

FUTURE PRIORITIES FOR EU CRIMINAL JUSTICE

Justice in Europe in 2019 – the current situation



The shared values that underpin the EU face unprecedented threat from populist, nationalist and anti-minority movements. The rule of law is in crisis in some Member States, most notably Poland and Hungary. Governments are strangling independent critique of and opposition to policies that violate human rights and the rule of law. The austerity agenda has starved investment in fair and effective criminal justice.

The new European Commission and European Parliament must respond. Continued terrorist atrocities across the EU have shown how citizens' security depends on Member States' ability to cooperate to fight serious cross-border crime. The EU's work to build an area of security, freedom and justice in Europe has never been more important. This must be underpinned by a clear commitment to the rule of law, human rights and to justice in Europe.

We commend the considerable progress the EU has made to strengthen respect for human rights in criminal justice since the Lisbon Treaty made this a mainstream area of EU competence. The EU has belatedly started to redress the imbalance created by its historical approach of increasing law enforcement powers (based on the principle of mutual recognition) while disregarding defence rights. Although much work is needed to ensure their effective implementation, the six procedural rights Directives and associated Guidelines offer real promise of an EU area of security, freedom and justice.

Example: The Information Directive

(a) New legal requirements have been created to give people accessible information on their rights when they are arrested.

(b) Domestic practices, which have long hidden information from the defence which is crucial to a fair trial, are being challenged.



The JUSTICIA Network is the EU-wide network of civil society organisations on criminal justice and human rights, comprising 20 members from 19 Member States. It is a part of the Legal Experts Advisory Panel (LEAP), coordinated by Fair Trials. This paper sets out JUSTICIA's views on the priorities for the EU in the period 2020–2025 and draws on many years' combined expertise of working to advance respect for human rights in criminal justice systems.

2020–2025 KEY PRIORITIES

1. Effective implementation

Adoption of legislation is only the first step towards improved fair trial protections. EU-wide laws will only have an impact in practice if they are implemented effectively.

Interpretation of EU law

The text of new EU laws leaves considerable uncertainty and further clarity is needed.

Robust enforcement

The procedural rights are now protected by EU law, but they need to be enforced.

Technical support

The Commission (directly and through civil society) should assist Member States in addressing obstacles to protecting procedural rights.

2. New legislation

The Roadmap presents important first steps towards common minimum defence rights in Europe but it is not “job done”. A number of other key aspects of a fair and effective justice system are being violated in EU Member States which could be usefully addressed by minimum EU standards.

Reform of the European Arrest Warrant (“EAW”)

Misuse of the EAW is violating the human rights of EU citizens and must be reformed.

Pre-Trial Detention

The excessive use of pre-trial detention is a pervasive problem in many Member States that the EU must tackle.

3. Address emerging issues and long-standing challenges

Evidence/admissibility

Effective rights-based standards on the admissibility of evidence is crucial to effective evidence-sharing and enforcement of EU law.

Trial Waivers (plea bargaining)

The EU is well-placed to be a world-leader on a rights-based approach to the growing phenomenon of trial waivers.

Audiovisual recording

During police interviews, audiovisual recording could play a key role in preventing coercion and protecting rights.

Big data and algorithms

The EU is well-placed to get ahead of the curve and develop a rights-compliant regulatory framework in this area.

Discrimination

Some groups require special protections for their right to a fair trial to be respected on equal terms with others and steps must be taken to address the reality of direct discrimination.

4. Increasing the Commission's capacity

Data

The collection of consistent and reliable data on the operation of criminal justice systems in the EU would significantly assist implementation of EU law on procedural rights.

Resources

The Commission needs greater resources to monitor Member States' work on implementation of the Directives and to enforce compliance.

The EU should engage civil society more actively in its work in the field of criminal justice. We, members of JUSTICIA, are ready to help you to secure justice in Europe.

[Find out more.](#)



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