

Brussels, 29 April 2026
(OR. en)

8727/26

COPEN 160
DROIPEN 73
JAI 517
ONU 25

COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	29 April 2026
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union

No. Cion doc.:	SWD(2026) 129 final
Subject:	COMMISSION STAFF WORKING DOCUMENT Review of the implementation by the European Union of articles 2 - 10, 15 and 23 “Criminalisation and jurisdiction” of the United Nations Convention against Transnational Organised Crime, Review of the implementation by the European Union of articles 3 and 5 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, Review of the implementation by the European Union of articles 3, 5 and 6 of the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, Review of the implementation by the European Union of articles 3, 5 and 8 of the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime.

Delegations will find attached document SWD(2026) 129 final.

Encl.: SWD(2026) 129 final

Brussels, 29.4.2026
SWD(2026) 129 final

COMMISSION STAFF WORKING DOCUMENT

**Review of the implementation by the European Union of articles 2 – 10, 15 and 23
“Criminalisation and jurisdiction” of the United Nations Convention against
Transnational Organised Crime,**

**Review of the implementation by the European Union of articles 3 and 5 of the Protocol
to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and
Children, supplementing the United Nations Convention against Transnational
Organized Crime,**

**Review of the implementation by the European Union of articles 3, 5 and 6 of the
Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the
United Nations Convention against Transnational Organized Crime,**

**Review of the implementation by the European Union of articles 3, 5 and 8 of the
Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts
and Components and Ammunition, supplementing the United Nations Convention
against Transnational Organized Crime.**

Contents

I. Introduction	3
1. Context and background of the implementation review	3
1.1 The review of the first cycle	5
1.2 Fundamentals of the European Union laws and institutions	8
1.3. Key Principles of EU law	9
1.3.1 The EU’s unique institutional set-up.....	10
1.4 EU decision-making.....	12
1.5 Specificity of EU Law	13
2. The EU legislation to prevent and fight organised crime	15
2.1 EU policy tools and instruments in the fight against organised crime.....	23
2.2 The role of the European Union Agencies and bodies in the fight against organised crime	27
II. EU self-assessment United Nations Convention against Transnational Organized Crime..	31
Cluster I: criminalization and jurisdiction (arts. 2, 5, 6, 8, 9, 10, 15 and 23 of the	
Convention)	31
Article 2. Use of terms	31
Article 5. Criminalization of participation in an organized criminal group	39
Article 6. Criminalization of the laundering of proceeds of crime	42
Article 8. Criminalization of corruption	51
Article 9. Measures against corruption	52
Article 10. Liability of legal persons	53
Article 15. Jurisdiction.....	60
Article 23. Criminalization of obstruction of justice	62
Criminalization: cases and judgments	64
Difficulties encountered.....	65
Need for technical assistance.....	65
III. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and	
Children, supplementing the United Nations Convention against Transnational Organized	
Crime	67
Cluster I: criminalization and jurisdiction (arts. 3 and 5 of the Protocol)	67
Article 3, Use of terms, and article 5, Criminalization	67
Criminalization: cases and judgments	72

Difficulties encountered.....	72
Need for technical assistance.....	72
IV. Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime.....	75
Cluster I: criminalization and jurisdiction (arts. 3, 5 and 6 of the Protocol)	75
Article 3, Use of terms, article 5, Criminal liability of migrants, and article 6, Criminalization	75
Criminalization: cases and judgments	79
Difficulties encountered.....	79
Need for technical assistance.....	80
V. Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime.....	82
Cluster I: criminalization and jurisdiction (arts. 3, 5 and 8 of the Protocol).....	82
General information	82
Article 3. Use of terms	82
Article 5. Criminalization	86
Criminalization: cases and judgments	96
Difficulties encountered.....	96
Need for technical assistance.....	99

I. Introduction

1. Context and background of the implementation review

This working document has been drafted by Commission services. It does not necessarily represent the views of the Commission as an institution, nor of the other institutions and bodies consulted.

