EU on the right to information in criminal proceedings and access to the case file, OJ L 142, 1.6.2012.
- Directive 2013/48/EU on the right of access to a lawyer and communication with third persons while deprived of liberty, OJ L 294, 6.11.2013.
- Directive (EU) 2016/343 on the strengthening of certain aspects of the presumption of innocence and the right to be present at the trial, OJ L 65, 11.3.2016.
- Directive (EU) 2016/800 on procedural safeguards for children who are suspects or accused persons; and Directive (EU) 2016/1919 on legal aid, OJ L 297, 4.11.2016.

[13] Commission Recommendation of 27 November 2013 on procedural safeguards for vulnerable persons suspected or accused in criminal proceedings, OJ C 378, 24.12.2013.

[14] Commission Recommendation of 27 November 2013 on the right to legal aid for suspects or accused persons in criminal proceedings, OJ C 378, 24.12.2013. To be noted that the Recommendation on legal aid has been superseded by the above-mentioned Directive 2016/1919 on legal aid for suspects and accused persons in criminal proceedings and for requested persons in European arrest warrant proceedings.

[15] Commission Recommendation (EU) 2023/681 of 8 December 2022 on procedural rights of suspects and accused persons subject to pre-trial detention and on material detention conditions, OJ L 86, 24.3.2023.

fundamental rights, while taking into account the differences between the legal traditions and systems of the Member States.

Discussions focused on the general framework for the protection of fair trial rights and specifically addressed: safeguards for vulnerable suspects or accused persons in criminal proceedings, pre-trial detention and detention conditions, the protection of legal professional privilege, the rights of defence during investigations, in particular procedural safeguards during specific investigative measures such as house searches, as well as mutual admissibility of evidence and related rights of defence.

In general, Member States' representatives firmly held that the existing framework for the protection of procedural safeguards is sufficient and does not require the adoption of any further minimum rules at legislative level. Member States emphasised that existing issues, including with respect to prison overcrowding and detention matters, are structural operational challenges that must be addressed primarily at national level. In particular, the Member States considered that legislative action in this area risks being disproportionate and undermine national procedural autonomy. On the other hand, other stakeholders (representatives from academia, defence lawyers' associations, and civil society) viewed further minimum rules at EU level as essential for the effective functioning of judicial cooperation, in compliance with the evolution of fundamental rights standards, and referred to recent case law of the CJEU. In particular, representatives from academia and defence lawyers' associations urged for the need to cover existing gaps with binding legislation, to adapt the EU procedural rights acquis to the digital developments and to create new, specific rights fit for the use of digital tools in criminal proceedings. This includes, for instance, tackling the potential use of AI-generated or AI-produced evidence by law enforcement and prosecutorial authorities.

With regard to possible rules on procedural safeguards for vulnerable adults, Member States' representatives were open only to additional non-legislative measures to increase awareness and proper follow-up to the current Commission Recommendation, citing legal uncertainty regarding the definition of vulnerability and the lack of a clear legal basis for binding EU rules. One Member State's representative showed openness to other options to strengthen the protection of vulnerable adults. Representatives from civil society strongly advocated for binding safeguards and FRA highlighted that their 2019 research on the rights of suspects and accused persons shows particular challenges for vulnerable persons in practice. The Member States considered that further analysis of the extent to which the Recommendation's has been followed up by the Member States, in addition to the 2023 Commission Study[16] on this subject, could support new discussions on the topic, if significant shortcomings are identified.

With regard to possible rules on pre-trial detention and material detention conditions, on one side the Member States unanimously agreed that neither approximation nor further oversight on detention matters is necessary at EU level. The majority of Member States raised doubts on the existence of a sufficient legal basis to regulate detention matters, which should remain within their procedural autonomy, arguing that the absence of harmonised rules does not negatively affect the functioning of mutual recognition instruments. In relation to material detention conditions more specifically, a few Member States pointed out that it may be doubtful whether there is a legal basis for regulating this matter at EU level. The majority of Member States nonetheless expressed openness to further non-legislative measures, such as guidelines, best practices and project financing. The need to focus on the effective follow-up to the 2022

[16] Procedural safeguards for vulnerable adults who are suspects or accused persons in criminal proceedings (exploratory study) – Final report, Publications Office of the European Union, 2023, https://data.europa.eu/doi/10.2838/70502.

