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European Criminal Law Academic Network

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The European Criminal Law Academic Network (ECLAN)
aims to facilitate and strengthen academic research and education in the field of EU Criminal Law

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and

Directive (EU) 2022/228 of the European Parliament and of the Council of 16 February 2022 amending Directive 2014/41/EU, as regards its alignment with Union rules on the protection of personal data

On 20 January 2021, the European Commission adopted two proposals for Directives amending two European Union (EU) instruments in the field of criminal law – Council Framework Decision 2002/465/JHA, on Joint Investigations Teams and Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014, regarding the European Investigation Order in criminal matters. The aim of these proposals was to ensure the alignment of the said instruments with the EU's rules on the protection of personal data; namely with principles and provisions laid down in Directive (EU) 2016/680 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data (the Data Protection Law Enforcement Directive).

On 21 April 2021, Coreper agreed to start negotiations with the European Parliament on the two draft Directives based on the texts set out in Council documents 8043/21 and 8048/21. Both files were assigned to the Civil Liberties, Justice and Home affairs Committee (LIBE). On 16 July 2021, the LIBE Committee tabled two reports concerning the proposed directives amending Directive 2014/41/EU and Framework Decision 2002/465/JHA. The two proposals were discussed in the plenary of 15 September 2021 and the European Parliament decided to open interinstitutional negotiations.

On 11 November 2021, during a trilogue the co-legislators agreed provisionally on the final compromise texts. During the vote on 14 December 2021, the plenary of the Parliament confirmed the texts agreed during interinstitutional negotiations in terms of the two proposals (Parliament's position in first reading). On 25 January 2022 both acts were adopted by the Council. Finally, the first text was published in the Official Journal on 18 February 2022 and the second one on 21 February 2022.

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Regulation (EU) 2022/850 of the European Parliament and of the Council of 30 May 2022 on a computerised system for the cross-border electronic exchange of data in the area of judicial cooperation in civil and criminal matters (e-CODEX system), and amending Regulation (EU) 2018/1726

The e-CODEX system (e-Justice Communication via On-line Data Exchange) is the digital backbone of EU judicial cooperation in civil and criminal matters. Its

main purpose is to enable the digitalisation of judicial communication, including communication between courts as well as between citizens and courts, and the secure exchange of judicial documents. E-CODEX was launched under the multiannual e-Justice action plan 2009-2013 and until now it has been developed by 21 Member States. It is managed by a consortium of Member States and other organisations, financed by an EU grant. However, this temporary management solution does not provide for the system's long-term operational management. To remedy this situation, on 2 December 2020 the Commission adopted a proposal for a regulation on the e-CODEX system with the aim of providing a sustainable and long-term legal framework for the system, by handing over its management to the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA).

Within the Council, the proposal was thoroughly examined at expert level and a general approach was reached on 7 June 2021 which was subsequently amended on 22 July 2021. In the Parliament, the file was assigned jointly to the Legal Affairs Committee (JURI) and Civil Liberties, Justice and Home affairs Committee (LIBE). On 14 October 2021, the responsible Committees adopted their report and then decided to open interinstitutional negotiations. The decision was later approved in plenary on 20 October 2021.

The first political trilogue was held on 9 November 2021 and the second one on 8 December 2021. At the second trilogue, the European Parliament and the Council representatives provisionally agreed on a compromised text. The provisional text introduced provisions to ensure independence of the judiciary, details on the governance and management structure within eu-LISA and possibilities for Member States to contribute to further development of the e-CODEX system. On 24 March 2022, the Parliament voted and adopted its position at first reading, which reflected the agreement between the three Institutions. The text was adopted by Council on 12 April 2022 and published in the Official Journal on 1 June 2022.

In short, the Regulation includes rules on the composition, functions and management of the system; on the responsibilities regarding the e-CODEX system of eu-LISA, the Commission, the Member States and the entities operating authorised e-CODEX access points; on the legal framework for the security of the e-CODEX system and the independence of the judiciary. Finally, it should be pointed out that the Regulation does not provide for the mandatory use of the e-CODEX system.

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Regulation (EU) 2022/838 of the European Parliament and of the Council of 30 May 2022 amending Regulation (EU) 2018/1727 as regards the preservation, analysis and storage at Eurojust of evidence relating to genocide, crimes against humanity, war crimes and related criminal offences

Due to the ongoing conflict in Ukraine, on 25 April 2022, the Commission adopted an urgent proposal to amend the Eurojust Regulation to allow the Agency to collect, preserve, analyse and exchange evidence related to war crimes, crimes against humanity and genocide. The main aim of this proposal was to enable Eurojust to establish a storage facility where evidence concerning core international crimes gathered by Union agencies and bodies as well as national and international authorities or third parties, will be preserved considering that this evidence cannot be safely stored on the territory where hostilities take place.

On 6 May 2022, Coreper agreed on a draft text which was submitted to the Parliament. The draft regulation amended the proposal to confine Eurojust powers to 'preserve, analyse, store and exchange evidence' relating to international core crimes. In the European Parliament, the file was assigned to the LIBE committee. On 19 May 2022, the Parliament voted and adopted its position on the proposal at first reading. The text was adopted by the Council on 25 May 2022 and published in the Official Journal on 31 May 2022. The whole legislative procedure, from the submission of the proposal by the Commission until the adoption and entry into force of the Regulation, lasted five weeks only. These new rules will enable Eurojust to:

- store and preserve evidence relating to core international crimes, such as satellite images, photographs, videos, audio recordings;
- process and analyse this evidence, in close cooperation with Europol, and share the information with the relevant national and international judicial authorities, including the International Criminal Court.

The regulation entered into force on 1 June 2022.

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Regulation (EU) 2022/991 of the European Parliament and of the Council of 8 June 2022 amending Regulation (EU) 2016/794, as regards Europol's cooperation with private parties, the processing of personal data by Europol in support of criminal investigations, and Europol's role in research and innovation

In January 2020, the European Commission published the new work programme for 2020. Under the section 'Promoting our European way of Life' the Commission stated its intention to strengthen the Europol mandate in order to reinforce operational police cooperation. In May 2020 the Commission published an Inception Impact Assessment on a prospect proposal to strengthen the mandate of Europol. The assessment was open for comments until the 9th of July 2020. On 21 October 2020, the Home Affairs Ministers of the European Union met informally to discuss the challenges and the operational needs of the agency. To this end, they adopted a Declaration entitled 'Ten Points on the Future of Europol'.

On 9 December 2020, the Commission finally adopted its proposal to amend Europol's regulation. According to the proposal, the new regulation will strengthen Europol's mandate by:

- enabling Europol to cooperate effectively with private parties;
- enabling Europol to support Member States and their investigations with the analysis of large and complex datasets;
- strengthening Europol's role on research and innovation;
- strengthening Europol's cooperation with third countries;
- enabling Europol to request the competent authorities of a Member State to initiate, conduct or coordinate an investigation of a crime which affects a common interest covered by a Union policy, without the requirement of a cross-border dimension of the crime concerned;
- strengthening Europol's cooperation with the European Public Prosecutor's Office (EPPO);
- further strengthening the data protection framework applicable to Europol;
- further strengthening parliamentary oversight and accountability of Europol;
- enabling Europol to create dedicated alerts in the Schengen Information System (SIS) in consultation with Member States.

In the European Parliament, the file was assigned to the LIBE Committee. The European Parliament appointed Javier Zarzalejos as rapporteur.

On 8 March 2021 the European Data Protection Supervisor (EDPS) issued opinion 4/2021 on the proposed amendments to the Europol Regulation. In general, the EDPS underlined the need to better define certain concepts (e.g. the new processing purpose for research and innovation); and to accompany the stronger mandate of Europol with stronger oversight. On 2 June 2021 the Committee on Budgets issued an opinion (Rapporteur for the opinion: Niclas Herbst). The opinion called on the LIBE Committee to take into account certain recommendations. On 8 June 2021 and 10 June 2021 the LIBE Committee tabled its amendments.

On 12 October 2021, the LIBE Committee adopted its report and decided to open interinstitutional negotiations. The decision was later approved in plenary on 21 October 2021.

The first political trilogue took place on 27 October 2021. On 1 February 2022, after six meetings and two political trilogues, a provisional agreement was reached between the Council and the European Parliament. On 4 May 2022, the drafted regulation was voted by the Parliament at first reading and on 24 May 2022 the Council adopted the text. The Regulation was signed on 8 June 2022 and published in the Official Journal on 27 June 2022.

The main differences between the Commission proposal and the adopted Regulation lie in the following points:

- the adopted regulation enables Europol to only propose that Member States enter information alerts in the SIS;
- albeit strengthening Europol's mandate to cooperate with private parties, it revised some wording in order to make it clear that the direct cooperation between cooperation and private parties remains the exception;
- it fleshes out the text with stricter safeguards of fundamental rights. Nevertheless, the EDPS still expresses its concerns that the amendments brought to the Europol's mandate weaken the fundamental right to data protection and do not ensure appropriate oversight of Europol.

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Regulation (EU) 2022/1190 of the European Parliament and of the Council of 6 July 2022 amending Regulation (EU) 2018/1862 as regards the entry of information alerts into the Schengen Information System (SIS) on third-country nationals in the interest of the Union

On 9 December 2020, the Commission presented a proposal for a regulation amending Regulation (EU) 2018/1862 on the establishment, operation and use of the Schengen Information System (SIS) in the field of police cooperation and judicial cooperation in criminal matters as regards the entry of alerts by Europol.

This proposal is closely linked with other EU legislative instruments, notably on Europol, insofar as it proposes granting Europol additional rights to process and exchange data, within its mandate, in SIS. As a result, this initiative complemented the proposal adopted by the Commission to amend the Europol Regulation.