For the European Union (EU), fighting organised crime is a key policy objective.¹ This was recently confirmed by ProtectEU, the new European Internal Security Strategy,² which has set out a comprehensive response to the findings of the latest EU Serious and Organised Crime Threat Assessment (EU SOCTA).³ The 2025 EU SOCTA highlighted that the threat posed by serious and organised crime to the EU's internal security continues to grow and evolve. Serious and organised crime adapts faster than ever before. It undermines the EU's economy, rule of law and society by generating illicit proceeds, spreading violence, and normalising corruption. Serious and organised crime also increasingly destabilises the EU through collaboration between criminal networks and hybrid threat actors. Crime is increasingly nurtured online, as more criminal activities are taking place to a larger extent online, with an increased volume and a wider reach. AI and other new technologies such as blockchain or quantum computing will further accelerate serious and organised crime in line with their rapid development. They are a catalyst for crime, and drive criminal operations' efficiency by amplifying their speed, reach, and sophistication.

¹ See the European Council Strategic Agenda 2024-2029, available at <https://www.consilium.europa.eu/media/yxrc05pz/sn02167en24_web.pdf> and the Political Guidelines for the European Commission 2024-2029, available at <https://commission.europa.eu/document/download/e6cd4328-673c-4e7a-8683-f63ffb2cf648_en?filename=Political%20Guidelines%202024-2029_EN.pdf>.

² COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS on ProtectEU: a European Internal Security Strategy, COM(2025) 148 final, available at <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52025DC0148&qid=1747748790629>>. ProtectEU followed the EU Roadmap to fight organised crime (COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL on the EU roadmap to fight drug trafficking and organised crime, COM(2023) 641 final, available at <[EUR-Lex - 52023DC0641 - EN - EUR-Lex](#)>) and the EU Strategy to tackle Organised Crime 2021-2025 (COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS on the EU Strategy to tackle Organised Crime 2021-2025, COM (2021) 170 final, available at <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52021DC0170&qid=1632306192409>>.

³ European Union Agency for Law Enforcement Cooperation (Europol), EU Serious and Organised Crime Threat Assessment: The Changing DNA of Serious and Organised Crime', 18 March 2025, available at <<https://www.europol.europa.eu/media-press/newsroom/news/dna-of-organised-crime-changing-and-so-threat-to-europe>>. The EU SOCTA is a comprehensive organised crime threat analysis identifying high priority crime areas produced every four years by Europol.

Both the European Parliament⁴ and the Council⁵ have stressed that organised crime causes enormous damage and highlighted the importance of strong EU action to counter all forms of organised criminal activity.

The EU attaches great importance to multilateralism and to the implementation of existing global and regional instruments. The United Nations Convention against Transnational Organized Crime (UNTOC) adopted by General Assembly resolution 55/25 of 15 November 2000 is the main international instrument in the fight against transnational organised crime. It opened for signature by States Parties at a High-level Political Conference convened for that purpose in Palermo, Italy, on 12-15 December 2000 and entered into force on 29 September 2003.

The Convention represents a major step forward in the fight against transnational organised crime and signifies the recognition of the seriousness of the problems addressed by it, as well as the need to foster and enhance close international cooperation in order to tackle those problems. States that ratify this instrument commit themselves to taking a series of measures against transnational organised crime, including the creation of domestic criminal offences (participation in an organised criminal group, money laundering, corruption and obstruction of justice); the adoption of new frameworks for extradition, mutual legal assistance and law enforcement cooperation; and the promotion of training and technical assistance for building or upgrading the necessary capacity of national authorities.

The Convention is further supplemented by three Protocols, which target specific areas and manifestations of organised crime: the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; the Protocol against the Smuggling of Migrants by Land, Sea and Air; and the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition.

The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, was adopted by General Assembly resolution 55/25. It entered into force on 25 December 2003. It is the first global legally binding instrument with an agreed definition on trafficking in persons, aiming at facilitating convergence in national approaches with regard to the establishment of domestic criminal offences that would support efficient international cooperation in investigating and prosecuting cases of trafficking in persons. An additional objective of the Protocol is to protect and assist the victims of trafficking in persons with full respect for their human rights.

The Protocol against the Smuggling of Migrants by Land, Sea and Air, adopted by General Assembly resolution 55/25, entered into force on 28 January 2004. It includes the first agreed

⁴ See European Parliament resolution of 17 December 2020 on the EU Security Union Strategy (2020/2791(RSP)), available at <https://www.europarl.europa.eu/doceo/document/TA-9-2020-0378_EN.pdf>.