Recommendation on detention conditions and pre-trial detention was also mentioned. A few Member States signalled openness to enhance cross-border cooperation, especially in relation to cooperation on alternatives to detention such as electronic monitoring. Other stakeholders also supported this suggestion, as it has the potential to decrease the existing over-use of pre-trial detention by some Member States in cross-border cases. On the other side, representatives from academia, defence lawyers' associations and civil society strongly defended the existence of an EU legal basis for action, and an urgent need for binding EU standards of protection, presenting evidence of shortcomings in Member States' legislation on detention and the insufficiency of existing soft law measures and preventive mechanisms at Council of Europe level. FRA presented findings from its detention database, showing that while national standards may be legally aligned, no Member State fully complies with them in practice: it stressed the need for regular data collection on the actual implementation of rules and for sharing promising practices among the Member States. The European Parliament referred to its 2014 resolution calling for the establishment, through legislative action, of common measures to improve detention standards and ensure the proper administration of prisons, underlining in particular the need to cater for the needs of vulnerable detainees such as minors[17].

With regard to possible adoption of minimum rules for the protection of legal professional privilege, representatives from academia and defence lawyers' associations considered binding rules for this purpose necessary at EU level, especially considering the need for protection of privileged information in a context characterised by the volatile nature of digital evidence. The large majority of Member States considered legislative action in this area unnecessary. Some Member States however showed openness to non-legislative measures, for example in the form of a compilation of the case-law of the CJEU and/or guidance on its interpretation.

As concerns possible minimum rules on specific procedural safeguards when intrusive investigative measures are carried out, such as during house searches, representatives from academia and defence lawyers' associations signalled a lack of clarity in the existing framework regarding intrusive investigative measures as well as wide divergences in national systems. The majority of Member States firmly held that this area does not necessitate further EU rules, arguing that it should remain under national procedural autonomy.

As concerns admissibility of evidence in cross-border cases, the overwhelming majority of Member States' representatives expressed firm and unequivocal opposition to any EU-level legislative action arguing that such matters are deeply embedded in national legal traditions and constitutional frameworks, thereby belonging to fundamental aspects of national criminal justice systems and must therefore remain under exclusive national competence. These Member States emphasised that there is no demonstrable need for minimum rules in this area. They pointed out the absence of compelling evidence or practitioners' remarks indicating that the lack of common rules creates obstacles in the practical application of judicial cooperation instruments. On the contrary, they argued that non-legislative actions, such as strengthening the European Judicial Network's (EJN) interactions and promoting direct best practice exchanges between national practitioners, can better serve the effective functioning of judicial cooperation instruments. Moreover, they pointed out that all Member States are already bound by the existing case-law of the CJEU and ECtHR, which lays down minimum requirements of admissibility and is constantly evolving. Eurojust also noted that their casework does not show evidence of issues due to the lack of such rules. However, other participants, notably representatives from academia, defence lawyers' associations, civil society and a few Member

[17] European Parliament resolution of 27 February 2014 with recommendations to the Commission on the review of the European Arrest Warrant (2013/2109(INL)).

States, flagged the existence of practical issues and expressed strong support for legislative action in this area. In the context of evidence-gathering measures, it was underlined that ensuring proper protection of fundamental rights is essential, in particular having regard to the position of the defence in criminal proceedings, and this in turn would enhance mutual trust and effective mutual cooperation. These other stakeholders also mentioned that while the CJEU clarified some minimum requirements in recent case-law on data retention, these are not sufficient in addressing all elements necessary in criminal cross-border proceedings. Moreover, the European Parliament recalled its 2020 plea on the need to assess the feasibility of instruments on the admissibility of evidence, particularly in view of facilitating the mutual recognition of judgments. The discussions showed that the practical implications of the absence of admissibility rules are not shared by all participants. Existing studies and the additional data collected following the discussions during the first plenary meeting did not yield conclusive findings on this matter, nor was the case made yet on the impact on EPPO's work. The coordinating role of Eurojust in addressing issues related to the admissibility of evidence was underlined by some Member States.

During the HLF, additional points were also raised to reflect on the need to revisit or complement the EU procedural rights acquis in light of technological developments. This includes both the digitalisation of existing rights, and the potential creation of new, specific rights fit for the opportunities and challenges of the digital age. In particular, concerns were expressed by representatives from academia and defence lawyers' associations about the potential use by law enforcement and prosecutorial authorities of evidence generated or processed with the help of AI tools, and the corresponding need to ensure that the defence is granted appropriate rights to challenge the reliability and validity of such evidence (see also Chapter 3).