In the context of on-going EU efforts to facilitate the detection of persons involved in terrorism-related activities, including foreign terrorist fighters (FTFs), the Commission identifies several gaps in the sharing of third-country sourced information. While Europol holds valuable information on suspects and

criminals received from third countries and international organisations, the Agency is not able to provide directly and in real-time frontline officers with this information. According to the proposal, this is partly due to the fact that Europol is not able to issue alerts in SIS – the most widely used information-sharing database in the EU that is directly accessible to border guards and police officers.

In order to address this security gap, the Commission proposal aimed to establish a new alert category specifically for Europol so that the latter provides information directly and in real-time to frontline officers. The purpose of the new alert category is that in case of a 'hit', the alert would inform the frontline officer that the person concerned is suspect of being involved in a criminal offence falling within the competence of Europol.

The proposal included additional amendments to Regulation (EU) 2018/1862 in order to align its provisions concerning data protection with Regulation (EU) 2016/794 and Regulation (EU) 2018/1725 insofar as those alignments are necessary due to the new alert category to be entered by Europol.

In the European Parliament the file was assigned to the LIBE Committee and the rapporteur was Javier Zarzalejos.

On 10 March 2021, the EDPS issued a document containing formal comment on the said proposal. Among others, the EDPS highlighted that the proposal had to encompass specific criteria to guide Europol when carrying out an individual assessment and taking a decision to issue an information alert in SIS. Moreover, the EDPS recommended that there should be clear guidance regarding the measures which competent authorities could take in case of a 'hit'.

On 16 March 2021 and 7 June 2021 the LIBE Committee issued drafts reports introducing certain amendments to the proposal. On 13 October 2021 the Council agreed on the mandate for negotiations with the European Parliament. On 12 October 2021, the LIBE Committee adopted its report and decided to open interinstitutional negotiations. The decision was later approved in plenary on 21 October 2021.

The first political trilogue took place on 27 October 2021 and finally a provisional agreement was reached on 30 March 2022. In the Parliament, the LIBE committee approved the text on 31 March 2022 which was subsequently adopted in plenary at first reading on 8 June 2022. The Council adopted the text on 27 June 2022 which was published in the Official Journal on 12 July 2021.

As mentioned above, this initiative is closely linked with the amendment of the Europol Regulation. Therefore, the text adopted by the co-legislator being in line with Regulation 2022/991 amending the Europol Regulation, amends the Commission proposal and establishes a specific category of alerts in the interest of the Union entered into the SIS by the Member States *following a proposal by Europol* for the exchange of information on persons involved in serious crime or terrorism.

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Council Recommendation (EU) 2022/915 of 9 June 2022 on operational law enforcement cooperation

On 8 December 2021, the Commission presented a proposal for a Council Recommendation on operational police cooperation.

In general, the aim of the proposal is to:

- clarify and align the rules of engagement in joint operations across national territories;

- enhance the role of the Police Customs Cooperation Centres;
- build a framework to permit the remote access of police officers to their own databases, while providing secure communications;
- use targeted joint patrols and other joint operations;
- create a coordination platform; and
- enhance joint training and exchange programmes for police officers.

On 9 June 2022, the Council adopted the recommendation which was published in the Official Journal on 13 June 2022.

NEW NEGOTIATIONS

Proposal for a Directive of the European Parliament and of the Council on combating violence against women and domestic violence

In September 2021 the European Parliament adopted a legislative resolution calling on the Commission to submit a proposal for a Council Decision to identify gender-based violence as a new area of crime under Article 83(1) TFEU. However, the Commission did not follow the recommendation of the Parliament and on 8 March 2022 it presented a proposal for a Directive on combating violence against women and domestic violence which is proposing *inter alia* to harmonise certain forms of gender-based violence on the basis of its existing competence in the field of sexual exploitation.

The overall aim of the proposal is to ensure a minimum level of protection across the EU in order to prevent and combat violence against women and domestic violence, regardless of whether it takes place online or offline. More specifically, the proposal seeks to:

- criminalise certain forms of violence that disproportionately affect women, such as rape based on lack of consent, female genital mutilation and specific forms of cyber violence;
- strengthen victim's access to justice and rights to appropriate protection responding to the specific needs of victims of such crimes;
- provide victim support tailored to the specific needs of victims;
- prevent violence against women and domestic violence, including by raising awareness and training professionals,
- improve coordination and cooperation between the Member States.

In the European Parliament the file was assigned to the Women's Rights and Gender Equality Committee (FEMM). On 10 May Frances Fitzerald was appointed as rapporteur for the file. The file awaits committee decision.

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Proposal for a Council Decision on adding the violation of Union restrictive measures to the areas of crime laid down in Article 83(1) of the Treaty on the Functioning of the European Union

and

Communication from the Commission to the European Parliament and the Council towards a Directive on criminal penalties for the violation of Union restrictive measures

On 25 May 2022, the Commission tabled a proposal for a Council Decision to add the violation of Union restrictive measures to the list of EU-crimes provided for in Article 83(1) TFEU. According to the Commission Proposal, the violation of restrictive measures satisfies the criteria set out in Article 83(1) TFEU as:

- it is a crime in a majority of Member States;
- it is a particular serious crime, since it may perpetuate threats to international peace and security; and
- it has a clear cross-border context which requires a uniform response at EU and global level.

The Council agreed on 30 June 2022 to forward the text to the European Parliament for consent. The European Parliament gave its consent on 7 July 2022. The Council is expected to formally adopt the Decision in October 2022, which will be the first time the list of EU crimes is extended. This will allow the Commission to propose a Directive under the ordinary legislative procedure, which could approximate the definition of criminal offences and sanctions.

To this end, the Commission adopted also a Communication – accompanying the proposal – which shows how a future directive on criminal sanctions could look like. The potential criminal offences could include: engaging in actions or activities that seek to directly or indirectly circumvent the restrictive measures, including by concealing assets, failing to freeze funds belonging to, held or controlled by a designated persons/entity; or engaging in trade, such as importing or exporting goods covered by trade bans.

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Proposal for a Regulation of the European Parliament and of the Council laying down rules to prevent and combat child abuse

On 11 May 2022 the European Commission presented a proposal for a Regulation laying down rules to prevent and combat child abuse.

The overall aim of the proposal is to introduce clear, uniform and balanced measures to prevent and combat child sexual abuse by clarifying the role and responsibilities of online server providers.

The objectives are to:

- Ensure the detection, removal and reporting of child sexual abuse;
- Ensure the protection of fundamental rights and improve legal certainty, transparency and accountability; and
- Reduce the proliferation effects of child sexual abuse through harmonised rules.

In the European Parliament the file is assigned to the Civil Liberties, Justice and Home Affairs (LIBE) Committee.

The file is at preparatory phase.

ON-GOING NEGOTIATIONS

Electronic evidence in criminal matters

Proposal for a Regulation of the European Parliament and of the Council on European Production and Preservation Orders for electronic evidence in criminal matters

and

Proposal for a Directive of the European Parliament and of the Council laying down harmonised rules on the appointment of legal representatives for the purpose of gathering evidence in criminal proceedings

In 2015, in the 'European Agenda for a Security Union', the Commission highlighted the issue of access to electronic evidence and a year later, committed to propose solutions to address the problems of obtaining digital evidence in relation to criminal investigations. The Council, on its part, in its 'Conclusions on Improving Criminal Justice in Cyberspace' stressed the importance of electronic

evidence in criminal proceedings in all types of crimes and called on the Commission to act.

What followed was extensive consultation with a wide range of stakeholders. In April 2018, **two legislative proposals were published**: a Regulation on European Production and Preservation Orders for electronic evidence in criminal matters (hereinafter: 'proposal for a regulation') and a Directive on the appointment of legal representatives for the purpose of gathering evidence in criminal proceedings (hereinafter: 'proposal for a directive'). Their aim is to facilitate cross-border access to electronic evidence by creating a legal framework for judicial orders addressed directly to legal representatives of service providers without the intervention of an authority of the Member State where their legal representative is located. To this end, the two proposals intend to:

- create a European Production Order, which will enable a judicial authority in one Member State to obtain electronic evidence directly from a service provider or its legal representative in another Member State, which will be obliged to respond in a designated timeframe;
- create a European Preservation Order, which will enable a judicial authority in one Member State to request that a service provider or its legal representative in another Member State preserves specific data in view of a subsequent request to produce this data via mutual legal assistance, a European Investigation Order or a European Production Order;
- make mandatory for service providers offering services in the Union to designate a legal representative in the Union to receive, comply with and enforce decisions aimed at gathering evidence by competent national authorities in criminal proceedings.

The first discussions of the **proposed Regulation** within the Council, by the Coordinating Committee in the area of police and judicial cooperation in criminal matters (CATS) revealed several political issues. In June 2018, the Justice and Home Affairs Council discussed the scope of the proposed Regulation. For a number of delegations, its scope was limited, because it was not covering direct access to electronic evidence or real-time interception of data. The Council agreed on the need to consider expanding the scope of the regulation and called on the Commission to look into this matter.

Following the information provided by the Commission and on the basis of the deliberation held in the October 2018 Council, the scope was kept as originally proposed by the Commission. At this meeting, the Council also held a policy debate on the proposed involvement of another Member State in the procedure via a notification to the judicial authorities of the said Member State. Due to the centrality of this issue, the Ministers were invited to discuss whether the approach taken in the proposal (that orders could be addressed directly to service providers without the involvement of any other Member State at the stage of the request) should be upheld, or whether the text should be modified to introduce a notification procedure.

Furthermore, the European Economic and Social Committee adopted its opinion on 12 July 2018. In October 2018, the European Data Protection Board shared its opinion on the proposals, and addressed a long list of recommendations to the co-legislators.

In December 2018, the Council adopted its general approach on the proposal for a Regulation, which *inter alia* provides for the creation of a notification system for content data. On 22 February 2019, Eurojust made its contribution on the Annexes to the said proposal. In June 2019, the Council

published its general approach on the proposal, including recommendations on both the Regulation itself and the accompanying annexes.