⁵ Council Conclusions on Internal Security and European Police Partnership, Council document 13083/1/20 REV 1, 24 November 2020. See also Strategic guidelines for legislative and operational planning within the area of freedom, security and justice adopted at the Justice and Home Affairs Council on 12 December 2024, Council document 16343/24.

upon international definition of smuggling of migrants and aims at preventing and combating the smuggling of migrants, as well as promoting cooperation among national authorities and other relevant entities, while protecting the rights of smuggled migrants and preventing the worst forms of their exploitation which often characterize the smuggling process.

The Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition was adopted by General Assembly resolution 55/255 of 31 May 2001. It entered into force on 3 July 2005. The objective of the Protocol, which is the first legally binding instrument on small arms that has been adopted at the global level, is to promote, facilitate and strengthen cooperation among countries that have ratified it in order to prevent, combat and eradicate the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition.

The EU signed the UNTOC on 12 December 2000 and concluded it on 21 May 2004. The EU signed the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (hereinafter ‘Trafficking in Persons Protocol’) and the Protocol against the Smuggling of Migrants by Land, Sea and Air (hereinafter ‘Smuggling of Migrants Protocol’) on 12 December 2000, and concluded both on 6 September 2006. The EU signed the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition (hereinafter ‘Firearms Protocol’) on 16 January 2002, and concluded it on 21 March 2014. All EU Member States are parties to the UNTOC. The EU is in a unique position vis-à-vis the UNTOC and the Protocols thereto, as it is the only party which is not a State. Moreover, the Convention binds the EU and its Member States, and forms part, as is apparent from the case-law of the European Court of Justice, of EU law⁶. Therefore, the observations in the report and executive summary are without prejudice to the Union Member States’ obligations under the Convention and do not cover the implementation of the Convention by Member States.

1.1 The review of the first cycle

The Implementation Review Mechanism of the UNTOC was established by the Conference of the Parties at its ninth session held on 15-19 October 2018. The latter adopted the resolution 9/1 entitled “Establishment of the Mechanism for the Review of the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto”.⁷ Annexed to this resolution are the “Procedures and Rules for the Functioning of the Mechanism for the Review of the Implementation of the UNTOC and the Protocols”.⁸

⁶ See for instance the judgement of 19 October 2023 in Case C-655/21

⁷ Resolution 9/1, “Establishment of the Mechanism for the Review of the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto”;
<https://www.unodc.org/documents/treaties/UNTOC/Review%20Mechanism/Resolution/English.pdf>.

⁸ Resolution 9/1 Annex, “Procedures and Rules for the Functioning of the Mechanism for the Review of the Implementation of the UNTOC and the Protocols”;
https://www.unodc.org/documents/organized-crime/reviewmechanism/Procedures_and_Rules.pdf.

Under this review mechanism, parties to the Convention are requested to undertake a self-assessment to submit for review, and to review in turn two other states parties. For the first exercise, the EU self-assessment, the EU will be reviewed by Austria and St. Kitts and Nevis.

The UNTOC review process is composed of four phases, each covering a cluster of articles of the Convention for review. The process is currently in its first phase, covering Cluster I – criminalization and jurisdiction. This requires the assessment of:

- (i) Articles 2, 5, 6, 8, 9, 10, 15 and 23 of the UNTOC;
- (ii) Articles 3 and 5 of the Trafficking in Persons Protocol;
- (iii) Articles 3, 5 and 6 of the Smuggling of Migrants Protocol;
- (iv) Articles 3, 5 and 8 of the Firearms Protocol.

Articles 2, 5, 6, 8, 9, 10, 15 and 23 of the UNTOC cover, respectively: use of terms (Article 2); criminalisation of participation in an organised criminal group (Article 5); criminalisation of the laundering of proceeds of crime (Article 6); criminalisation of and measures against corruption (Articles 8 and 9, not included in the review if parties to the Convention have already undertaken an assessment under the United Nations Convention against Corruption⁹, which is a similar but separate exercise with some overlap in terms of content with regards to Articles 8 and 9 of the UNTOC), liability of legal persons (Article 10), jurisdiction (Article 15), and criminalisation of obstruction of justice (Article 23).

