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Subject:	Strategic guidelines for legislative and operational planning within the area of freedom, security and justice - Approval

1. On 27 November 2024, the Permanent Representatives Committee agreed on the draft Strategic guidelines for legislative and operational planning within the area of freedom, security and justice, as set out in Annex.
2. The Council (Justice and Home Affairs, 12 December 2024) is invited to approve these Strategic guidelines.

DRAFT STRATEGIC GUIDELINES

for legislative and operational planning within the area of freedom, security and justice

The strategic guidelines foreseen in the Treaty are an important instrument to shaping the direction of EU policy in the area of freedom, security and justice.

The new Strategic Agenda provides guidance and calls on the EU institutions to put these priorities into action during the next legislative cycle, respecting the institutional balance of powers set out in the Treaties and the principles of conferral, subsidiarity and proportionality.

As enshrined in Article 2 TEU, the European Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. Upholding the respect for the rule of law, fundamental rights as enshrined in the Charter of Fundamental Rights and democratic values as well as compliance with the jurisprudence of the Court of Justice will remain a core principle for the functioning of the area of freedom, security and justice.

The European Union constitutes an area of freedom, security and justice with respect for fundamental rights and the different legal systems and traditions of the Member States. Such an area entails the absence of internal border controls as well as a common policy on asylum, immigration and external border control, based on the principle of solidarity and the fair sharing of responsibility, including its financial implications, between the Member States. It endeavours to ensure a high level of security through measures to prevent and combat serious and organised crime, racism and xenophobia, as well as terrorism, radicalisation and violent extremism, including strengthening cross-border law enforcement and judicial cooperation, while not affecting the exercise of responsibilities incumbent upon the Member States with regard to the maintenance of law and order and in particular respecting their responsibility for safeguarding internal security.

Against this background, the following strategic guidelines for legislative and operational planning will guide work in the area of freedom, security and justice, for the coming years:

1. In the recent legislature, much has been done to develop policies that ensure the functioning of the area of freedom, security and justice. Efforts should now mainly focus on the coherent and effective implementation of adopted legislation and policy measures already in place, with full cooperation from all relevant stakeholders, upholding a high level of mutual trust. At the same time, the EU will maintain a forward-looking vision in order to address persisting and future challenges, ensuring the EU's readiness and adaptability to today's and tomorrow's realities: a rapidly evolving geopolitical, security, migratory, technological and economic landscape.
2. Ensuring that implementation, future ambitions and increased obligations of Member States are underpinned by EU funds will be key. As reflected in the Strategic Agenda 2024-2029 and without pre-empting future negotiations, the next Multiannual Financial Framework for the Union will have to reflect these priorities, ensuring that the EU budget is fit for the future and that European responses are given to European challenges.
3. The importance of free movement of persons, being one of the four freedoms has to be underlined. A well-functioning Schengen area is a matter of common interest, under which all actions will be centred on the freedom and security of our citizens. The EU will guarantee a high level of security, in particular through external border controls, but also by the cooperation of Member States' authorities responsible for security and migration. The importance of the proper functioning of the Schengen area, in accordance with the revised Schengen Borders Code has to be recalled. The reintroduction of internal border controls remains a temporary measure of last resort, necessary and proportionate to the threat identified, and provides Member States room for safeguarding internal security, in accordance with the Schengen acquis.

4. In order to ensure the effective and efficient functioning of the area without internal border control, as well as its unity and coherence as essential element of the Area of Freedom, Security and Justice, the governance of the Schengen area as well as the development and implementation of its regulatory framework should continue to be strengthened by the Council, in close cooperation with the other institutions and the relevant agencies, while fully taking into account the Justice and Home Affairs Protocols and the role of the Schengen Council, with the specific position of the Schengen Associated Countries therein. Furthermore, focus on more strategic discussions is necessary, including operational follow-up of deficiencies identified.
5. European Integrated Border Management is of paramount importance to ensure a fully functioning Schengen area, amongst others by curbing illegal border crossings and unauthorized movements between the Member States, countering and preventing abuses. Member States decide who enters Europe, not smugglers or hostile external actors, and the Union must mobilise all the tools at its disposal to support Member States in their primary responsibility of protecting the external borders and ensuring security. To that end, it is crucial to manage and further improve one of the world's most modern and effective border management systems at the external borders. Progress should be made on the development of common minimum standards for border surveillance.
6. Interoperability fosters the mutual exchange of information and also significantly contributes to the prevention, detection, investigation and prosecution of terrorism and serious crime. The European Union remains committed to managing and further improving the external border management systems, as well as the decentralised systems for information exchange in the field of law enforcement, which will become even stronger with the gradual entry into operation of the different components of a fully interoperable IT architecture, compliant with fundamental rights and in particular the protection of personal data.