Regarding the **proposal for a Directive**, the Council adopted, its general approach in March 2019.

In the European Parliament, **both proposals** have been assigned to the LIBE Committee. On 2 April 2019, the rapporteur, Birgit Sippel, presented to the LIBE Committee a series of working documents, addressing various issues linked to the proposal for a Regulation (safeguards and remedies, enforcement of European Preservation Order, relation with third countries, etc.).

Since the beginning of the new legislature, the European Parliament made progress on both proposals. The draft report on the Proposal for a Regulation was tabled before the LIBE Committee on 24 October 2019, and further amendments were since submitted. The rapporteur reintroduced in its report an automatic notification procedure of the executing State, which should be able to refuse the recognition or the enforcement of an order, on the basis of specific grounds for refusal provided for in the text. Similarly, the draft report on the proposal for a directive was tabled on 11 November 2019, and further amendments submitted on 9 December 2019.

On 7 December 2020, the LIBE Committee decided to open interinstitutional negotiation and adopted its reports regarding the proposed regulation and the proposed directive, which were voted in the plenary of 14 December 2020. Regarding the proposal for a regulation, the Council issued a progress report on 29 November 2021 outlining the conclusions from the fourth political trilogue on this file which took place on 9 July 2021. Exchanges during the Slovenian Presidency took place at technical level and focused on the notification regime. The main discord between the co-legislators as regards the notification obligations lies in the respective role of the States involved in the preservation or production order procedures. The Presidency noted that the Council has offered to make substantial concessions with a view to reaching an agreement. These concessions were not considered sufficient by the Parliament.

In February 2022, the Presidency of the Council held a technical trilogue. During the meeting, the Member States got informed of the latest proposals put forward by the Parliament. In the same month, the Council Presidency published the latest trilogue document with respect to the proposal for a regulation, highlighting the parts that have been provisionally agreed on and those which require further discussion. On 1 March 2022 a political trilogue took place where the co-legislators agreed to continue their efforts to reach a compromise text. On 4 March 2022, a progress report on the state of play of the negotiations between the Council and the Parliament was presented to the Ministers of Justice and Home Affairs. At the same time the Parliament requested a formal response to its positions in order to continue work at technical level, which was finally sent to the Parliament's Rapporteur on 18 March 2022. Nevertheless, the Rapporteur highlighted that substantial divergencies remain.

The main controversial issues were focused on:

- The rules relating to the notification mechanism;
- The rules relating to the data protection regime;
- The content of the list of grounds for refusal to enforce an order.

On 28 June 2022, a political-provisional agreement was reached between the Council and the Parliament on core elements of the e-evidence package, under the French Presidency. The agreement provides for:

- a notification procedure whereby the authorities in the Member States where the service provides is located should be notified for traffic and content data, unless the suspect resides in the issuing member state and the crime has been committed there;
- certain grounds for refusal, mainly if the order raises concerns about violation of fundamental rights;
- rules on the reimbursement of costs and sanctions that could be imposed to the service providers in case of non-compliance.

Several technical meetings have taken place during the first weeks of the Czech Presidency, achieving provisional agreement on some topics, to be confirmed by a political trilogue. However, the above-mentioned important topics remain open. The negotiating teams of the Parliament and the Council should still agree on those issues, and then the EU co-legislators will have to formally adopt the texts provisionally agreed by the negotiating teams.

On a related issue, on 5 February 2019 the Commission recommended negotiating international rules for obtaining electronic evidence. To this end, on 6 June 2019 the Council adopted two decisions. The first one authorised the Commission to open negotiations with the United States of America with a view to concluding an agreement on cross-border access to electronic evidence for judicial cooperation in criminal matters. In that respect, the Commission started negotiations with the US on 25 September 2019. After four rounds of negotiations, it appears that progress on the internal EU rules is essential for bringing forward the EU-US negotiations. The second decision authorised the Commission to participate on behalf of the EU in negotiations of a Second Additional Protocol to the Council of Europe Convention on Cybercrime on enhanced cooperation and the disclosure of electronic evidence. On 17 November 2021 the Committee of Ministers of the Council of Europe adopted the Second Additional Protocol, which was opened for signature on 12 May 2022. By 4 July 2022, 24 Parties have signed the Protocol. On 5 April 2022, the Council adopted the decision to request the European Parliament's consent. The consent procedure is ongoing in the European Parliament. No formal meetings are scheduled yet.

Parallel EU-UN negotiations for a comprehensive international convention on countering the use of information and communications technologies for criminal purposes

On 27 December 2019, the United Nations General Assembly adopted Resolution 74/247, deciding to establish an open-ended ad hoc intergovernmental committee (AHC) of experts, representative of all regions, to elaborate a comprehensive international convention on countering the use of information and communications technologies for criminal purposes. On 26 May, the UN General Assembly adopted Resolution 75/282 that determined the modalities of the negotiations.

On 21 October 2021, the COREPER approved the position of the EU and its Member States for the first session of negotiations, which took place from February 28 to March 11 2022 in New York. In substance, the agenda for the 30 May-10 June 2022 second UN AHC negotiating session envisaged discussion on i) general provisions; ii) criminalisation; and iii) provisions on procedural measures and law enforcement. On 6 April 2022, a written contribution with regard to these topics was submitted by the Commission to the Chair of the UN AHC on behalf of the Union and its Member States.

On 24 May 2022 the Council adopted the decision authorising the opening of negotiating on behalf of the European Union for a comprehensive international convention on countering the use of information and communications technologies for criminal purposes.

The third negotiating session will take place in New York from 29 August to 9 September 2022. The agenda for the session foresees negotiations on i) provisions on international cooperation; ii) provisions on technical assistance; iii) provisions on preventive measures; iv) provisions on the mechanism of implementation; v) final provisions; iv) preamble. The Commission will negotiate on behalf of the Union on the basis of the adopted mandate and the related negotiating directives as well as the coordination meetings organised on the spot with the Member States. The EU position for this round of negotiations has been submitted on 4 July 2022.

The EDPS published on 18 March 2022 its opinion concerning the EU's participation in the United Nations' negotiations for a future UN convention on cybercrime. The EDPS is concerned that, if not specifically addressed, the future UN convention risks weakening the protection of individuals' fundamental rights, including the rights to data protection and privacy guaranteed under EU law, given the large number of countries, which each have their own legal system, that are partaking in its negotiations. As such, the EDPS advises the EU not to become party to the future UN convention on cybercrime, if its final draft does not guarantee these fundamental rights.

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Digitalisation of Criminal Justice

Proposal for a Regulation of the European Parliament and of the Council establishing a collaboration platform to support the functioning of Joint Investigation Teams and amending Regulation (EU) 2018/1726

On 1st December 2021, the Commission presented a proposal for a Regulation establishing a collaboration platform to support the functioning of the Joint Investigation Teams and amending Regulation (EU) 2018/1726.

In general, the proposal aims to provide technological support to those involved in Joint Investigation Teams (JITs) and to create a more effective environment for the cross-border investigations and prosecutions.

Particularly the objectives of this proposal are to:

- create a more efficient framework for sharing information and evidence collected during the JIT activities;
- ensure that participants of the JITs can easily and safely communicate with each other during the JIT activities;
- assist the joint daily management of a JIT.

The file is currently being considered by the preparatory bodies in the Council and in the European Parliament.

The file was assigned to the LIBE Committee. On 20 April 2022 Malik Azmani was appointed as rapporteur for the file.

In the Council the proposal was examined by the Working Party on Judicial Cooperation in Criminal Matters (COPEN) during five meetings from February to May 2022. On 2 May 2022, COPEN reached an agreement at technical level and called the Council in its JHA configuration to frame a general approach. The Council reached a general

approach at the meeting held on 9-10 June 2022.

In the Parliament, the LIBE Committee adopted a draft report on 16 June 2022, which introduced a range of amendments, such as provisions on the participation of international judicial authorities in the JITs collaboration platform and on the protection of personal data. The file awaits committee decision.

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Proposal for a Regulation of the European Parliament and of the Council on the digitalisation of Judicial cooperation and access to justice in cross-border civil, commercial and criminal matters, and amending certain acts in the field of judicial cooperation

On 1st December 2021, the Commission presented a proposal for a regulation on the digitalisation of judicial cooperation and access to justice in cross-border civil, commercial and criminal matters. The proposal aims to alleviate problems regarding the lack of digital tools supporting the cooperation between legal systems in different EU Member States, and the lack of digital tools facilitating access to justice in cross-border cases, as well as possible issues concerning the recognition of certain electronic communication means used in judicial proceedings.

In general, the objective of the proposal is to aid access to justice and the efficiency of cross-border judicial cooperation. To do so, the European Commission is proposing the creation of a digital communication channel which will enable the facilitation of digital tools in cross-border judicial cooperation proceedings.

The file is currently being considered by the preparatory bodies in the Council and in the European Parliament.

The file was assigned jointly to the JURI and LIBE committee. On 20 April 2022 Emil Raden and Marina Kaljurand were appointed as rapporteurs for the file. The file awaits committee decision.

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Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2018/1727 of the European Parliament and the Council and Council Decision 2005/671/JHA, as regards the digital information exchange in terrorism cases

and

Proposal for a Directive of the European Parliament and of the Council amending Council Decision 2005/671/JHA, as regards its alignment with Union rules on the protection of personal data

On 1st December 2021, the European Commission adopted two proposals to effectively fight terrorism and other forms of serious cross-border crime: a proposal for a Regulation amending Regulation (EU) 2018/1727 and Council decision 2005/671/JHA, as regards the digital information exchange in terrorism cases, and a proposal for a Directive amending Council Decision 2005/671/JHA, as regards its alignment with Union rules on the protection of personal data.