Articles 3 and 5 of the Trafficking in Persons Protocol cover, respectively: use of terms (Article 3) and criminalisation (Article 5).

Articles 3, 5 and 6 of the Smuggling of Migrants Protocol cover, respectively: use of terms (Article 3); criminal liability of migrants (Article 5); criminalisation (Article 6).

Articles 3, 5 and 8 of the Firearms Protocol cover, respectively: use of terms (Article 3); criminalisation (Article 5); marking of firearms (Article 8).

After the review of Cluster I, the process will continue with three additional Clusters:

Cluster II – prevention, technical assistance, protection measures and other measures is composed of Articles 24, 25, 29, 30 and 31 of the UNTOC; Articles 6, 7 and 9 of the Trafficking in Persons Protocol; Article 8, 9, 14, 15 and 16 of the Smuggling of Migrants Protocol; and Articles 7, 9, 10, 11, 14 and 15 of the Firearms Protocol.

⁹ The EU falls in this category as its implementation review under UNCAC is ongoing, and the present assessment therefore does not analyse Article 8 and 9 of the United Nations Convention against Transnational Organised Crime. For answers relative to the criminalisation of corruption, please see the EU's self-assessment for the first round implementation review under UNCAC, available at https://home-affairs.ec.europa.eu/system/files/2022-09/Commission%20Staff%20Working%20document%20Review%20implementation%20by%20European%20Union%20of%20United%20Nations%20Convention%20against%20Corruption_en.PDF.

Cluster III – law enforcement and the judicial system, is composed of Articles 7, 11, 19, 20, 22, 26, 27 and 28 of the UNTOC, Articles 11, 12 and 13 Trafficking in Persons Protocol; and Articles 11, 12 and 13 of the Smuggling of Migrants Protocol.

Cluster IV – International cooperation, mutual legal assistance and confiscation is composed of Articles 12, 13, 14, 16, 17, 18 and 21 of the UNTOC, Articles 8 and 10 of the Trafficking in Persons Protocol; Articles 7, 10 and 18 of the Smuggling of Migrants Protocol; and Articles 6, 12 and 13 of the Firearms Protocol.

The review of Clusters II, III and IV has not yet started.

As a peer review process, the Implementation Review Mechanism of the UNTOC aims at promoting the purposes of the Convention and the Protocols thereto, improving the capacity of States parties to prevent and combat transnational organised crime and to promote and review the implementation of the Convention and the Protocols thereto. It further aims at helping the parties to the Convention and the Protocols thereto to identify and substantiate specific needs for technical assistance and to promote and facilitate the provision of technical assistance upon request, gathering information on national legislation, successes, good practices and challenges of States parties in implementing and using the Convention and the Protocols thereto, and to promote and facilitate the exchange of this information. Moreover, the review process promotes international cooperation and aims at acquiring the necessary knowledge of the measures taken by the parties to the Convention and the protocols thereto in implementing the Convention and the difficulties encountered by them in doing so.

In conformity with the United Nations procedure, the EU has to present a self-assessment to the United Nations Office on Drugs and Crime (UNODC)¹⁰ as regards the way it fulfilled the obligations stemming from the UNTOC. The present self-assessment responds to this requirement and concerns the first cycle of the review.

The self-assessment is technical in nature and presents in a factual manner which EU provisions implement the UNTOC, starting with Cycle 1. The scope of the self-assessment covers the areas that are directly relevant to the EU and its institutions, in respect of matters subject to the Convention, and does not enter into questions of implementation of EU law by Member States, which is covered by their own review processes.

The Union as a whole is bound to implement the UNTOC and thus to participate in the review process. The Commission acts as the EU focal point for the EU's implementation review process, coordinating with the other EU institutions the input to this self-assessment. This exercise required the involvement of all Union institutions and certain agencies, offices or bodies, depending on the tasks conferred on them by the Treaties (see below) or by the Union's legislation in the area of relevance for the UNTOC. Their involvement is governed by the

¹⁰ See the procedures and rules for the functioning of the Mechanism for the Review of the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto (Conference of the Parties resolution 9/1, annex). Each State party shall provide to the secretariat the information required by the Conference on its compliance with and implementation of the Convention through answering to a provided questionnaire. https://www.unodc.org/documents/organized-crime/reviewmechanism/Procedures_and_Rules.pdf.

principle of the administrative autonomy of each institution, in matters relating to their respective roles.