7. At the same time, the more strategic use of the Union's visa policy will contribute to the resilience of the Schengen Area, in particular with a view to preventing abuse of the EU's visa regime, as well as making adequate use of the EU's leverage in relation to third countries. To this end, a new EU Visa Policy Strategy should be developed and the Commission is invited to work on its development in close cooperation with Member States.
8. The European Union must remain committed to breaking the business model of traffickers , and smuggling networks and to the challenges attached to them and to tackling the root causes of irregular migration in order to prevent that people embark on perilous journeys. To this end, the European Union will remain vigilant to all migratory routes both into and out of the European Union with a preventive approach. It will continue to develop ambitious and durable comprehensive partnerships with countries of origin and transit in a mutually beneficial way, including border and security partnerships with our neighbours and with countries globally, and encompassing the fight against migrant smuggling, as well as legal pathways in line with national competences and the mutual needs of third countries and Member States. The Commission is invited to consult with the Council and the Member States on various ideas for strategically optimizing, developing and implementing such partnerships.
9. In parallel, new ways to prevent and counter irregular migration will be considered, in line with international law, while ensuring sustainable solutions and without generating new migratory routes or additional pressure. Drawing on the route-based approach, collective efforts with IOM, UNHCR and other relevant stakeholders need to be designed and implemented to reinforce responses to mixed movements, and to ensure that effective national asylum and migration systems are in place within a whole-of-route approach. The Commission is encouraged to actively engage with Member States on these matters, with a view to facilitating their implementation and proposing initiatives, if relevant.

- 10 Faced with new types of threats, such as instrumentalization of migrants, and hostile actors at the EU's external borders, Member States need to be able to counter such activities effectively and guarantee the stability and security of the Union. Therefore, the Union will find joint solutions on strengthening the EU's legal framework to address these threats and security challenges that affect asylum and border management. The European Union is determined to counter the hybrid attacks at its external borders launched by Russia and Belarus. They or any other hostile third country cannot be allowed to abuse our values, including the right to asylum, and to undermine our democracies.
11. Given the new legislative framework on asylum, migration and Schengen the beginning of the 2024 - 2029 legislative cycle will be also characterised by the focus on the effective implementation of the adopted EU legislation – in particular, the reformed Common European Asylum System and the revised Schengen acquis – as well as the application of existing legislation. In parallel, the European Union and its Member States must ensure that those without the right to stay are effectively returned. To this end, a more assertive and comprehensive approach to returns will be developed and implemented, by upgrading our legal framework as a matter of urgency, and our capacities, in combination with the use of the internal and external tools at our disposal. A successful return policy is a fundamental pillar of a comprehensive and credible EU asylum and migration system.
12. All new measures to address migration challenges must be developed and implemented in full compliance with applicable EU law and the Charter of Fundamental Rights, including the principle of non-refoulement, as well as with international legal obligations, and respect the responsibilities incumbent upon Member States with regard to the maintenance of law and order and the safeguarding of internal security in line with the Treaties.