To ensure the effective protection of procedural rights while facilitating judicial cooperation and prosecution efficiency, the HLF reflected on the importance of:

1. Continuing to follow-up on measures taken by Member States in relation to the 2013 Recommendation on procedural safeguards for vulnerable persons.
2. Focusing on the effective follow-up to the 2022 Commission Recommendation on detention and exploring further soft law measures, such as guidelines, best practices, project financing to support the Member States on detention related matters, or cross-border cooperation instruments on alternatives to detention such as electronic monitoring.
3. Exploring non-binding measures on the protection of legal professional privilege, with the aim of providing guidance on its interpretation at EU level, including by compiling the case-law of the CJEU, without prejudice to continuing examining the need for possible legislative action.
4. Exploring non-binding actions on evidence gathering and admissibility of evidence in cross-border cases, with the aim of providing guidance on its interpretation at EU level, including by compiling the case-law of the CJEU, enhancing the exchange of best practices between practitioners, and optimising the coordinating role of Eurojust.
5. Continuing to examine the need for further updates of the procedural rights acquis linked to new technological developments, including with respect to recourse to AI-generated/produced evidence, with the aim of ensuring effective protection of defence rights in cross-border contexts, while maintaining the effectiveness of investigations (see also Chapter 3).

Chapter 4 – Digitalisation of Criminal Justice

As already mentioned, the digital transformation continues to reshape justice systems across the EU. Any forward-looking vision of justice must therefore address the needs and challenges arising from this transformation. Rapid technological developments and the increasing use of digital tools are changing how justice is administered, offering opportunities to improve efficiency, strengthen cross-border cooperation, and enhance access to justice. However, these advances also bring complex challenges that must be addressed with foresight and action. Significant disparities persist between Member States in terms of digital capabilities and infrastructure, which inter alia hamper interoperability. While Member States' infrastructures, digital capabilities and business needs may differ, from the digitalisation perspective there is a strong need for legal, semantic and technical interoperability; digitalisation requires the use of common standards, unified terms and solutions to be used.

AI raises fundamental questions about standards, safeguards, and the protection of procedural rights, while also offering a significant potential for increased efficiency and quality of justice. As digital tools become more deeply embedded in judicial processes, it is essential to ensure that they are used in a manner that safeguards core principles such as the rule of law, equality of arms, or the right to a fair trial. In this respect, FRA announced the publication of a report presenting a fundamental rights approach in digitalising justice, which identifies actions and relevant safeguards to be taken into account when designing and using digital tools in the justice area[18].

The EU has a critical role to play in supporting Member States, fostering interoperability, promoting convergence and developing a coherent framework to ensures that digitalisation efforts reap the efficiency advantages it offers and reinforce, rather than weaken, justice and fundamental rights. In this context, eu-LISA, the agency responsible for development and operational management of large-scale IT systems in the JHA domain, also significantly contributes to the digitalisation of the justice domain, notably through its technical and operational capacities.

Against this background, participants reflected on opportunities and challenges in enhancing digital tools within national justice systems and strengthening EU cross-border judicial cooperation.

In particular, discussions covered four key areas identified by the Commission: (A) supporting Member States in the digitalisation of national justice systems, (B) the digitalisation of cross-border judicial proceedings with a focus on videoconferencing, (C) a mechanism for cross-checking judicial information in criminal proceedings, and (D) the responsible use of AI in investigations and proceedings.

(A) Supporting Member States in the digitalisation of national justice systems

While the EU Justice Scoreboard already provides data on the extent of digitalisation of national justice systems in the Member States, there is no overview of relevant national initiatives or tools. The majority of Member States were in support of launching a voluntary mapping exercise on national digitalisation of justice initiatives to allow Member States to learn about good solutions and successes that could inspire implementation and foster cross-border interoperability as well as achieve the overview of the state of play of national digitalisation of justice efforts. It was stressed that it should be avoided duplicating the work

[18] FRA, *Digitalising justice: a fundamental rights-based approach*, 13 November 2025, https://fra.europa.eu/en/publication/2025/digitalisation-justice.

of the Council e-Justice WP and, as much as possible, administrative burden on the Member States. A living repository of relevant practices and data, to be made available on the European e-Justice Portal, could be a tool to allow the exchange of best practices.

Similarly, a large number of the Member States' representatives welcomed access to EU financing on digitalisation of justice through, *inter alia*, coordination of multi-country projects under the Technical Support Instrument, flagging the importance of allowing procurement of hardware and software in that context.