In accordance with the mechanism for the review of the implementation of the UNTOC, each State party is to be reviewed by two other States parties. The selection of the reviewing States parties is to be carried out by the drawing of lots at the beginning of each year of the cycle, with the understanding that States parties should not undertake mutual reviews. For the implementation review of the EU, the two reviewers drawn for the first cycle are Austria and St. Kitts and Nevis.

This exercise is separate from the review of the EU under the Implementation Review Mechanism of the United Nations Convention against Corruption (UNCAC), established by Resolution 3/1 of the Conference of the State Parties. According to this Resolution, States parties must undergo a review of the implementation of the Convention. The mechanism, based on a peer-review, results in an evaluation assessing how each States party's rules and practices comply with the Convention's principles, objectives and requirements. These evaluations help identify deficiencies in national anti-corruption policies, prompting the necessary legislative, institutional and practical reforms. The EU submitted its self-assessment under the UNCAC in 2022.¹¹

1.2 Fundamentals of the European Union laws and institutions

The EU is a unique economic and political union between 27 European countries. The predecessor of the EU, the European Economic Community (EEC) was created in 1958 by six countries: Belgium, Germany, France, Italy, Luxembourg and the Netherlands. Since then, 22 other members joined. On 31 January 2020, the United Kingdom left the EU¹².

In 1992, the Treaty on the European Union (TEU)¹³ established the EU as a political union. The EU's founding values include the rule of law and are the result of a voluntary and democratic agreement by all EU Member States and with the prospect of establishing an economic and monetary union, with a European Central Bank issuing a single currency. In

¹¹ Commission Staff Working Document, Review of the implementation by the European Union of articles 15 – 42 of Chapter III. “Criminalization and law enforcement” and articles 44 – 50 of Chapter IV. “International cooperation” of the United Nations Convention against Corruption for the first review cycle, SWD(2022) 295 final;

https://home-affairs.ec.europa.eu/system/files/2022-09/Commission%20Staff%20Working%20document%20Review%20implementation%20by%20European%20Union%20of%20United%20Nations%20Convention%20against%20Corruption_en.PDF.

¹² The EU member states are, in alphabetical order: Austria (since 1995); Belgium (since 1958); Bulgaria (since 2007); Croatia (since 2013); Cyprus (since 2004); the Czech Republic (since 2004); Denmark (since 1973); Estonia (since 2004); Finland (since 1995); France (since 1958); Germany (since 1958); Greece (since 1981); Hungary (since 2004); Ireland (since 1973); Italy (since 1958); Latvia (since 2004); Lithuania (since 2004); Luxembourg (since 1958); Malta (since 2004); Netherlands (since 1958); Poland (since 2004); Portugal (since 1986); Romania (since 2007); Slovakia (since 2004); Slovenia (since 2004); Spain (since 1986); and Sweden (since 1995).

¹³ Consolidated version of the Treaty on European Union, OJ C 326, 26.10.2012, p. 13–390, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012M%2FTXT>.

2009, the Lisbon Treaty modified the TEU and the Treaty establishing the European Community. The latter was renamed the Treaty on the Functioning of the European Union (TFEU)¹⁴. After the entry into force of the Lisbon Treaty, the EU competences on multiple policy areas were strengthened, spanning from the internal market, climate, environment and health to external relations and security, justice and migration. The Lisbon Treaty explicitly recognised that the EU has full legal personality including the capacity to conclude international agreements or become a member of international organisations¹⁵. The TFEU also clarified the areas of competence within which the EU can act and increased the legislative power of the European Parliament, enhancing the participation and democratisation of the Union.

1.3. Key Principles of EU law

EU law operates on the basis of three key principles. Under the principle of conferral, the Union can act within the limit of the powers attributed to it by the Member States; powers not attributed to the Union remain with the Member States. The principle of subsidiarity provides that in areas of shared competence, the Union should only act if the objective of the action cannot be achieved sufficiently by the Member States but can rather be better achieved at Union level by reason of the scale or effects of the proposed action. The principle of proportionality provides that Union action must not go beyond what is necessary to meet the objectives of the Treaties.