More specifically, the proposal for a **regulation** aims to:

- improve exchange of information between Member States and Eurojust in order to enable Eurojust to recognise links between cross-border investigations and prosecutions, and in turn to provide proactively feedback on these links to Member States;
- to create a more efficient data processing environment through the modernisation of Eurojust case management system and

the establishment of secure digital communication channels; and
- to provide for a clear legal basis for the cooperation with third country liaison prosecutors at Eurojust.

With regard to the proposed **directive**, this aims to align the Council Decision 2005/671 on the exchange of information and cooperation concerning terrorist cases with the principles and data protection rules set in Directive (EU) 2016/689 (the Data Protection Enforcement Directive – LED) in order to ensure consistent approach to protection afforded to persons regarding the processing of personal data. This proposal is in consistency with the two proposals the Commission had tabled on 20 January 2021 to align Council Framework Decision 2002/465/JHA on JITs and Directive 2014/41 regarding the EIO, with the EU rules on the protection of personal data, which were finally adopted by the Council on 25 January 2022 (see above).

The file for the revision of the Eurojust Regulation is currently being considered by the preparatory bodies in the Council and in the European Parliament; while the proposal for a Directive as regards the alignment of Council Decision 2005/671/JHA with Union rules on the protection of personal data most probably will only be examined under the Czech Presidency.

Both files were assigned to the LIBE Committee. On 20 April 2022 Patryk Jaki was appointed as rapporteur for the files.

At the meeting on 9 and 10 June 2022, the Justice and Home Affairs Council adopted its general approach in respect of the proposal for the Eurojust Regulation. In the Parliament the file awaits committee decision.

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Police Cooperation

Proposal for a Directive of the European Parliament and of the Council on the information exchange between law enforcement authorities of Member States, repealing Council Framework Decision 2006/960/JHA

On 8 December 2021, the European Commission presented a proposal for a Directive of the European Parliament and of the Council on information exchange between law enforcement authorities of Member States, repealing Council Framework Decision 2006/960/JHA.

Based on the summary of the impact assessment the European Commission identified three main issues to be solved:

- National rules do not allow the effective and efficient flow of information;
- In certain circumstances the Member States do not have the appropriate structures to receive information requests from other Member States;
- The different channels used by national authorities to send information requests cause the duplication of these requests.

To address these issues, the initiative of the Commission aims to:

- enable the access for law enforcement authorities to information held in another Member State;
- ensure that all the Member States have a single point of contact;
- create a mandatory default communication channel.

The file was assigned to the LIBE Committee. On 31 March 2022 Lena Dupont was appointed as rapporteur for the file.

On 7 March the EDPS issued an opinion regarding the proposal. Although the EDPS acknowledges the need for law enforcement authorities to benefit from the best possible legal and technical tools for information exchange, it is highlighted in the opinion that certain elements of the Proposal need to be amended in order to ensure compliance with data protection requirements. On 18 May 2022, the European Economic and Social Committee adopted an opinion on the Security Union package, including the said proposal.

In the Parliament the LIBE Committee issued a draft report on 7 June 2022, while the Council reached a general approach on the proposal at a meeting held on 9-10 June 2022.

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Proposal for a Regulation of the European Parliament and of the Council on automated data exchange for police cooperation ("Prüm II"), amending Council Decisions 2008/615/JHA and 2008/616/JHA and Regulations (EU) 2018/1726, 2019/817 and 2019/818 of the European Parliament and of the Council

On 8 December 2021, the Commission presented a proposal for a Regulation on automated data exchange for police cooperation ("Prüm II"), amending Council Decisions 2008/615/JHA and 2008/616/JHA and Regulations (EU) 2018/1726, 2019/817 and 2019/818 of the European Parliament and of the Council.

The Commission aims to address four main concerns:

- Law enforcement agencies are not able to identify whether data is available in the national database of another Member State;
- Law enforcement agencies may not be able to access other relevant data stored in national databases of other Member States;
- Law enforcement agencies are not always able to have access to data that are available in Europol's database;
- Law enforcement agencies (once they receive a "hit") do not always have access to the specific data stored in national databases of another Member State.

The objectives of the Proposal are to:

- find a solution for efficient automated exchange of data between EU law enforcement agencies;
- ensure that all EU law enforcement authorities have access to relevant data;
- ensure that the relevant data in the Europol's database is available to EU law enforcement authorities;
- provide access to the actual data regarding a 'hit'.

In the European Parliament the file was assigned to the LIBE Committee. On 31 March 2022 Paulo Rangel was appointed as rapporteur for the file.

On 2 March 2022, the EDPS issued an opinion on the proposal. Even though, the EDPS understands the need for law enforcement authorities to benefit from the best possible legal and technical tools to detect, investigate and prevent crimes, he underlined that the proposed new Prüm framework does not clearly lay down essential elements of the exchange of data, such as the types of crimes which may justify a query, and is not sufficiently clear about the scope of data subjects affected by the automatic exchange of data.

On 18 May 2022, the European Economic and Social Committee adopted an opinion on the Security Union package, including the Prüm II proposal.

The Council reached a general approach on the proposal at a meeting held on 9 and 10

June 2022. In the Parliament the file awaits committee decision.

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Anti-Money Laundering

Proposal for a Regulation of the European Parliament and of the Council establishing the Authority for Anti-Money Laundering and Countering the Financing of Terrorism and amending Regulations (EU) No 1093/2010, (EU) 1094/2010, (EU) 1095/2010

On 7 May 2020, the Commission adopted an Action Plan for a comprehensive Union policy on preventing money laundering and terrorist financing. To this end, a legislative package consisting of four proposals to enhance the AML/CFT rules of the EU was presented by the Commission on 20 July 2021 (see below). Part of this package was the proposal for a Regulation establishing the authority for Anti-Money Laundering and Countering the Financing of Terrorism amending Regulations (EU) No 1093/2010, (EU) 1094/2010, (EU) 1095/2010 (hereinafter: 'the AMLAR proposal').

According to this proposal, the Authority for Anti-money laundering (AML) and Countering the financing of Terrorism (CFT) would have a twofold purpose: first the Anti-Money Laundering and Countering Financing of Terrorism supervision, and secondly the support of EU Financial Intelligence Units (FIUs).

The aim is to create a central point that will set a common system of AML/CFT supervision across EU and ensure their mutual support and cooperation. The Authority will have a coordination role in the non-financial sector, while it will directly supervise some of the riskiest financial institutions. Finally, the Authority will facilitate cooperation of FIUs.

On 22 September 2021, the EDPS adopted its opinion on the AML/CFT package of legislative proposals which suggested further improvements to protect individuals' personal data.

On 16 February 2022, the European Central Bank published its opinion on the AMLAR proposal, which welcomed the efforts by the Commission to strengthen the AML rules and provided a number of observations and recommendations about the proposal on the AML/CFT Authority. Furthermore, the European Economic and Social Committee, the Budget Committee and the Committee on Constitutional Affairs issued their opinions on the said proposal, respectively on 17 May 2022 and 3 June 2022.

In the Council, the proposal was examined by the Working Party on Financial Services and the Banking Union, and a partial Council negotiating mandate was agreed in COREPER on 29 June 2022. The only element still missing from the mandate is the seat of the new Authority that will need to be determined in the light of the ECJ judgment delivered on 14 July 2022 regarding the seats of the European Labour Authority (ELA) and of the new seat of the European Medicines Agency (EMA).

In the Parliament, the file was assigned jointly to the Economic and Monetary Affairs Committee (ECON) and the LIBE Committee. On 29 October 2021, Emil Radev and Luis Garicano were appointed as rapporteurs for the file. The file awaits Committee decision.

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Proposal for a Directive of the European Parliament and of the Council on the mechanisms to be put in place by the Member States for the prevention of the

use of the financial system for the purposes of money laundering or terrorist financing and repealing Directive (EU) 2015/849

On 20 July 2021, the Commission presented a proposal for a Directive on the mechanisms to be put in place by the Member States for the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and repealing Directive (EU) 2015/849. This proposal is a part of the legislative package presented by the Commission to enhance the AML/CFT rules of the EU (see above).

Essentially, this Directive on AML/CFT (6th Anti-Money laundering Directive) will replace the 4th AML directive (as amended by the 5th AML Directive).

In the Council, the file is currently being considered by the Working Party on Financial Services and the Banking Union.

In the Parliament, the file was assigned jointly to the ECON and LIBE Committee. On 25 November 2021 Ludek Niedermayer and Paul Tang were appointed as rapporteurs for the file. On 23 May 2022, the co-rapporteurs published their draft report. The file awaits Committee decision.

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Proposal for a Regulation of the European Parliament and of the Council on the prevention of the use of the financial system for the purposes of money laundering and terrorist financing

On 20 July 2021, the Commission proposed a Regulation on the prevention of the use of the financial system for the purposes of money laundering and terrorist financing.

This proposal is part of the legislative package presented by the Commission to enhance the AML/CFT rules of the EU. The Regulation deals *inter alia* with issues regarding the customer due diligence measures, beneficial ownership transparency, internal policies and procedures of obliged entities.

In the Council, the file is currently being considered by the Working Party on Financial Services and the Banking Union.

In the Parliament, the file was assigned jointly to the ECON and LIBE Committee. On 25 November 2021 Eero Heinaluoma and Damien Careme were appointed as rapporteurs for the file. On 15 March 2022, the responsible Committees adopted a draft report regarding the regulation. The file awaits Committee decision.

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Proposal for a Regulation of the European Parliament and of the Council on information accompanying transfers of funds and certain crypto-assets (recast)

On 20 July the Commission adopted a proposal for a Regulation to update existing rules on information accompanying transfers of funds. This proposal constitutes the fourth and last initiative of the AML/CFT legislative package put forward by the Commission.