13. A well-managed migration system is essential for effectively preventing irregular migration. To this end, efforts should continue to be given, in full respect of national competences, to safe and legal pathways which are key for regular and orderly migration.
14. The European Union remains committed to supporting persons fleeing Russia's war of aggression against Ukraine to the European Union and stands ready to ensure the necessary legal certainty to continue managing the situation as long as it takes. In this respect, in a spirit of solidarity, the EU will take into consideration the protection needs, the situation in and the capacities of all Member States.
15. Serious and organised crime, including illicit drug-trafficking undermines the functioning of the area of freedom, security and justice. It poses a threat to the safety of citizens and erodes the rule of law. Policy initiatives should bring a shift of perspectives, where efforts to fight organised crime should be, guided by the victims' and society's legitimate interest in the protection against crime. In order to tackle serious and organised crime effectively, it is important to deprive criminal groups off their resources, disrupt illicit financial flows, and tackle criminal activity in prisons. We should make society more resilient to organised crime by promoting public private partnerships, such as the European Ports Alliance, to make logistical hubs more resilient. In addition, we should promote the administrative approach, and in particular to prevent the infiltration of the legal economy and prevent the recruitment of minors and persons in vulnerable situations by criminal organisations. Enabling law enforcement to use AI effectively in line with fundamental rights, , including for analysing large volumes of data, could benefit the prevention and fight against crime, and should be further examined. Furthermore, it is essential that the European Multidisciplinary Platform Against Criminal Threats (EMPACT) remains the cornerstone of the EU's operational action to fight organised crime and that it receives resources. Crime prevention strategies and tools, such as the European Crime Prevention Network (EUCPN) and the European Network on the Administrative Approach (ENAA) should form an integral part of the EU's efforts in the fight against crime.

16. Special attention should be given to the fight against corruption and the promotion of integrity as part of an overall EU approach, encompassing actions ranging from prevention and analysis to repression of corruption, focused on strengthening the transparency and integrity of EU institutions and Member States, both in public and private sector.
17. Europol and Eurojust will continue to play a key role in the fight against cross-border organised crime by contributing to ensure that all relevant judicial and law enforcement authorities are supported in their operation. With the ramifications of criminal organisations and criminal activities reaching far beyond the EU, it is essential to further improve law enforcement and judicial cooperation with third countries at the level of the EU and of the Member States.
18. In order to mitigate the potential internal security implications of Russia's unprovoked and unjustified war of aggression against Ukraine, the structured internal security dialogue between the EU and Ukraine has proven useful, and the actions that have been put in place should continue.
19. The fight against crime online and offline is at the centre of safeguarding the EU's internal security and has led to a number of judgments of the Court of Justice. In this regard, the result of the work of the High-level Group (HLG) on access to data for effective law enforcement, and its recommendations should be the basis for the political and practical future direction for the European vision of effective access to data for law enforcement purposes. To this end, the Commission is invited to develop a roadmap for the implementation of the recommendations.

20. The European Union will take a firmer approach to preventing and combating terrorism, radicalisation, disinformation, violent extremism and anti-democratic tendencies online and offline, and will uphold its common values and the European way of life. We will continue to fight the financing of terrorism in all its forms, and we will aim to curb access to financial resources, and bolster information exchange. To underpin our firm approach, it is timely to develop a new Counter-Terrorism Agenda encompassing a comprehensive range of policies and actions designed to address new and persisting challenges, and strengthen the EU's collective security and resilience. Special attention should be given to the victims of terrorism. In addition, the European Union will encourage cooperation among Member States and also international cooperation in this field. Tackling hybrid threats from external actors, foreign information manipulation and interference, and the fight against disinformation, misinformation and all forms of hatred will be key.
21. The European Union will support Member States in their efforts to combat racism and antisemitism and foster Jewish life.
22. In recent years, the European Union has faced an increasing number of challenges stemming from cross-sectoral and cross-border crises, including large scale natural and man-made disasters, as well as conflicts developing near its external borders.. Many of these challenges have been and will continue to be exacerbated by climate change and the evolving security landscape in Europe and globally. Therefore, initiatives should be taken in the field of Justice and Home Affairs to contribute to strengthening preparedness and crisis response at EU level in an all-hazards and whole-of-society approach, according to the principle of subsidiarity and in full respect of Member States' competences. These initiatives should concur in further strengthening civil protection in order to increase safety of our citizens from man-made and natural disasters. To achieve a higher level of resilience, closer cooperation, exchange of good practices and resources from both the EU and the Member States are necessary.