The rule of law is one of the fundamental values of the Union, enshrined in Article 2 of the TEU. It is also a prerequisite for the protection of all the other Union values, including fundamental rights and democracy. Respect for the rule of law is essential for the very functioning of the EU: for the effective application of EU law, the proper functioning of the internal market, maintaining an investment-friendly environment and mutual trust.

Within the broader EU efforts to promote and defend its founding values, the Union has developed the European Rule of Law Mechanism. This effort also includes the European Democracy Action Plan¹⁶, the renewed Strategy for the Implementation of the Charter of Fundamental Rights¹⁷, as well as targeted strategies to progress towards a Union of Equality.

¹⁴ Consolidated version of the Treaty on the Functioning of the European Union, OJ C 326, 26.10.2012, p. 47–390, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012E%2FTXT>

¹⁵ See EUR-LEX Glossary, Legal Personality of the Union, available at < https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM:union_legal_personality >.

¹⁶ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, On the European democracy action plan, COM/2020/790 final, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2020%3A790%3AFIN&qid=1607079662423>

¹⁷ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Strategy to strengthen the application of the Charter of Fundamental Rights in the EU, COM/2020/711 final, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020DC0711&qid=1608047356199>.

The annual Rule of Law Report¹⁸ is a preventive tool, which is at the centre of the European Rule of Law Mechanism. The report looks at rule of law developments across the EU, as well as the specific situation in each Member State. The aim of the report is to promote the rule of law, to prevent problems from emerging or deepening and to address them, as well as to identify best practices. It is not a sanctioning mechanism. The report covers four key areas for the rule of law: justice systems, the anti-corruption framework, media pluralism and freedom, and other institutional issues linked to checks and balances.

1.3.1 The EU's unique institutional set-up

According to Article 13 of the TEU, the EU has seven institutions: The European Parliament, the European Council, the Council of the EU (hereinafter 'the Council'), the European Commission (hereinafter 'the Commission'), the Court of Justice of the EU, the European Central Bank and the Court of Auditors¹⁹.

The EU is governed by the principle of representative democracy. The EU's general political directions and priorities are defined by the European Council, which brings together the Heads of State or Government of the Member States, the President of the European Council and the President of the Commission. The European Parliament with 720 members (MEPs) directly elected by the EU citizens, proportionally representing the EU citizens and grouped by political affiliation, decides on the legislative proposals submitted by the Commission and on proposal of the EU budget together with the Council and has scrutiny powers over the Commission.

Member State governments represent their own country's interests as well as the Union interest in the Council. The Council, composed of one representative of each Member State at ministerial level, decides on the legislative proposals submitted by the Commission and on proposal of the EU budget together with the European Parliament and defines and implements the Common Foreign and Security Policy of the Union. Each Member State holds the Council's presidency on the basis of equal rotation every six months.

The Commission is the EU executive and shall promote the general interest of the EU as a whole. It proposes new EU legislation and policy, monitors their implementation and manages the EU budget. The Commission is the guardian of EU Treaties and has the authority to initiate an infringement procedure before the Court of Justice of the EU when it considers that a Member State has failed to fulfil an obligation under the Treaties; it also has the right of legislative initiative and the power to adopt delegated acts.

¹⁸ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2022 Rule Of Law Report, the Rule of Law Situation in the European Union, COM/2022/500 final, <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1658828718680&uri=CELEX%3A52022DC0500>.

¹⁹ EUR-LEX Glossary, European Union Institutions, <https://eur-lex.europa.eu/EN/legal-content/glossary/european-union-institutions.html>.

The Commission, the Council and the European Parliament are assisted in an advisory capacity by the European Economic and Social Committee (EESC)²⁰ and the European Committee of the Regions (CoR)²¹.

The Court of Justice of the EU ensures that in the interpretation and application of the Treaties EU law is observed. As part of that mission, the Court of Justice of the EU inter alia: reviews the legality of the acts of the EU institutions; ensures that the Member States comply with obligations under the Treaties and interprets EU law at the request of the national courts and tribunals. The Court of Justice of the EU thus constitutes the highest judicial authority of the EU and, in cooperation with the courts and tribunals of the Member States, ensures the uniform application and interpretation of EU law. The Court of Justice of the EU, which has its seat in Luxembourg, consists of two courts: the Court of Justice and the General Court (created in 1988)²².