The proposed regulation – together with the proposals for the 6th Anti Money Laundering Directive and for a Regulation on the prevention of the use of the financial system for the purposes of money laundering and terrorist financing, as presented above – establish the so-called 'single EU rulebook' on AML/CFT that seeks to harmonise the AML/CFT framework across the EU.

Essentially, this Regulation will revise the Regulation (EU) 2015/847 – which currently covers only certain categories of crypto-asset service providers – in order to extend its scope to virtual assets transfers. The aim of this proposal is to ensure full traceability of the entire crypto-asset transfers by extending the obligation of payment service providers

to collect and make accessible full information about the sender and beneficiary of the transfers of virtual assets they operate, in order to facilitate the prevention, detection and investigation of their possible use for money laundering and terrorist financing.

In the Parliament, the file was assigned jointly to the ECON and LIBE Committee. On 25 November 2021, Ernest Urtasun and Assita Kanko were appointed as rapporteurs for the file

On 1 December 2021 the Council agreed on a mandate to negotiate on the draft regulation with the European Parliament. On the Parliament's side, on 31 March 2022, the ECON and LIBE Committee took the decision to open interinstitutional negotiations, which was then confirmed by the plenary. On 6 April 2022, the plenary confirmed the Committees' decision to enter into interinstitutional negotiations.

Co-legislators reached a provisional political agreement on 29 June 2022. Some minor technical aspects still need to be agreed at the technical level. Formal adoption of the Regulation is expected by the end of the year.

The French presidency also produced a report on the progress of negotiations of the whole AML package.

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Proposal for a Directive of the European Parliament and of the Council amending Directive (EU) 2019/1153 of the European Parliament and of the Council, as regards access of competent authorities to centralised bank account registries through the single access point

On 20 July 2021, the Commission presented a proposal for a Directive amending Directive (EU) 2019/1153 of the European Parliament and of the Council, as regards access of competent authorities to centralised bank account registries through the single access point.

The Commission identified that the key for an effective financial investigation and successful tracing and confiscating the proceeds of crime is the fast access to financial information.

The proposal aims to provide law enforcement authorities with the possibility to access and search the bank account registries through a single access point.

The file is currently being considered by the preparatory bodies in the Council and in the European Parliament.

In the Parliament, the file was assigned to the LIBE Committee. On 29 November 2021 Emil Radev was appointed as rapporteur. On 15 March 2022 the Committee on Economic and Monetary Affairs (ECON) published its opinion.

The file awaits Committee decision.

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Substantive Criminal Law

Proposal for a Directive of the European Parliament and of the Council on the protection of the environment through criminal law and replacing Directive 2008/99/EC

On 15 December 2021, the Commission presented a proposal for a Directive on the protection of the environment through criminal law replacing Directive 2008/99/EC (hereinafter: 'ECD Proposal').

In addition to this proposal, the Commission adopted a Communication on stepping up the fight against environmental crime in order

to explain the policy objectives of the ECD proposal.

The overall aim of the ECD proposal is to achieve a better protection of the environment through criminal law. More specifically, the proposal seeks to:

- remove the annexes currently attached to the Directive, and instead update the existing criminal offences covered by the Directive and add new offences, such as illegal timber trade, illegal ship recycling and illegal abstraction of water;
- clarify undefined legal terms used to describe environmental crime, such as 'substantial damage';
- ensure effective, dissuasive and proportionate sanction types and levels for environmental crime for both natural and legal persons;
- improve the cross-border cooperation on environmental crime;
- improve the effectiveness of national enforcement chain through training, investigative tools, mechanisms for cooperation between national authorities and better data collection and statistics;
- recognise and strengthen the role of citizens and civil society.

The file is currently being considered by the preparatory bodies in the Council and in the European Parliament. On 9-10 June 2022, the Justice and Home Affairs Council reached a partial general approach on the provisions relating to the definition of offences.

In the Parliament the file was assigned to the JURI Committee. On 28 February 2022, Antonius Manders was appointed as rapporteur for the file.

On 23 March 2022, the European Economic and Social Committee (EESC) published its opinion on the proposal. Although the Committee welcomed the Commission's proposal, it underlined that the proposal retains its previous scope via a list of offences and lacks a definition of an autonomous general offence of harming or endangering the environment. The Committee suggests that the list of offences be extended to as many types of crime as possible in order to avoid having to revise the ECD again shortly after its entry into force and to prevent particular environmental criminal activity from going unpunished.

In the Parliament the file awaits committee decision.

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Communication from the Commission to the European Parliament and the Council on a more inclusive and protective Europe: extending the list of EU crimes to hate speech and hate crime

On 9 December 2021 the Commission presented a Communication proposing to extend the list of EU crimes laid down in Article 83(1) TFEU to hate speech and hate crime.

In accordance with Article 83(1) TFEU the EU has the competence to establish minimum rules on the definition of criminal offences and sanctions in areas of particularly serious crimes with a cross-border dimension, which are listed in paragraph 2 of the same Article. Nevertheless, Article 83(1) TFEU enables the Council to adopt a decision extending the EU competence to other areas of crime that meet the afore-mentioned criteria.

Through the communication the Commission invites the Council, with the consent of the European Parliament, to take this initiative forward and decide on the extension of the list of EU crimes to hate speech and hate crime, as according to its assessment – presented in the Communication – the latter meet the criteria to be identified as a new area of crime under Article 83(1), and in particular:

- Hate speech and hate crime share an intrinsic special feature, that is, 'hatred' targeting persons or groups of persons sharing the same protected characteristics;
- Online hate speech and hate crime spreads fast and is accessible to everybody anywhere (cross-border dimension);
- Hate speech and hate crime are particularly serious crime as these undermine the EU common values and fundamental rights;
- There has been a sharp rise in the two phenomena due to multiple social, economic and technological changes over the past years.

This files is still being considered by the Council (requirement of unanimity).

CASE LAW

JUDGMENTS

Case C-569/20, IR, Judgement of 19 May 2022 (Fourth Chamber)

On 19 May 2022, the Fourth Chamber of the Court of Justice of the European Union (hereinafter: 'CJEU' or 'Court') delivered a judgement concerning the interpretation of the rights to be present and to a new trial in the context of a trial *in absentia*.

In the present case, the Specialised Public Prosecutor's Office in Bulgaria brought criminal proceedings against IR for tax offences punishable by custodial sentences. IR indicated his address, but he was nowhere to be found when the judicial stage of the criminal proceedings started, and he could not be located later when a second indictment was issued against him. The referring court considered that the case can still be heard despite IR absence.

However, under those circumstances, it is unclear whether Article 8 and 9 of Directive 2016/343 on the rights to be present at the trial in criminal proceedings and to a new trial would apply, especially in the context where the person absconded after having been notified of the first indictment and before the commencement of the judicial stage of criminal proceedings. In this perspective, three questions were asked to the Court.

Firstly, the referring court asked whether Article 8(2)(b) must be interpreted as covering a case in which the accused person was informed of the list of charges against him, in its original version, and then, due to the fact that he has fled, objectively cannot be informed of the trial and is defended by a court-appointed lawyer with whom he has no contact. Secondly, if this is answered by negative, whether national provisions under which no legal protection against investigative measures carried out *in absentia* and against a conviction handed down *in absentia* where the accused person, after having been informed of the original list of charges, is in hiding, are consistent with Directive 2016/343 and Framework decision 2002/584 on the European arrest warrant (EAW). Thirdly, if this question is answered in the negative, whether Article 9 of the

Directive 2016/343 read in conjunction with Article 47 of the Charter of fundamental rights ('the Charter') have direct effect.

Considering that the questions referred should be examined together, the Court first elucidated the obligations of Member States under Directive 2016/343 in the context of trials *in absentia*. On this occasion the Court stated that Article 8(4) and Article 9 of the said Directive – which set out the extent of the right to a new trial for those tried *in absentia* – must be regarded as having direct effect. After clarifying the conditions under which a person may be tried *in absentia* without being provided for the right to a new trial, the Court held that the situation at issue could fall within the case envisaged in Article 8(2)(a) of Directive 2016/343 – which allows for *in absentia* trial in case where the accused has been informed of the trial and of the consequences of non-appearance – rather than in the case envisaged in Article 8(2)(b) of the said Directive, which allows for trial *in absentia* in case where the accused is represented by a mandated lawyer. In this regard, the Court provided two further clarifications. It highlighted that the mere fact that the person concerned has absconded and the authorities have not succeeded in locating him or her is not enough to conclude that Article 8(2)(a) applies. On the contrary, it explained that the said Article requires *inter alia* the person concerned to have received sufficient information to know that he or she was going to be brought to trial, and by deliberate acts and with the intention of evading justice, to prevent the authorities from informing him or her officially of that trial in due time. The Court, then, pointed out that the situation in question could qualify as such case, nevertheless it is up to the national courts to carry out all the checks in the light of all the circumstances and to verify whether the conditions set out in the relevant provisions of the said Directive are met.

In light of the foregoing considerations, the Court ruled that Article 8 and 9 of Directive 2016/343 must be interpreted as meaning that an accused person whom the competent national authorities, despite their reasonable efforts, do not succeed in locating may be tried and convicted *in absentia*. Nevertheless, the CJEU highlighted that in the latter case, in principle, the accused should be able, after notification of the conviction, to rely directly on the right, conferred by that directive, to secure the reopening of the proceedings or access to an equivalent legal remedy resulting in a fresh examination, in his or her presence, of the merits of the case. That person may, however, be denied that right if it is apparent from precise and objective indicia that he or she received sufficient information to know that he or she was going to be brought to trial and, by deliberate acts and with the intention of evading justice, prevented the authorities from informing him or her officially of that trial.

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Case C-570/20, BV, Judgement of 5 May 2022 (First Chamber)

On 5 May 2022, the First Chamber of the Court rendered a judgement regarding the interpretation of the *ne bis in idem* principle as enshrined in Article 50 of the Charter, and the limitations thereof.