The mapping of digital tools available in the Member States so far has made it clear that Member States have the same or similar needs and look to develop similar solutions. That is why the majority Member States' representatives supported the establishment of an IT toolbox, also covering AI tools, aimed, together with the mapping exercise, at facilitating the use of tools already developed and successfully tested by other Member States, implicitly leading to setting common standards and aiding interoperability.

This initiative must take into account issues like language barriers, intellectual property rights and contracts with developers. The benefits of having easy access to relevant and up-to-date applicable legislation and case-law not only at EU but also national level was also recognised by the majority of Member States' representatives. These Member States, as well as other stakeholders such as representatives of academia and defence lawyers' associations, were in favour of actions promoting the availability of all legislation and case-law of the Member States online, which would also benefit defendants and more broadly researchers in the area. The need for ensuring the protection of personal data was underlined.

(B) The digitalisation of cross-border judicial proceedings: cross-border videoconferencing

Hearings conducted via videoconference offer several advantages in cross-border criminal proceedings, including the potential to significantly reduce travel costs for parties, legal representatives and witnesses, while improving the overall efficiency and timeliness of proceedings.

A number of rules are already available at EU level, providing the possibility to hear suspects, accused persons, witnesses or experts and victims of crime present in the territory of another Member State by means of videoconference for the purpose of taking of evidence[19], as well as, under Regulation (EU) 2023/2844, regulating the use of videoconferencing in specific instances under particular judicial cooperation procedures[20].

The discussions also addressed the challenges and the possible way forward to enhance the efficiency of the use of videoconferencing more generally in judicial proceedings with cross-border implications.

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[19] In particular, Directive 2014/41/EU regarding the European Investigation Order in criminal matters, Article 10 of the Convention on mutual assistance in criminal matters between the EU Member States, Directive 2012/29/EU on the rights of victims of crime.

[20] Article 6 of Regulation (EU) 2023/2844. The exhaustive list of legal acts referred to in Article 6 of the Digitalisation Regulation covers: (a) Council Framework Decision 2002/584/JHA on the European Arrest Warrant, in particular Article 18(1)(a) thereof; (b) Framework Decision 2008/909/JHA on the transfer of prisoners, in particular Article 6(3) thereof; (c) Framework Decision 2008/947/JHA on the mutual recognition of judgments and probation decisions, in particular Article 17(4) thereof; (d) Framework Decision 2009/829/JHA on the mutual recognition of decisions on supervision measures as an alternative to provisional detention, in particular Article 19(4) thereof; (e) Directive 2011/99/EU on the European protection order, in particular Article 6(4) thereof; (f) Regulation (EU) 2018/1805 on the mutual recognition of freezing orders and confiscation orders, in particular Article 33(1) thereof.

Among others, exchanges related to possible obstacles which might arise due to the use of different videoconferencing platforms by the Member States (either off-the-shelf products or their own developed tools) in conducting cross-border hearings. Such obstacles may even appear within single Member States if the systems are not compatible.

The Member States supported the idea of voluntary common technical requirements for videoconferencing, not to render existing technical standards already available in the Member States obsolete and to promote interoperability. Such requirements could be used when nationally procuring videoconferencing equipment, when conducting videoconference, as well as for facilitating developments of already used videoconferencing software.

In addition to technical standards, a few Member States recalled that any rules for the use of videoconference in criminal proceedings must rely on the judicial discretion of national authorities and that the physical presence of the suspect or accused should remain the default rule (see Chapter 2). FRA referred to their research in this area which pinpoints targeted safeguards the EU and its Member States should consider introducing to balance efficiency with fair trial and defence rights concerns[21]. Moreover, representatives from academia, civil society and defence lawyers' associations, stressed the importance of taking into account on the ground realities on the use of videoconferencing technology, which could potentially lead to violation of basic procedural guarantees.

Finally, the Member States expressed support for overcoming interoperability problems, for example through an EU-level videoconferencing hub, providing a seamless, interoperable videoconferencing solution that connects different IT systems, while allowing Member States to retain the videoconferencing systems already in place. This could take the form of a new feature of the European e-Justice Portal.

(C) Criminal justice cross-checking mechanism

Effective and efficient investigation and prosecution of cross-border crime, in particular organised crime, depends increasingly on timely information exchange between competent law enforcement and judicial authorities, as well as EU JHA agencies and bodies. Offenders often benefit from the lack of such timely information exchange between national authorities in cross-border cases, whereas in the EU Area of Freedom, Security and Justice, the competent national authorities should be able to cross-check and access information about investigations/prosecutions in the possession of other Member States' judicial authorities in an easy, quick, and secure manner. However, at present there is no dedicated tool at the Member States' disposal to securely cross-check and exchange this information within the limits imposed by the data protection framework and there is also no interoperability between the different case management systems of the Member States. Consequently, it has been discussed if essential information about criminal proceedings may not be available on time to the judicial authorities involved in a given case.