The European Central Bank (ECB) is responsible for the monetary policy of the Union, the primary objective of which is maintaining price stability. Since 2014, it has also been responsible for the prudential supervision of credit institutions. The ECB has its headquarter in Frankfurt am Main and its decision-making bodies are the Governing Council, the Executive Board and the General Council; complemented by the Supervisory Board for matters of prudential supervision. The ECB conducts its operations in full independence from national and EU institutions, with its own budget financed by its shareholders, the EU national central banks according to a capital key.²³

The Court of Auditors checks the financing of the EU's activities, improving the financial management of the EU and monitoring the expenditure of EU public funds. The Court of Auditors was established to audit the EU's finances. The starting point for its audit work is the EU's budget and policies, primarily in areas relating to growth and jobs, added value, public finances, the environment and climate action. The Court of Auditors audits the budget in terms of both revenue and spending.

The EU has a number of other services and bodies that play specialised roles, including inter alia the European External Action Service (EEAS), which assists the High Representative of the Union for Foreign Affairs and Security Policy and conducts the common foreign and

²⁰ The EESC is a consultative body giving representatives of Europe's civil society, including social partners, a formal platform to express their points of view on EU legislation and other issues. The EESC issues its views in opinions, which, on certain issues explicitly referred to in the Treaty, are mandatory. These opinions are addressed to the Council, the Commission and the European Parliament, giving it a role in the Union's decision-making process. The EESC has 329 members representing employers, workers and civil society. They are nominated by national governments and are appointed by the Council.

²¹ The CoR is a political assembly composed of 329 members and 329 alternates from all EU countries (grouped by political party and headed by the President) who have been elected at local or regional level (for example as Mayors or Presidents of a region). CoR represents local and regional authorities across the European Union and advises on new laws that have an impact on regions and cities.

²² The Civil Service Tribunal, established in 2004, ceased to operate on 1 September 2016 after its jurisdiction was transferred to the General Court in the context of the reform of the European Union's judicial structure.

²³ See Europa website https://www.ecb.europa.eu/ecb/pdf/orga/escbstatutes_en.pdf.

security policy, also ensuring the consistency and coordination of the EU's external action. The European Ombudsman investigates complaints about maladministration by EU institutions and bodies. Other bodies and agencies committed to fighting organised crime are presented further below.

1.4 EU decision-making

The EU remains focused on making its institutions more democratic and accountable, including through increased transparency. Decisions are taken as openly as possible and as close as possible to the citizen. Under the current 'Better Regulation' agenda²⁴, the EU seeks to ensure that EU policies and laws are prepared in an open, transparent manner, informed by the best available evidence and backed by comprehensive stakeholder involvement so that they achieve their objectives at minimum cost.

The EU enacts legislation via the ordinary legislative procedure, with the European Parliament and the Council as co-legislators, and the Commission as representative of the EU interests in charge of proposing legislation. The Commission, before proposing legislation, where appropriate, prepares impact assessments on policy options and consults with relevant stakeholders.²⁵ Once presented, the European Parliament and Council adopt legislation. National parliaments can formally express their reservations when they believe an issue could be better dealt with at national or subnational level, in application of the subsidiarity principle. Where specifically provided for under the Treaty, EU legislation is adopted under the special legislative procedure either by the Council with the participation of the European Parliament or – less frequently – by the European Parliament with the participation of the Council.

The European citizens' initiative²⁶ empowers citizens to have a greater say on EU policies that affect their lives. Put in place by the Lisbon Treaty, the citizens' initiative allows 1 million citizens from at least a quarter of the EU Member States to ask the Commission to propose legislation in areas that fall within its competence. The organisers of a citizens' initiative - a citizens' committee composed of at least 7 EU citizens, resident in at least 7 different Member States - have one year to collect the necessary support. Signatures must be certified by the competent authorities in each Member State. Initiatives are possible in any field where the Commission has power to propose legislation, such as, but not limited to, consumer protection, energy, agriculture or transport, etc. Organisers of successful initiatives participate in a hearing at the European Parliament. The Commission has 3 months to examine the initiative and decide how to act on it.