Further to the complaint lodged with the public prosecutor's office by the tax authorities against BV, criminal proceedings were brought against him for tax offences. Finally, BV was convicted and sentenced to 12 months' imprisonment. Before his conviction, BV had been the subject of a tax adjustment procedure in respect of the same

acts which resulted in the imposition of final tax penalties amounting to 40% of the charges evaded. BV brought an appeal before the Court de Cassation claiming that the combination of criminal penalties and tax penalties to which he had been subject was contrary to the principle of *ne bis in idem*.

In this context, the Court de Cassation filed a request for a preliminary ruling to the Court of Justice in order to ask, first, whether Article 50 read in conjunction with Article 52(1) of the Charter precludes a situation whereby the limitation of the duplication of proceedings and penalties of a criminal nature to the most serious cases is based only on settled case-law interpreting restrictively the legal provisions defining the conditions for the application of that duplication; and secondly, whether the said Articles preclude national legislation which does not ensure, in cases of the combination of a financial penalty and a custodial sentence, by means of clear and precise rules, that all of the penalties imposed do not exceed the seriousness of the offence identified.

The Court assessed jointly the two preliminary questions. First, it stated that the duplication of proceedings in question does constitute a limitation of the *ne bis in idem* principle which could be justified on the basis of Article 52(1) of the Charter provided that the following conditions are met: the limitations are provided for by law (1), they respect the essence of the right enshrined in Article 50 of the Charter (2) and they comply with the principle of proportionality (3). In order to answer both questions, the Court examined mainly the conformity of the limitation in question with the last condition, that is the principle of proportionality, as it emphasized that the first condition – that any limitation must be provided for by law – is broadly indissociable from the requirements of clarity and precision arising from the principle of proportionality.

While examining the first requirement of the proportionality principle, which requires national legislation to provide for clear and precise rules that make the duplication of proceedings and penalties foreseeable, the Court pointed out that this also reflects the *nullum crimen, nulla poena sine lege* principle enshrined in Article 49(1) of the Charter – which is applicable in cases of duplication of proceedings as the latter is capable of leading to a more serious outcome, for the person concerned, than that resulting from criminal proceedings alone. After recalling its case-law in terms of the legality principle, the Court ruled that the fact that the conditions required for a duplication of proceedings derive not only from legislative provisions but also from their interpretation by national courts is not, in itself, such as to call into question the clear and precise nature of the national legislation and therefore it is not contrary to Article 52(1) of the Charter, provided that the individual is in a position to ascertain from the wording of the relevant provision and, if need be, with the assistance of the courts' interpretation of it, which acts and omissions may give rise to such a duplication of proceedings and penalties.

As far as the second question is concerned, the Court held that the third component of the proportionality principle which requires the competent authorities to ensure that the severity of all of the penalties imposed does not exceed the seriousness of the offence identified applies, without exception, to all of the penalties imposed cumulatively and, therefore, to both the duplication of penalties of the same kind and the combination of penalties of a different kind.

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Case C-203/20, AB and others, Judgement of 16 December 2021 (Third Chamber)

On 16 December 2021, the Third Chamber of the CJEU rendered a judgement concerning the interpretation of *ne bis in idem* principle in the context of a European Arrest Warrant, as well as of the term of criminal proceedings in the context of Directive 2012/13 on the right to information in criminal proceedings.

In 2001, the District Court brought the prosecutions against the applicants to an end on the basis of an amnesty issued by the Prime Minister of the Government of the Slovak Republic in 1998. In 2017, the amnesty was revoked with the result that the criminal proceedings against the accused persons and applicants were resumed. In the context of criminal proceedings, the referring court considered issuing a European Arrest Warrant (EAW) against one of the accused (ST) on the ground that that person might be in the territory of one of the Member States.

Against this background and before issuing the EAW against ST, the District Court referred to the CJEU three preliminary questions: it asked, first, whether Article 50 of the Charter precludes the issue of a EAW against a person who was subject to a criminal prosecution that was initially discontinued by a final judicial decision adopted on the basis of an amnesty, and resumed following the adoption of a law revoking that amnesty and setting aside that judicial decision; secondly, whether Directive 2012/13 on the right to information in criminal proceedings applies to a legislative procedure relating to the revocation of an amnesty and to a judicial procedure for review of the compliance of that revocation with the national constitution and, if so, whether that directive, read in the light of, inter alia, Articles 47 and 50 of the Charter, precludes such procedures; thirdly, whether Article 4(3) TEU, Articles 82 and 267 TFEU, and Articles 47 and 50 of the Charter preclude legislation of a Member State under which the review by that Member State's constitutional court of a legislative provision revoking an amnesty is limited to an assessment of its compliance with the constitution, without any further assessment of its compliance with EU law.

Before assessing the substance of the first question, the Court was called to rule on its admissibility which was questioned on the ground that an EAW was not yet issued. In this regard, the CJEU reminded that the EAW Framework Decision requires the issuing authority to ensure that the EAW complies with fundamental rights of the person concerned before issuing one. As a result, the Court concluded that by making a preliminary question, the referring court was implementing EU law as it aimed to fulfil its obligation as set out in the EAW FD, and therefore the first preliminary question was admissible.

In order to answer the first question in substance, the Court reminded that a judicial decision constitutes a decision finally disposing of the case – for the purposes of Article 50 of the Charter – only when it is taken after a determination as to the merits of the case. As a result, a decision bringing to an end the prosecution due to the amnesty – albeit having the same effects as a decision of acquittal under the national law – does not trigger the application of the *ne bis in idem* principle in the case where this decision was adopted before any determination as to the criminal liability. Therefore, in the latter case Article 50 cannot preclude the issue of an EAW against a person who was subject to a criminal prosecution that was initially

discontinued by a final judicial decision adopted on the basis of an amnesty, and resumed following the adoption of a law revoking that amnesty and setting aside that judicial decision.

As far as the second question is concerned, the Court decided that the notion of 'criminal proceedings' for the purpose of Directive 2012/13 cannot be understood as encompassing a legislative procedure relating to the revocation of an amnesty or a judicial procedure the purpose of which is to review the compliance of that revocation with the national constitution, in so far as the purpose of the latter proceedings is not to determine a person's criminal liability. Finally, the Court held that the third question was not admissible as EU law is not applicable to national legislation governing the judicial review of a legislative provision revoking an amnesty.

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Cases C-505/20 RR and JG, Judgement of 12 May 2022 (Eighth Chamber)

On 12 May 2022, the Eighth Chamber of the Court rendered a judgement concerning the interpretation of Directive 2014/42 on the freezing and confiscation of instrumentalities and proceeds of crime.

In the course of a search of the vehicle of RR driven by WE, national authorities found narcotics and thus seized the vehicle of RR. Likewise, during a search in the premise of JG carried out in the context of criminal proceedings against a gang for drug trafficking, national authorities found and seized two mobile phones and a sum of money. In both cases, the Public Prosecutor did not bring charges against RR and JG, nevertheless their assets continued to be subject of seizure as alleged instrumentality of a crime (seizure of property in the possession of a third party). Subsequently, RR and JG brought a request before the Special Criminal Court of Bulgaria for return of their property.

Against this background, the Special Criminal Court referred to the CJEU three questions for a preliminary ruling: it asked, first, whether Directive 2014/42 preclude a national law pursuant to which a person whose property has been seized as an alleged instrumentality or as alleged proceeds of a criminal offence and has been frozen, is not entitled to apply to the court during the trial stage of the criminal proceedings for the return of that property; secondly, whether the said Directive must be interpreted as precluding a national law which does not permit the confiscation of an 'instrumentality' which is the property of a third party who is not involved in the criminal offence; and if the previous question is answered in the negative, whether this Directive should be interpreted as granting a third party whose property has been frozen and may be confiscated as an instrumentality the right to participate in the proceedings which may result in confiscation, and the right to challenge the confiscation decision in court.

As regards the first question, the CJEU stated that Article 8 of Directive 2014/42 requires the Member States to accord a number of safeguards to *the persons affected by the measures* laid down in the said Directive. In the light of the textual, contextual and teleological interpretation of the aforementioned provision, the Court held that *bona fide* third parties whose property has been seized as alleged instrumentality of a criminal offence should be considered as *'persons affected by the measures'* provided for under Directive 2014/42 in case where their property could be subject to possible

subsequent confiscation, and therefore they should have the right to an effective remedy and a fair trial during the trial stage of the criminal proceedings in order to uphold their rights.

As far as the second question is concerned, the Court stated that Article 4 of Directive 2014/42 on 'Confiscation' does not clarify whether the confiscated property should necessarily belong to the convicted person, and therefore in interpreting the provision in question, it is necessary to consider the context in which it occurs and the objectives pursued by the rules of which it is part. Taking into account Article 6 of the said Directive which *explicitly* allows for the confiscation of *proceeds* of crime which belong to third parties, *a contrario* it follows that only the property of the suspect or accused persons can be subject to confiscation of *instrumentalities* of crime. Be that as it may and insofar as national law does not allow for the confiscation of *bona fide* third parties, the Court reminded its settled case law that a directive cannot of itself impose obligations on an individual and cannot therefore be relied on as such against that individual before a national court.

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Case C-804/21 PPU, C and CD, Judgement of 28 of April 2022 (Second Chamber)

On 28 April 2022, the Court rendered a decision concerning the interpretation of the conditions set out in Article 23 of the Framework decision 2002/584/JHA on the European Arrest Warrant (EAW). This provision governs the situation in which the surrender of the individual cannot take place within the time limits provided for in the EAW Framework Decision.