To address the potential shortcomings the HLF discussed the possible development of an IT tool allowing alphanumeric data searches in other Member States' case management systems concerning ongoing and (potentially) closed investigations and prosecutions. The tool would facilitate the identification of links and overlaps between ongoing cross-border investigations and prosecutions of criminal networks, particularly transnational organised crime networks. Such mechanism could therefore prevent inefficient duplication of proceedings and violations of the *ne bis in idem* principle.

[21] FRA, *Digitalising justice: a fundamental rights-based approach*, 13 November 2025, chapter 3, https://fra.europa.eu/en/publication/2025/digitalisation-justice.

In the chain of cross-border cooperation in criminal cases, the new IT tool would be positioned during the criminal investigative and prosecution phases. It would indicate whether a specific suspect or accused person is under investigation in another Member State. Some Member States expressed general openness for such a mechanism, which would in their view be crucial for enhancing the efficiency of the prosecution chain and preventing *ne bis in idem* violations. At the same time, they called for a more comprehensive analysis, taking into account data protection and financial aspects, the need for more clarity on the legal basis as well as on the applicability of the cross-border cooperation tools currently available to judicial authorities for obtaining information and evidence, such as the EIO and mutual legal assistance agreements, and the Framework Decision on conflicts of jurisdiction. The existing Prüm legal framework with the newly introduced European Police Record Index System should also be taken into account when assessing the need for a new dedicated instrument. Moreover, some Member States' representatives observed that, if such a new mechanism is developed, the technologies implemented for this purpose should avoid requiring the replacement or costly modifications to already existing IT systems in the Member States. Additionally, some Member States' representatives also expressed a preference for such an IT tool to be non-mandatory and based on reciprocity.

(D) The use of AI in investigations and proceedings

AI holds significant potential to support criminal investigations and proceedings. However, the deployment of such technologies raises substantial fundamental rights concerns, particularly regarding defence rights, privacy, data protection, and non-discrimination[22].

Under the EU AI Act, certain AI systems used in law enforcement are considered high-risk and are subject to stringent requirements for transparency, accountability, and human oversight. These provisions mitigate the risks of, *inter alia*, unlawful surveillance, bias, and wrongful accusations and safeguard the presumption of innocence, the right to a fair trial and the right to defence. Balancing effective use of AI with the protection of individual rights remains important, especially when AI tools are used in sensitive contexts or without sufficient legal safeguards.

On 4 February 2025, the Commission published its Guidelines on prohibited artificial intelligence (AI) practices, as defined by the AI Act[23]. Similar Guidelines, on 'high-risk' AI uses are to be adopted in February 2026.

Against this background, the debates during the HLF addressed the role of AI in investigations and proceedings. Discussions explored the broad applications of AI, emphasising the need to acknowledge its inherent risks and limitations. Representatives from academia and defence lawyers' associations highlighted the importance of user vigilance, particularly with respect to potential errors and AI-generated fictional content (also known as *AI hallucinations*). While acknowledging that the AI Act marks a significant milestone, it was noted that it is not specifically designed as a criminal law instrument, and it does not address the question of procedural rights in criminal proceedings. Defence lawyers' associations underlined that, to promote responsible digitalisation of justice, clear ethical guidelines on the use of AI, transparency and independent audits of AI systems, human oversight and disclosure of AI involvement during investigation/prosecution, limits on AI use in core judicial acts, strict data

[22] See: FRA, *Digitalising justice: a fundamental rights-based approach*, 13 November 2025, chapter 4, https://fra.europa.eu/en/publication/2025/digitalisation-justice.

[23] Communication from the Commission: Commission Guidelines on prohibited artificial intelligence practices established by Regulation (EU) 2024/1689 (AI Act), C(2025) 5052 final: https://digital-strategy.ec.europa.eu/en/library/commission-publishes-guidelines-prohibited-artificial-intelligence-ai-practices-defined-ai-act.

protection, as well as safeguards for fair trial rights and non-discrimination are essential. While representatives from academia and defence lawyers' associations called for ambitious, EU-level legislative action to address these challenges proactively, in particular to update and specify certain procedural rights in light of the challenges raised by the use of AI, the Member States broadly preferred the development of non-legislative measures (guidelines, training, codes of conduct). There was general consensus on the necessity of addressing specific AI risks, emphasising that AI tools must serve strictly as advisory mechanisms and must not substitute for human judicial assessment in criminal proceedings. In particular, the need to uphold fundamental rights, ensure transparency and traceability, maintain robust human oversight, and ensure equal access to AI tools for both prosecution and defence, remain critical requirements in the deployment and operational use of such tools.