23. EU institutions and Member States have a common responsibility to promote and safeguard the rule of law in the framework of EU law, which is fundamental and a prerequisite for efficient efforts to tackle the challenges facing the Union, including in the area of freedom, security and justice. Therefore, we commit to the joint effort in upholding the rule of law within the EU by all available tools in accordance with the Treaties.
24. In addition to the regular Council rule of law dialogue in the General Affairs Council, and without prejudice to its horizontal role and responsibilities, Justice Ministers will continue to hold specific thematic discussions on rule of law related issues falling within the remit of their expertise, and which are highlighted in the Commission's annual rule of law report. Such discussions complement the Council's annual rule of law dialogue and will help to share best practices, and to identify issues that deserve attention and demand actions, as appropriate and in accordance with the Treaties, with a view inter alia to ensuring access to justice before independent courts, legal certainty and a people centred approach in justice systems. This, in turn, will further reinforce mutual trust which is the basis for the development of policies in the field of justice and home affairs that rely on the principle of mutual recognition.
25. In addition to ensuring respect for the rule of law, upholding and ensuring respect for the Charter of Fundamental Rights in all relevant strands of work is key. Therefore, justice policies should develop and implement measures to protect the fundamental rights, including the right to equality and non-discrimination, taking into account the relevant expertise and work of the Fundamental Rights Agency.

26. Judicial cooperation across the EU is a key objective in the area of freedom, security and justice. The smooth functioning of the area of justice is essential and the mutual recognition of judgements and judicial decisions across the EU, based on mutual trust in national systems remains a cornerstone in the field of judicial cooperation, ultimately serving the protection of fundamental rights. At the same time, respect for the different legal systems and traditions of Member States is a key principle that applies to all legislation in the area of justice.
27. To underpin these efforts, and in full respect of the competence of the Member States as to the organisation of their justice systems, the e-Justice Strategy 2024-2028 should guide the ongoing digital transformation in the justice domain throughout the European Union. In parallel, a common reflexion on the use of artificial intelligence in justice, taking into account the AI Act, needs to take place.
28. Digitalisation is transforming justice and judicial cooperation by integrating technology into the legal system. The ongoing digital evolution should seek to enhance access to justice, increase the effectiveness and efficiency of the justice system's, support justice professionals in their work, and connect more closely with citizens, ultimately providing improved justice services for all. In this respect, the use of AI in justice systems, has enormous potential for continuing to facilitate and improve access to justice for all throughout the EU. AI tools must, however, be used with caution, in line with a fundamental rights- and risk-based approach, and ensuring that users are not overburdened. It must be ensured that AI is developed and used in a manner that is inclusive, sustainable, privacy-respecting and human-centred. AI can support decision-making of judges, but should not replace it: the final decision-making must remain a human-driven activity.
29. In this regard, data protection is key to ensuring individuals' rights, including by supporting supervisory authorities at EU and national level.

30. It is essential that EU institutions engage in a structured and comprehensive joint reflection on all aspects of EU criminal and civil law, including on the reinforcement of internal consistency within these areas, and their consistency with closely related instruments. Efforts should primarily focus on the full implementation of the existing acquis and new initiatives should be based on evidence clearly demonstrating their added value.
31. The long-standing and deep cooperation in the area of civil law, with a comprehensive set of legal instruments, makes the EU a unique common legal area. A well-functioning legal area, including a strong and effective legal framework and fair and reliable proceedings, is the EU's key asset in protecting the rights of individuals and ensuring competitiveness. Facilitating access to justice, with a particular attention to the most vulnerable, requires constant efforts.
32. Fostering economic competitiveness, strengthening the Capital Markets Union and contributing to the development of business-friendly environment for companies to operate in the EU are crucial to ensuring economic growth and prosperity. Judicial cooperation in civil matters is a key driver in this respect. This requires inter to improve legal certainty and a predictable legal environment and to provide better access to information. Priority should also be given to the correct and effective implementation and enforcement of existing Union legislation and to a thorough evaluation of its application and functioning, taking into account also competitiveness considerations. Any new legislative initiatives must be based on evidence of clear added value and of the practical needs of citizens and businesses, including through reducing the administrative burden on businesses and simplifying the relevant legal framework.

