

## **Informal JHA Ministerial Meeting (Justice)**

**31 January 2025, Warsaw**

**Working lunch – Discussion paper:**

**The Future of Justice: Imagining New Openings**

### **Introduction**

The area of freedom, security and justice (‘AFSJ’) has long stood as a cornerstone of European Union integration, embodying the Union’s commitment to shared values and mutual cooperation. Over the decades, the justice domain has evolved from its origins in the third pillar to a distinct area of EU law, characterised by a nuanced balance between common standards and respect for national competencies. As the EU enters a new institutional cycle, this moment offers an opportunity to reimagine and reinvigorate the justice area by advancing a forward-looking agenda.

Against the background of an expansion of policies within the AFSJ, we would like to invite you to a discussion on whether we need to reaffirm our commitment to a fair and effective system that prioritises individuals’ rights and protections. How could one imagine the development of the EU justice area? Should there be a stronger role for judicial oversight at EU level? Or stronger EU-wide procedural guarantees or EU standards for the protection of the profession of lawyer? Should security policies be more directly accompanied by a relevant justice component? Or maybe the question should be more philosophical – what citizens’ experiences with the justice system deserve our particular attention, mindful of the fact that feelings of injustice and unfairness might create a fertile soil for populism and radicalism? Last but not least, is there a competitiveness angle that genuinely guides reflections on the future of justice?

This discussion paper will briefly elaborate on potential directions, against the background of values and objectives the EU’s justice area should ultimately strive to serve.

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### **Ways forward**

#### *Mutual cooperation*

The development of the AFSJ has largely been centred on means to achieve smooth cooperation between authorities. Over the years, the EU has been prioritising initiatives that strengthen cooperation in judicial matters (even the Stockholm Programme’s procedural rights directives were largely rooted in the need for a level playing field between authorities). While the question of the

impact of the erosion of fundamental rights and the rule of law on mutual trust is the subject of another discussion paper, legislative and non-legislative measures as regards optimising mutual recognition functioning remain and will largely define efforts in the justice area.

Mindful that trust starts at home, these efforts could, in the future, include further supporting Member States to ensure high levels of efficiency, quality and independence of justice systems, and enhancing judicial training (e.g. by establishing more robust training programmes for judges and legal professionals across Member States, including on digitalisation) to ensure the consistent application of EU law and foster a shared judicial culture.

Moreover, a reinforced judicial cooperation and mutual legal assistance framework could help close the prosecution circle. It is also a means to ensure that by pursuing the aim of bringing justice, individuals' rights and their sense of fairness and freedoms are not undermined. Improving mutual legal assistance instruments, including reflecting on the CJEU's case law and addressing legal coherence and practical considerations as well as possible gaps, could help create a stronger and more effective justice component within the EU.

#### *Individual centred perspective*

Mutual cooperation is, however, not an objective in itself. It allows the EU to exist as an area of freedoms, rights and values for individuals to enjoy. Their feelings of injustice therefore represent a critical metric for assessing the effectiveness of the justice area. When individuals perceive that their rights are inadequately protected or that judicial systems are inaccessible, inefficient or not independent, it erodes trust in the institutions and fuels scepticism, including towards the EU. Effective justice policies should address the issues individuals are facing regarding access to justice in their daily lives. The Justice Scoreboard 2024 highlights important disparities between Member States on a wide range of issues, as well as common problems. It also points to important differences in the perception of the independence of the justice system by the general public and among companies.

In practice, the challenges faced by individuals within Member States often share common barriers, including delays in judicial processes, difficulties in accessing legal representation, or systemic issues such as discrimination, corruption or doubts concerning judicial independence. While these challenges sometimes fall within the remit of national governments, they do constitute an EU-wide problem, as they undermine EU values, including the respect for fundamental rights, and more importantly affect EU citizens, in some cases hindering their enjoyment of the rights granted under EU law.

Addressing individuals' perceptions and needs might therefore require a conceptual shift towards more targeted and people-centred policies that prioritise access to justice, fairness, transparency and accountability, with a view to further enhancing the effectiveness of justice systems in the EU and contributing to strengthening the rule of law, including access to justice. As an example, strengthening support frameworks for victims of crime, including psychological assistance and streamlined procedures for compensation claims, could be seen as an important step to serve that objective. But this might not be enough.

### *Access to Justice*

What compliments the landscape is a continuous reflection on access to justice. Addressing the complexity of the justice system, the time needed to deal with it and the burden it places on individuals should remain a priority. Work is ongoing at EU level to improve access to justice, simplify procedures and reduce barriers for individuals seeking redress across borders, e.g. in cases involving consumer rights – an aspiration that goes hand-in-hand with the strive for competitiveness.

Equally, judicial efficiency through digitalisation has become a standalone objective well reflected in the e-Justice strategy. Adopting advanced digital tools to reduce backlogs and improve transparency in judicial proceedings, as well as promoting videoconferencing tools with EU-wide common technical standards to allow individuals remote participation, would surely have a positive impact on access to justice. Last but not least, promoting legal literacy – through educational campaigns to inform citizens about their rights under EU law and the mechanisms available to protect them – could foster trust in the EU justice area.

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### **Conclusion and questions**

The abovementioned issues identified general areas for development in the EU justice area. At the same time, the Presidency notes a certain reluctance among Member States towards new initiatives, citing factors such as policy fatigue, a lack of clarity regarding the overall direction and objectives of future policies, and concerns about over-regulation. The recently adopted Strategic Guidelines confirm a limited appetite for far-reaching changes to the current regulatory framework.

At the same time, various examples of comparative reports at EU level (e.g. Justice Scoreboard) and beyond (e.g. World Justice Project) showcase both success stories and the potential for improvement, serving as an inspiration to decision-makers.

Against this background, justice ministers are invited to share their views on the following questions:

1. Does the current consensus on the way forward for the justice area correspond well and meaningfully to individuals' experiences with justice systems and, more broadly, their feeling of fairness? Can the EU try to better address citizens' perspectives?
2. For instance, can Member States and the EU better include citizens' perspectives in the development of justice policies to address perceptions of injustice and strengthen trust in EU institutions? Is there potential for identifying and addressing our shared domestic challenges to demonstrate the tangible benefits of Members States' cooperation while respecting the diversity of national legal systems?
3. Do you have new ideas that you would like to bring to the debate or experiences at national level regarding the considerations described in this discussion paper that you would like to share to inform the debate at EU level?