To support the Member States in adapting their criminal justice systems to digitalisation and to harness its benefits while mitigating potential risks and safeguarding fundamental rights, the HLF reflected on the importance of:

1. Continuing to develop the general mapping exercise of the digitalisation of national justice systems, by also creating a living repository available on the European e-Justice Portal. The purpose of this voluntary initiative is to allow Member States to learn about good solutions and successes as well as to achieve the overview of the state of play of national digitalisation of justice efforts, while avoiding unnecessary administrative burden and duplication with the work in the Council. There is a need for the Commission to continue providing support via EU financing on digitalisation of justice through, inter alia, coordination of multi-country projects allowing the purchase of software and hardware.
2. Having an IT toolbox created by the Commission that will contain digital tools including AI tools, helping Member States accelerate their level of digitalisation and generate cost savings through reusing successful tools and solutions, while taking into account language differences, intellectual property rights, and contractual obligations. Any such work should avoid as much as possible duplication with the work of the Council. Moreover, the HLF reflected on the importance of promoting the coordination and the accessibility to national legislation and case-law of the Member States online.
3. Supporting the adoption of voluntary, non-binding common technical standards for videoconferencing, and to create a videoconferencing hub to help overcome interoperability issues in cross-border videoconferencing, without requiring the replacement or costly modifications to already existing national videoconferencing systems.
4. Examining the need, following wide stakeholder consultation, for a legislative initiative establishing a criminal justice cross-check mechanism to prevent *ne bis in idem* violations and enhance the efficiency of the prosecution chain. The mechanism should be designed in line with data protection principles and should allow the Member States to check whether a specific suspect or accused person is under investigation or prosecution in another Member State.
5. On the use of AI in justice, providing guidance on the use of high-risk AI systems in justice, emphasising that AI tools must remain strictly advisory and robust human oversight shall be ensured, in line with the AI Act's effective implementation.

Chapter 5 – EU JHA Agencies and Bodies

The challenges and complexities of transnational crime demand a robust and cohesive EU response. In this context, a significant part of the EU criminal justice architecture involves the role and evolving responsibilities of the Justice and Home Affairs (JHA) agencies and bodies, notably Eurojust, Europol and the EPPO. They play a crucial role in addressing the challenges posed by cross-border crime and in protecting the interests of the EU and the security of its citizens. Other EU actors, such as OLAF, also contribute to these joint efforts.

As outlined in the 'ProtectEU Strategy', enhancing complementarity and removing obstacles to their effective cooperation are essential to building a security framework that can respond to the scale, speed and complexity of today's threats. Likewise, the ongoing review of the EU anti-fraud architecture provided a further opportunity to reflect on how to improve and streamline cooperation between the various JHA agencies and bodies with a view to ensuring a better protection of the Union budget. The White Paper for the Anti-fraud Architecture Review, adopted on 16 July 2025[24], acknowledges that the fight against crimes and irregularities affecting the Union's financial interests can benefit from focusing on better use of information and data sharing among the JHA agencies and bodies, improved cooperation among them and synergies in the use of investigative means.

The HLF discussed the future of Eurojust, Europol, the EPPO and OLAF, in light of the possible review of their founding regulations. Discussions focused on how their roles and cooperation could be further enhanced to ensure a truly coherent system at EU level, in line with the goals of the 'ProtectEU Strategy' and the key elements of the White Paper for the Anti-fraud Architecture Review. Participants stressed the need for enhancing complementarity and operational synergies as well as reducing overlaps among JHA actors and called for a comprehensive and coordinated approach in the future legislative initiatives to ensure consistency and proportionality.

Participants overall expressed broad support for the need to improve the EU criminal justice architecture and on the fact that effective cooperation among JHA agencies and bodies is essential for combating crime more effectively. Some participants particularly underscored the importance of improving joint analysis and information exchange across EU agencies and bodies, where appropriate, especially given the discussion on expanding Europol's analytical capabilities, and highlighted the need for EU agencies and bodies to receive adequate funding when given additional tasks.