In the present case C and CD are both Romanian citizens and are targeted by EAWs issued by Romanian authorities on 19 and 27 May 2015 respectively for the execution of their sentences after being convicted for drug trafficking and participation in a criminal organised group. Swiss national authorities had initiated procedures for the enforcement of the two EAWs, but C and CD left to Finland before the successful execution thereof. The Supreme Court of Finland ordered the surrender of C and CD to the Romanian authorities; however, their air transport could not be made in due time due to the COVID pandemic. A second date was set, but their surrender was postponed again due to lack of flights. National authorities agreed on a third date but it was again impossible to proceed with their surrender due to the lodging of applications for international protection in Finland which were subsequently rejected. As a result, C and CD applied for release on the grounds that the time limit for their surrender had expired in addition to submitting a request for postponement of their surrender pending a decision on the appeal against the refusal to grant them international protection. Against this background, the Supreme Court of Finland referred to the CJEU two questions for preliminary rulings.

Firstly, the referring court asked whether a national legislation that enables a police authority to determine whether a situation of force majeure preventing the surrender of the requested person occurs and if the conditions required for detention are satisfied, as well as to set a new surrender date, is compatible with Article 23 of the EAW Framework Decision. The referring court also asked about the impact of the lack of action on the part of the judicial authority – if considered necessary in order for the time limit of

surrender to be extended – on the continuation of detention of the requested person.

Secondly, the referring court asked whether the notion of *force majeure* referred to in Article 23 of the EAW Framework Decision should be interpreted as including legal obstacles to the surrender of the person, as occurs in the present case.

Answering first the second question, the Court held that the notion of *force majeure* must not be interpreted as encompassing legal obstacles such those in the case in question. As far as the first question is concerned, the Court ruled that the requirement of 'action of the judicial authority in the executing Member State' as provided for in Article 23 of the Framework Decision is not met in a situation as this in the case in question, even if the requested person can appeal anytime to a judicial authority in the executing Member State in order to examine the matters at issue. Furthermore, the Court ruled that Article 23(5) of the Framework decision must be interpreted as meaning that the time limits for surrender have been expired and therefore the requested person should be released in case of a lack of action on the part of the judicial authority in extending the time limit for surrender.

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Case C-125/21, Commission v Ireland, Judgement of 24 of March 2022 (Second Chamber)

On 24 March 2022, the Second Chamber of the General Court of the European Union rendered a decision in the context of the transposition of Framework decision 2008/909/JHA regarding the application of mutual recognition to judgement in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union.

The European Commission brought an action for failure to fulfil obligations under Article 258 TFEU before the Court, after having considered that Ireland had not adopted the measures necessary to transpose Framework decision 2008/909 or, in any event, notified such measures. Ireland did not contest such failure to comply. In its defence, Ireland contended that the Commission's action should be dismissed as premature, as it has already in place legislation providing for the transfer of sentenced persons between Member States adopted on the basis of the Council of Europe Convention, which shares the same 'spirit' as the above-mentioned Framework Decision.

The Court held that even if Member States already have legislation regulating the transfer of sentenced persons between Member States, this is not enough to consider that Member States have transposed the said Framework Decision. Hence the Court ruled that by failing to adopt, within the prescribed period, the laws, regulations and administrative provisions necessary to comply with Council Framework decision 2008/909/JHA and by failing to notify the text of such provisions to the European Commission, Ireland has failed to fulfil its obligations under Article 29(1) and (2) of that Framework Decision.

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Case C-150/21, DB, Judgement of 7 April 2022 (Seventh Chamber)

On 7 April 2022, the Seventh Chamber of the Court rendered a judgement concerning the

application of the principle of mutual recognition to financial penalties.

In September 2020, the Central Fine Collection Agency ('CJIB') brought an action before the District Court for the central district of Łódź in Poland ('the referring court') seeking recognition and enforcement in Poland, of a financial penalty (EUR 92) imposed on DB in the Netherlands in respect of a road traffic offence.

Against this background, the said court referred to the CJEU two preliminary questions: it asked, first, whether a decision imposing a financial penalty adopted by an administrative authority constitutes a 'decision' within the meaning of Framework Decision 2005/214 where an appeal against that decision is to be examined first by a public prosecutor placed under the hierarchical authority of the Minister for Justice, and subsequently by a court having jurisdiction in criminal matters; and secondly, whether the person concerned has had 'an opportunity to have the case tried by a court having jurisdiction in particular in criminal matters' within the meaning of that Framework Decision, if the examination of the appeal by a court is subject to the payment by that person of a deposit equal to that amount in case where the fine imposed is EUR 225 or more.

The CJEU examined together the two questions. As a preliminary point, the Court pointed out that a decision issued by an authority other than a court falls within the scope of the said Framework Decision if the person concerned has had an opportunity to have the case tried by a court having jurisdiction in criminal matters. It clarifies then that this does not require that the case be brought directly before such a court provided that access to that court is not made subject to conditions which make it impossible or excessively difficult. As a result, the Court emphasized that in order to answer the first question, it should only assess whether the District Court with which an appeal against the decision in question can be lodged, constitutes a court without it being necessary to deal with the status of the public prosecutor.

By applying its settled case-law, the CJEU decided that the court in question can be classified as 'court having jurisdiction in criminal matters' as it has unlimited jurisdiction and applies a procedure which is subject to compliance with the procedural safeguards appropriate to criminal matters. With respect to the second question, the Court ruled that this is irrelevant to the fact of the present case as the fine imposed on DB amounted to EUR 92.

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Joined Cases C-562/21 and C-563/21 PPU, X and Y, Judgement of 22 February 2022 (Grand Chamber)

On 22 February 2022, the Grand Chamber of the Court of Justice of the European Union held a decision in the context of two joined cases regarding the execution of European Arrest Warrants issued by Polish authorities.

In case C-562/21, a Polish judicial authority issued an EAW for the purposes of executing a custodial sentence imposed against X by a final judgement of 20 June 2020 for offences of extorsion and threat of violence. In case C-563/21, Polish judicial authorities issued six EAWs against Y, a Polish national, in order to arrest and surrender him. Two EAWs were issued for the purpose of executing custodial sentences and the remaining four were issued for the purpose of conducting criminal

prosecution in relation to several offences, including fraud.

The two defendants were remained in custody in the Netherlands pending decision on their surrender to which they didn't consent. Against this background, the referring court (Rechtbank Amsterdam) asked the CJEU whether, in application of the principles set out in the cases *Minister for Justice and Equality* and *Openbaar Ministerie*, it should refuse the surrender of the wanted person in the light of the risk of violation of the fundamental rights of the persons concerned and the specific context of the cases in question. More specifically, in the first case, the concerns lie in the lack of effective judicial remedies for any breach of the fundamental right to a fair trial during the procedure which led to the conviction of X. Whereas the second case relates to a situation where the person concerned cannot determine the composition of the panel of judges before which he will be tried due to the random allocation of cases, while at the same time he is deprived of an effective remedy in the issuing Member State to challenge the validity of the judicial appointment.

The Court held that the executing judicial authority is required to carry out the two-step examination, as established in its previous case-law, in order to assess whether the requested person runs a real risk of breach of his or her fundamental right to a fair trial before a tribunal previously established by law if surrendered to the issuing Member State. After clarifying the considerations on which this two-step examination should be based, the Court held that the executing authority may refuse to surrender the requested person *for the purpose of executing a custodial sentence* where there are substantial grounds for believing that *there has been a breach* of that person's fundamental right. In the context of that assessment, the executing authority should take into account *inter alia* the information provided by the requested person or any other circumstance relevant to the assessment of the independence and impartiality of the judicial panel, and cannot rely *only* on the mere circumstance that the requested person cannot challenge the validity of the appointment of a judge or the lawfulness of the performance of the judge's judicial functions.

In terms of a EAW issued *for the purpose of conducting a criminal prosecution*, the Court ruled that the executing authority may refuse to surrender the requested person if there are substantial grounds for believing that that person, if surrendered, *runs a real risk of breach* of her fundamental right to a fair trial. To this end, the executing authority should consider *inter alia* the information provided by the person concerned relating to his or her personal situation, the nature of the offence for which that person is prosecuted, the factual context surrounding that European arrest warrant or any other relevant circumstance; and cannot rely exclusively on the mere fact that the composition of the panel of judges before which the requested person will be tried is not known, or on the lack of an effective remedy to challenge the validity of the judicial appointment.

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Case C-520/20, DB and LY, Judgement of 16 June 2022 (First chamber)

On 16 June 2022, the First Chamber of the Court of Justice of the European Union rendered a decision regarding the interpretation of objectives and conditions for issuing and executing alerts in the SIS on objects for seizure or use as evidence in criminal proceedings.

A Bulgarian national, EF, took out a bank loan from Santander Consumer Bank in Norway in order to buy a vehicle. In 2016, he stopped repaying the loan. The vehicle was subsequently purchased by AB who then sold it to DB. The Kingdom of Norway introduced an alert in the SISN for the purpose of seizing the vehicle as stolen property ("Stolen, illegally obtained or lost"). The vehicle was later found in Bulgaria and seized from DB. The Bulgarian authorities subsequently executed the request of the Norwegian authorities to return the vehicle to its owner, the Norwegian bank.

DB contested the return of the car to Norwegian authorities on the ground that it was not established that criminal proceedings had actually been initiated in Norway while asserting his good faith when obtaining the vehicle. The referring court considered that, in the absence of criminal proceedings initiated in the issuing Member State, the alert on the vehicle concerned would not fall within the scope of the SIS II Decision. Thus, the administrative tribunal of Silistra decided to refer one preliminary question to the Court as to whether Article 39 of the SIS II decision ('execution of the action based on an alert') must be interpreted as precluding national legislation under which the national authorities in the executing Member State are obliged to execute an alert entered in the SIS on an object, even when they have doubts as to the compatibility of the introduction of such an alert with the objectives of the SIS II decision.

