**Discussion paper for the technical meeting ahead of the second plenary of the High-Level Forum on the Future of EU Criminal Justice**

**28 April 2025**

**Topic: Cross-checking judicial information**

|  |
| --- |
| *This document has not been adopted or endorsed by the European Commission. Any views expressed are the preliminary views of the Commission services and may not in any circumstances be regarded as stating an official position of the Commission.* |

1. **Introduction**

Effective and efficient investigation and prosecution of cross-border crime, in particular organised crime, is key to making Europe more safe and secure. It is crucial for successfully fighting crime, deterring future criminals, and reinforcing the rule of law. Criminals often benefit from the lack of information exchange between national authorities in cross-border cases, whereas in the Union’s common area of Freedom, Security and Justice, the competent national authorities should be able to cross-check and access information about investigations/prosecutions in the possession of other Member States’ judicial authorities in an easy, quick, and secure manner.

One of the main challenges is that there are no tools at the Member States’ disposal to securely cross-check and exchange that information within the limits imposed by the data protection framework. There is also no interoperability between the different case management systems of the Member States. Consequently, essential information about criminal proceedings may not be available on time to the judicial authorities involved.

To solve those issues, it could be considered to design an IT tool allowing alphanumeric data searches in other Member States’ case management systems concerning ongoing and closed prosecution cases. The tool would facilitate the identification of links and overlaps between ongoing cross-border investigations and prosecutions of criminal networks, particularly transnational organised crime networks, and investigations and prosecutions linked to anti-fraud. It would also positively impact the efficiency of judicial administration by preventing duplication caused by parallel cases submitted to different national courts and instead allowing multiple criminal cases to be dealt with by a single entity.

In the chain of cross-border cooperation in criminal cases, that tool would be positioned during the criminal prosecution phase. It would indicate whether specific suspect or accused person is under investigation in another Member State. By doing that it would fill the information gap between the moment when a criminal file is submitted by law enforcement (for which the Prum II Regulation[[1]](#footnote-2) provides for cross-checking mechanism of police records) to the public prosecutor’s office for the commencement of the criminal investigation and when the judgment for the crime in question is available through the European Criminal Records Information System (ECRIS). A prosecution service may become aware of such an information gap as a result of its routine verification of the investigation file, before the indictment phase, whether the suspect or accused person is subject to a criminal investigation in other Member States, in view of identifying extraneous (cross-border) elements not yet identified. It could complement the cross-border cooperation tools currently available to judicial authorities for obtaining information and evidence, such as the European Investigation Order and mutual legal assistance agreements and the Framework Decision on Conflicts of Jurisdiction.

To sum up, the tool would provide the following advantages: identification of possible links between several parallel investigations and prosecutions in different Member States, better targeted investigations and prosecutions, possibility of enhanced coordination and cooperation between the competent authorities, minimising the risk of ‘ne bis in idem’ and conflicts of jurisdictions, and ultimately better protection of defence rights in cross-border proceedings. This would in turn facilitate the functioning of the Transfer of Proceedings Regulation and the Conflicts of jurisdiction Framework Decision.

1. **Design**

The key general characteristics of the tool would be as follows:

* A tool to automate the search of biographic data in other Member States’ CMS.
* Non-mandatory but based on reciprocity (a MS can query another MS only if it exposes its own data).
* Based on the hit/no-hit queries concerning national ongoing and closed prosecution cases.
* Definition of rules that should be used to query the targeted CMS to mitigate the risk of so-called “fishing expeditions”, for example, by ensuring that the exact search mechanism would be applied, i.e. data elements must be identical to be considered a match (as opposed to an inexact/fuzzy search).
* To be used only in cases where there is a suspicion of a cross-border crime, i.e. case by case assessment. Systematic (blanket) searches would not be allowed.
* To be used only for the purpose of prosecuting a criminal offence punishable by a maximum term of imprisonment of at least one year under the law of the requesting MS.

Conceptually, the tool would be comparable to similar cross-checking mechanism in the area of home affairs, i.e. the European Police Records Index System (EPRIS) established by the Prüm II Regulation. The tool would be implemented in a hybrid manner, i.e. neither as a fully decentralised nor a centralised solution, which means that it would not store any data itself and would fully adhere to data protection requirements. Additionally, the participating entities would retain ownership and control over their data. To that end, the following three technical components would be required:

* A central infrastructure – a dedicated router located at the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA) – with a search tool for simultaneous querying of other entities. Each entity would be connected to the router, instead of connecting to each other. The router would serve as a “message broker” forwarding search transactions and replies to the participants’ systems.
* Local indexes – created by each participant and containing a specific set of biographic data. The indexes would be fed automatically by data stored in local case management systems, with the possibility to exclude sensitive data/cases.
* A secure communication channel between the routers and the participants. All communication would go via e-CODEX and would be designed in accordance with the e-Justice core vocabulary.

The European Commission considers a similar tool for the four JHA agencies and EU bodies most relevant in the fight against cross-border crime – the EPPO, Eurojust, Europol, and OLAF. The two mechanisms can either be linked or completely isolated from each other (see the second question at the end of the paper).

1. **Other aspects**

Concerning the system’s design and implementation cost, based on the experience of the Member States with the EPRIS project, the one-off budgetary needs for the Member States would be at the level of 0.5 to 1 million EUR per Member State, depending on the complexity of their national system(s). However, it’s assumed that the cost could be vastly decreased if the EPRIS know-how and specifications are re-used.

The concept of the tool was originally presented, and preliminarily endorsed by the Member States, in the context of the Digital Criminal Justice (DCJ) study[[2]](#footnote-3), which examined a pilot project carried out by the public prosecution offices from Belgium, the Netherlands, and Germany (Criminal Information Data Referral, CiDaR).

See additional technical information in the annex.

Against this background and with a view to allowing the participants to the High-Level Forum to have an open discussion, experts are invited to share their views on the following topics:

1. **Usefulness of the outlined cross-checking mechanism** – Do you consider the outlined mechanism useful? Would you support its establishment? Where do you see the main challenges?
2. **Cross-checking information with the JHA agencies and EU bodies –** Since the European Commission considers a similar initiative for the four JHA agencies and EU bodies most relevant in the fight against cross-border crime – the EPPO, Eurojust, Europol, and OLAF, would you see an added value in connecting both mechanisms (the Member States one and the JHA agencies/bodies one)?

1. https://eur-lex.europa.eu/eli/reg/2024/982/oj [↑](#footnote-ref-2)
2. https://op.europa.eu/publication-detail/-/publication/e38795b5-f633-11ea-991b-01aa75ed71a1 [↑](#footnote-ref-3)