To this end, participants discussed a possible second strand of the criminal justice cross-checking mechanism involving JHA agencies and bodies and consisting of a modernised hit/no-hit system, enabling them to carry out multilateral (semi-)automated searches in each other's case management system on a case-by-case basis. The participants showed general openness for follow-up actions (see Chapter 4, section C). Participants underscored that a modernised mechanism would be crucial for improving joint analysis and timely information exchange, contingent on clarifying all legal questions regarding its operational framework, legal basis, and data ownership.

While acknowledging that the activities of the EPPO, Eurojust and Europol are essential and valuable, defence lawyers' associations suggested that their functioning could be further strengthened through enhanced transparency and, where appropriate, greater involvement of

[24] COM(2025)546 final.

lawyers in their cases. In this regard, ECBA strongly advocated for the development of a stronger, more coherent legal framework for judicial control and proposed for example the establishment of structured communication channels with EU agencies and bodies. Furthermore, CCBE also stressed that any initiative to reinforce the role of such EU agencies and bodies should be accompanied by stronger guarantees of defence rights[25].

Eurojust

With regard to Eurojust, all participants, including Member States' representatives, stressed the pivotal role it plays in the coordination of the work of national authorities investigating and prosecuting transnational crime, across Member States within the EU and also with third countries. Notably, participants unanimously expressed strong appreciation for Eurojust's vital operational support to national authorities, recognising its central function in judicial cooperation. Its role in providing factual, data-driven insights into issues related to judicial cooperation in criminal matters was also highly valued and highlighted its central function in the European Union's judicial cooperation system.

Discussions in the HLF focused on three key areas: refining Eurojust's strategic priorities, improving its governance model, and enhancing cooperation with other JHA agencies and bodies, particularly in relation to data sharing, as well as with third countries competent authorities. The strong relationship that the agency has with the various networks it hosts, including in particular the EJN, was also mentioned; it was emphasised that the governing principles of the relations between Eurojust and the EJN should be adequately improved.

On the governance model, Member States' representatives emphasised Eurojust's unique (judicial) nature, highlighting the importance of the independence of national members and the College in operational matters. While different avenues were explored during the discussions, participants agreed on the need to further consider the results of the evaluation and to carry out an impact assessment in order to identify concrete proposals for a possible revision of Eurojust's governance model. While consensus was reached on the need to improve efficiency in Eurojust's governance model, participants overall emphasised that its unique judicial identity and the central role of the College must be safeguarded. A strong majority of Member States' representatives firmly opposed any proposal to replicate Europol's governance model, stressing that this would fundamentally jeopardise the mutual trust that is essential for judicial cooperation. The outcome of the HLF meeting was included in an evaluation report[26], which was published by the Commission on 2 July 2025.

[25] In particular, according to CCBE, stronger guarantees of defence rights in the context could be achieved by (i) formally recognising defence rights and equality of arms in the relevant legal frameworks; (ii) ensuring that all interventions affecting suspects is documented, reasoned and amenable to judicial review; (iii) enabling defence lawyers to request clarifications or contest a specific act before a competent authority; (iv) enabling defence lawyers to verify and, where necessary, challenge data exchanges between the EPPO, Europol and the competent national authorities if not compliant with strict rules on legality, proportionality and defence rights; (v) empowering independent oversight bodies to ensure the effective protection of fundamental rights, with particular attention to digital an cross-border data flows; (vi) without prejudice to confidentiality, enabling defence lawyers to participate in jurisdictional settlement discussions under Council Framework Decision 2009/948/JHA; (vii) establishing a formal right for individuals to lodge complaints against unjustified or disproportionate interventions by the relevant EU agencies and bodies.

[26] SWD(2025) 182 final, published here: Evaluation of Eurojust - European Commission.

Europol

The 2024-2029 Political Guidelines[27] proposed to make Europol a truly operational police agency and more than double its staff over time. The central role that Europol plays in the security framework was largely addressed and acknowledged by the ProtectEU Strategy, where the Commission committed to proposing a revision of Europol's mandate to provide further support to Member States in the evolving criminal landscape.

Discussions in the HLF focused on two key areas: reinforcing Europol's role to enhance its support to the judicial process and enhancing cooperation between Europol, Eurojust, the EPPO and other relevant EU agencies and bodies to strengthen law enforcement and judicial cooperation.