The Court answered that Article 39 of the said Decision does not preclude such a situation. In order to drawn this conclusion, the Court took into account a number of arguments, such as the importance of ensuring effective operational cooperation in criminal matters in addition to the margin of discretion left to the executing Member State in the context of the execution of an alert.

AG'S OPINIONS

Case C-420/20, HN - Opinion delivered on 3 March 2022 (AG Jean Richard de la Tour)

On 3 March 2022, Advocate General Jean Richard de la Tour (hereinafter: 'AG') gave his opinion in a case concerning a third-country national who could not appear in person at his trial because he has been subject to a removal order and a residence ban by the prosecuting Member State. The case raised important questions of interpretation as regards the right to be present at the trial as provided for by Directive 2016/343 as well as its articulation with Directive 2008/115/EC on common standards and procedures in Member States for returning illegally staying third-country nationals.

In this case, the Prosecutor's Office of Sofia in Bulgaria launched criminal proceedings against HN, an Albanian citizen for using false identity documents. He was arrested and charged under national law and put in a prison facility for citizens of third countries. At the same time a return decision and a ban decision were taken by Bulgarian authorities against him. He was then escorted to the border without being informed of the criminal proceedings against him. Despite this, the Bulgarian Prosecutor's Office considered that the conditions were met for conducting proceedings *in absentia*. In this context, the Sofia Tribunal referred to the CJUE several preliminary questions.

By its first question, the referring court asked whether Article 8 of Directive 2016/343 precludes a Member State to enforce a return

decision and an entry ban against a third-country national while criminal proceedings are pending in that State and that the accused has not yet appeared at his trial.

The referring court also asked about the conditions under which the person concerned may waive his or her right to appear at trial in conformity with Article 8(2) of the said Directive.

With regard to the first question, the AG considered that Article 8 of Directive 2016/343 – which provides for the right to be present at the trial – should be interpreted as precluding a national practice whereby a third country national can be subject to a return decision and a ban on entry by the Member State which initiated proceedings against him, without measures being taken to enable him to attend his trial in that Member State.

Concerning the second set of questions, the AG recalled that the Directive does not preclude the trial *in absentia* of a person who, as in the present case, has been subject to a return decision and a ban on entry into the prosecuting Member State. However, such a case requires special safeguards being in place, i.e. the accused must have been informed in good time of the proceedings initiated against him and of the consequences of failure to appear; he must have been accorded the opportunity to attend his trial; he must have freely and unequivocally renounced his right to be present at his trial; or he must have been represented by a mandated lawyer appointed by him or by the State after having been informed of the trial. By the same token, the AG considered that Article 8(1) of Directive 2016/343 precludes national legislation which provides that the suspect is under an obligation to appear at his trial.

In the case in question, where the suspect has waived the right to attend his trial at the investigation phase – that is, at a stage when the trial date had not been set – the AG considered that such a waiver cannot be regarded as meeting the requirements of Article 8(2) of the said Directive as those analysed above.

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Case C-168/21, KL - Opinion delivered on 21 March 2022 (AG Athanasios Rantos)

On 21 March 2022, Advocate General Athanasios Rantos delivered his opinion in a case concerning the execution of a European Arrest Warrant (EAW) issued by Italian judicial authorities for the enforcement of a custodial sentence of 12 years and six months imposed on KL for the commission of various acts which were punished as a single offence.

In this context, the Cour de Cassation of France referred to the CJEU three questions for a preliminary ruling: it asked, first, whether the condition of double criminality is met in case where surrender is sought for acts which, in the executing state, constitute a criminal offence but their constituent elements are different from those of the offence under the law of the issuing Member State; and secondly, if the first question in answered in the affirmative, whether the national authorities of the executing Member State can refuse the execution of an EAW issued for the purpose of executing a sentence, if the latter has been imposed in the issuing Member State for the commission of a single offence covering various acts and where only some of those acts constitute a criminal offence in the executing Member State.

In its Opinion, the AG invoked the case-law of the CJEU in *Grundza* case in order to answer the first question. First of all, the AG noted that in interpreting a provision of EU law, it is necessary to consider not only its wording, but also the context in which it occurs and the objectives pursued by the rules of which it forms part. In the case in question, it follows from the very wording of the EAW Framework Decision – which provides that surrender may be subject to the condition that the acts for which the EAW has been issued constitute an offence under the law of the executing Member State, *whatever the constituent elements or however it is described* – that the offences do not need to be identical in the two Member States concerned. The AG added that the context of the provisions in question also argues for such an interpretation as the condition of double criminality is an exception to the general rule of enforcement of sentences and therefore it should be interpreted strictly in order to limit cases of non-enforcement. In light of the above considerations, the AG concluded that the double criminality condition is met in case where the factual elements underlying the offence, as reflected in the judgment handed down by the competent authority of the issuing State, would also *per se* be subject to a criminal penalty in the territory of the executing State if they were present there, even if there is not an exact match between the constituent elements of the offences or between the classification thereof under the national law of the respective States.

In order to answer the second question, the AG marshalled two considerations. He first interpreted the condition of double criminality. In this regard, he noticed that in case of a single offence covering several acts, the double criminality condition does not require all the acts to constitute an offence under the law of the executing Member State. Secondly, the AG examined whether the principle of proportionality requires the refusal of execution of a EAW in a situation as this of the case in question. As a preliminary point, the AG distinguished between the proportionality of the EAW itself and the proportionality of the sentence, highlighting that in the case in question the latter aspect of the proportionality principle seems to be at stake. Then, the AG stated that the executing judicial authority is in principle obliged to execute any EAW on the basis of the principle of mutual recognition, while it may refuse to do so only on the grounds for non-execution exhaustively listed in the EAW Framework Decision (Articles 3 and 4); yet, the non-proportionate character of a sentence is not one of them. Furthermore, the AG reminded that the Court has recognised that limitations may be placed on the execution of an EAW, beyond those laid down in the above Articles, 'in exceptional circumstances', such as the case where surrender may result in the requested person being subject to inhuman or degrading treatment. However, he concluded that a situation where some of the acts constituting a single offence in the issuing Member State, are not punishable under the law of the executing Member State cannot justify establishing a new exceptional circumstance provided that the fundamental rights of the individual concerned are observed.

ACADEMIC ACTIVITIES

PUBLICATIONS

F. Spiezia, *Criminal threats and EU response. An atlas of crime to understand the threats, the responses and the perspectives* (Laurus Robuffo 2021) 256 p.

I. Wieczorek, *The Legitimacy of EU Criminal Law* (Bloomsbury Publishing 2022) 272 p.

A. Klip, *Materials on European Criminal Law* (4th edn, Intersentia 2022) 1222 p.

V. Franssen and C. Harding (eds.), *Criminal and Quasi-criminal Enforcement Mechanisms in Europe. Origins, Concepts, Future* (Hart Publishing 2022 384 p.

V. Mitsilegas, *EU Criminal Law* (2nd edn, Hart Publishing 2022) 400 p.

F. Casarosa and M. Moraru (eds.), *The Practice of Judicial Interaction in the Field of Fundamental Rights. The added Value of the Charter of Fundamental Rights of the EU* (Edward Elgar Publishing 2022) 432 p.

L. Marin and S. Montaldo (eds), *The Fight Against Impunity in EU Law* (Bloomsbury Publishing 2022) 392 p.

G. L. Gatta, V. Mitsilegas and S. Zirulia (eds), *Controlling Immigration Through Criminal Law. European and Comparative Perspectives on 'Crimmigration'* (Bloomsbury Publishing 2022) 312 p.

J. Crijns, M. Haentjens and R. Haentjens (ed), *The Enforcement of EU Financial Law* (Bloomsbury Publishing 2022) 288 p.

A. Łazowski (ed), *Research Handbook on Legal Aspects of Brexit* (Edward Elgar Publishing, forthcoming) 608 p.

K.S. Ziegler, P. J. Neuvonen and V. Moreno-Lax (eds), *Research Handbook on General Principles in Eu Law. Constructing Legal Orders in Europe* ((Edward Elgar Publishing, forthcoming) 656 p.

UPCOMING EVENTS

Please note that the uncertainty caused by the pandemic context may have had an impact on events that are expected to take place in the coming period. Events that atre planned to be held in person may be switched online. We invite you to regularly check the status of upcoming events which are listed below using the links provided.

Conference, *Future Fraud Conference*, Dawes Centre for Future Crime at University College London (UCL), London, 12 July 2022 → Link

Seminar, *Financial Investigation of Trafficking in Human Beings*, ERA, Thessaloniki, Greece, 14-15 July 2022 → Link

Summer School, *Understanding and Combatting Corruption – A global perspective*, The Siracusa

International Institute, Siracusa, Italy, 18-22 July 2022 → Link

Seminar, *Reducing Demand and Preventing Trafficking in Human beings*, Lisbon, Portugal, 8-9 September 2022 → Link

Seminar, *(Post-)Covid Challenges in Criminal Justice: Investigating Web 2.0*, ERA, Bucharest, Romania, 19-20 September 2022 → Link

ECLAN PhD Seminar, *EU criminal law's influence on the national criminal justice systems, its content, tendencies, and perspective*, ECLAN, University of Vilnius, Lithuania, 6-7 October 2022 → Link

Annual Conference, *Countering Terrorism in the EU 2022* (hybrid), ERA, Trier, Germany, 6-7 October 2022 → Link

Annual Forum, *Preventing and detecting fraud in the EU*, ERA, Lisbon, Portugal, 17-18 October 2022 → Link

Annual Conference, *EU Criminal Justice 2022*, ERA, Barcelona, Spain, 17-18 November 2022 → Link

Seminar, *Encryption in Criminal Investigations* (hybrid), ERA, Trier, Germany, 20-21 October 2022 → Link

Seminar, *Trafficking in Human Beings: Countering Impunity,* ERA, Vienna, Austria, 1-2 December 2022 → Link