33. In the area of EU criminal law, judicial response to organised and particularly serious crime, including the fight against corruption should remain a priority. Equally, special attention should continue to be given to combatting hate crimes and hate speech, supporting and protecting victims of crime, and to furthering work on data retention. There should be a particular focus on improving the effectiveness of mutual recognition instruments – including the European Investigation Order and those on freezing and confiscation orders. To achieve these objectives, future initiatives, where relevant and necessary, should draw on the results of the structured and comprehensive reflection, the work of the High-Level Group on access to data, the rounds of mutual evaluations and impact assessments. The Council will continue, in cooperation with the other EU institutions, the ongoing reflection on the future of EU criminal law.
34. Organised crime concerns the criminal justice chain as a whole. In order to fight criminal networks and their business models across the EU and beyond, competent authorities must also strengthen their cooperation to ensure appropriate follow-up. As the majority of the most threatening criminal networks also have a reach that extends beyond the EU, judicial cooperation with third countries is essential to facilitate prosecution and bring members of criminal networks to justice.
35. The Member States and the Commission will remain committed to the European Judicial Network in Civil and Commercial Matters and to the European Judicial Network in Criminal Matters as well as other relevant networks aimed at deepening judicial cooperation, and will further analyze how to make the best use of these networks.
36. In a changing global political landscape, the coherent external dimension of the area of freedom, security and justice is of key importance. To this end, the EU should continue its efforts to deepen judicial cooperation with third countries in both civil and criminal matters.

37. Russia's unprovoked and unjustified war of aggression against Ukraine has underlined the need for effective—legal and operational responses to fight impunity regarding the crime of aggression and other most serious crimes under international law. The EU will, therefore, remain committed to supporting coordination and cooperation between all competent authorities at international and national levels with a view to holding fully accountable those responsible for the most serious international crimes through successful investigations and prosecutions of these crimes.
38. EU agencies in the area of Justice and Home Affairs play a key role in achieving the objectives laid down in the strategic guidelines. To foster the support they provide to the Member States, they need to be fully operational and effective to fulfil their respective tasks, by complementing but not substituting activities – including in the external dimension – and prerogatives to those of Member States' authorities. Any future revision of their mandates should fully adhere to the supportive role assigned to the agencies, align with the identified needs on the ground and assess the feasibility of potential new tasks. The European Public Prosecutor's Office, as an independent body of the European Union, also needs to be fully operational and effective to protect the financial interests of the European Union, in accordance with the Treaties. Efforts should be taken to foster closer cooperation between the agencies, bodies and the Member States and to ensure that their expertise is considered from the early stages of policy making.

39. Sound institutional working methods will be paramount in ensuring the efficiency of the legislative process and in underpinning the strategic guidelines for legislative and operational planning, in the area of freedom, security and justice for the coming years. To this end, and in full respect of the prerogatives of the EU institutions:

- EU institutions are invited to pay particular attention to the coherence and consistency of future initiatives in the area of justice and home affairs, at all stages of the legislative process.
- it is vital that non JHA legislative initiatives with significant impact on internal security, using concepts or affecting instruments pertaining essentially to the area of justice and home affairs cooperation, will be subject to increased coordination already in the preparatory phase;
- it is essential that all new legislative proposals and initiatives in the area of Justice and Home Affairs are evidence based, supported by meaningful impact assessments, demonstrating their added value and taking into account subsidiarity, proportionality and impacts on the different legal systems and traditions of the Member States and also financial implications at the national level. The principle that national security remains the sole responsibility of each Member State is to be explicitly taken into account. Further action is required to ensure that the impact on internal security, in particular on law enforcement and judicial authorities, and on the fundamental rights of citizens and vulnerable persons are thoroughly assessed and continuous efforts will be needed to ensure that security, and respect for fundamental rights are duly embedded in various EU policies, thus ensuring that those objectives are comprehensively fostered as an integral part of all policy initiatives in the area of freedom, security and justice;

- in order to ensure that legislative proposals respect the system of the attribution of competences laid down in the Treaties and therefore that the specificities of the justice and home affairs area are fully taken into account in the legislative process, all institutions should ensure that the appropriate legal bases are applied.
- maintaining and strengthening the coherence and consistency of the different policy areas under Justice and Home Affairs, while preserving the realisation and the unity of the Area of Freedom, Security and Justice as well as the coherence of the Schengen acquis, where relevant in close cooperation with the Schengen Associated Countries, will be imperative.

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The EU institutions and Member States are invited to ensure the appropriate legislative and operational follow-up to these guidelines.