Member States highlighted the primacy of the supporting role of Europol, as well as the need that any potential strengthening of Europol's mandate must be based on an impact assessment and confined within the framework of Article 88 TFEU, thus requiring that any operational action must be carried out in agreement with the Member States concerned, and that coercive measures must remain strictly within the remit of national authorities. They expressed support for the strengthening of the agency with a focus on core tasks such as information hub, analytical capabilities, coordinated support, specialised expertise, innovative technologies, as well as further developing Europol's capacity to support EPPO and the JITs, provided that Europol is provided with adequate human and financial resources to this end. Some participants underlined their needs to get more support from Europol in terms of specialised centres of excellence and training. Some participants, including representatives from academia and civil society, emphasised the need to ensure alignment of judicial oversight with the Agency's operational role and to take into account possible implications on fundamental rights.

EPPO

The HLF also discussed the future of the EPPO. Established by Council Regulation (EU) 2017/1939 ('EPPO Regulation') by means of enhanced cooperation, and operational since 1 June 2021, the EPPO has become a key player in the EU criminal justice and anti-fraud architecture.

The Commission plans to adopt an evaluation report on the implementation and impact of the EPPO Regulation and on the effectiveness and efficiency of the EPPO and its working practices by 1 June 2026, in accordance with Article 119 of the EPPO Regulation. The evaluation will look into the EPPO's governance, its activities, its relations with the Member States that do not participate in the EPPO, and its cooperation with the relevant institutions, agencies, bodies, and offices of the Union, and with international organisations and third countries. In addition, building also on the outcome of the 2023 study[28], the evaluation will examine whether the EPPO Regulation has been completely and correctly implemented by all the participating Member States, including those that have recently joined the EPPO (Poland and Sweden). The HLF provided insights from various stakeholders that will feed the evaluation process.

During the discussions, some participants supported a possible revision of the EPPO Regulation, while recalling the importance of conducting an impact assessment. Participants suggested to focus in particular on the rules on the exercise of competence (especially on the

[27] Political Guidelines for the Next European Commission 2024–2029, July 18, 2024, available here.
[28] Compliance assessment of measures adopted by the Member States to adapt their systems to Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (JUST/2022/PR/JCOO/CRIM/0004), available here.

rule on inextricably linked offences), cross-border investigations, the right of evocation, as well as the rules on the appointment of the European Prosecutors and the status of the European Delegated Prosecutors (EDPs). Specifically, some Member States stressed that fixing the hybrid legal status of the EDPs is a critical legislative necessity for the EPPO's efficient functioning. Representatives from academia also insisted on the need to adopt more far-reaching minimum rules on investigative measures (e.g. on the need for judicial authorisation). Defence lawyers' associations especially highlighted the relevance of stronger procedural safeguards in EPPO cases.

In line with President von der Leyen's political guidelines and Commissioner McGrath's mission letter, the possible extension of the EPPO's competence to other areas of serious cross-border crime was discussed. Most participants, including the majority of Member States' representatives, expressed support for such an extension with regard to the violation of Union restrictive measures of a financial nature, provided that the EPPO is provided with the necessary human and financial resources to take on these new tasks. At the same time, Member States' representatives expressed scepticism about the possible extension of the EPPO's competence to other areas of crime (e.g. terrorism, environmental crimes). Representatives from academia also referred to a possible extension of the EPPO's competence to corruption offences committed by staff or members of the EU Institutions, even in the absence of an actual or potential damage to the Union budget.

Participants, notably almost all Member States' representatives, expressed widespread caution regarding the potential use of the '*passerelle clause*' laid down in Article 333(2) TFEU, which would allow to amend the EPPO Regulation by means of qualified majority of the Member States participating in the EPPO. This hesitation stems from fundamental concerns about the political sensitivity and the constitutional implications of shifting decision-making powers in an area of enhanced cooperation.

With a view to ensuring a cohesive EU response against serious cross-border crime and to strengthening cooperation among EU JHA agencies and bodies, the HLF reflected on the importance of:

1. Reducing duplication of efforts and overlaps between JHA agencies and bodies.
2. Considering the setting up of a modernised criminal justice cross-check mechanism involving JHA agencies and bodies allowing for multilateral (semi-)automated searches in each other's case management systems, and improving the hit/no hit mechanisms already foreseen in their founding instruments.
3. Assessing the views expressed during the HLF in the context of the upcoming revision of the Eurojust Regulation, notably on the governance model and relations with its partners.
4. Assessing the views expressed during the HLF in the context of strengthening Europol's core functions within the framework of Article 88 TFEU and continuing close consultation with the Member States.
5. Assessing the views expressed during the HLF in the context of the evaluation and upcoming revision of the EPPO Regulation.
6. Further exploring the relevance and feasibility of extending the EPPO's competence to violations of Union restrictive measures.