²⁴ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Better regulation: Joining forces to make better laws, COM(2021) 219 final.

²⁵ Consultation of the EESC by the Commission or the Council is mandatory in certain cases; in others it is optional.

²⁶ See the webpage 'European Citizen's Initiative' available at https://europa.eu/citizens-initiative/_en

Citizens can also submit complaints concerning the application of EU law by the Member States.²⁷ Although citizens will usually be able to enforce their rights better in the country where they live, the EU offers resources that may also help. There is the right (Article 227 TFEU) to submit a petition to the European Parliament on a matter which comes within the Union's fields of activity. Citizens may submit a petition by post or online via the European Parliament's website. Moreover, citizens can contact the Commission about any measure (law, regulation or administrative action), absence of measure or practice by a country of the EU that they consider is against Union law. The Commission can take up a complaint if it is about a breach of Union law by authorities in an EU country. If the complaint is about the action of a private individual or body (unless one can show that national authorities are somehow involved), the citizen has to try to solve it at national level (courts or other ways of settling disputes). The Commission cannot follow up matters that only involve private individuals or bodies, and that do not involve public authorities. If the citizen considers that the Commission has not dealt with its complaint properly, it may contact the European Ombudsman (Articles 24 and 228 TFEU).

1.5 Specificity of EU Law

Every action taken by the EU is founded on the EU Treaties, which are binding international agreements between the EU Member States. The EU Treaties set out the EU's aims, objectives and policies, the rules applicable to the EU institutions, on decision making and the relationship between the EU and its members. The EU Treaties are also referred to as 'primary law'. The EU Treaties have from time to time been amended to give the EU new areas of responsibility or to reform the powers of the EU institutions. They have also been amended to allow new countries to join the EU. The Treaties are negotiated and agreed by all EU Member States and then ratified by their parliaments, sometimes following a referendum. Any changes to the EU Treaties require the agreement of every Member State.

The EU has the power to adopt legal acts (sometimes referred to as 'secondary law'). The EU can only act within the limits of the competences that EU Member States have conferred upon it in the treaties. These competences are defined in Articles 2–6 of the TFEU. Competences not conferred on the EU by the Treaties thus remain fully with the Member States.²⁸

The types of EU legal acts are the following:

- a) Regulations: Regulations are legal acts that have general application, are binding in their entirety and apply to all EU countries as soon as they enter into force, without needing to be transposed into national law.
- b) Directives: Directives require EU Member States to achieve a certain result but leave them free to choose how to do so. EU Member States must adopt measures to

²⁷ See the webpage 'Complaints about breaches of EU law by Member States' available at <https://commission.europa.eu/about/contact/problems-and-complaints/complaints-about-breaches-eu-law-member-states_en>.

²⁸ Principle of conferral, as laid out in Article 5 TEU; <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12016M005>.

incorporate them into national law (transpose) in order to achieve the objectives set by the directive. National authorities must communicate these measures to the Commission. Transposition into national law must take place by the deadline set when the directive is adopted (generally within 2 years). When a Member State does not transpose a directive or transposes it incorrectly, the Commission may initiate infringement proceedings.

- c) Decisions: A decision shall be binding in its entirety. A decision which specifies those to whom it is addressed shall be binding only on them.
- d) Recommendations: Recommendations allow the EU institutions to make their views known and to suggest a line of action without imposing any legal obligation on those to whom it is addressed. They have no binding force.
- e) Opinions: An 'opinion' is an instrument that allows the EU institutions to make a statement, without imposing any legal obligation on the subject of the opinion. An opinion has no binding force.

The Treaties also provide the institutions with the power to adopt delegated and implementing acts, in certain circumstances and under certain conditions:

a. Delegated acts: an EU legislative act (basic act) may delegate to the Commission the power to adopt delegated acts to supplement or amend non-essential parts of the basic act, for example, in order to define detailed measures. Delegated acts are legally binding and enter into force if the European Parliament and Council have no objections.

b. Implementing acts: the Commission (or in exceptional cases the Council) may be given the powers to adopt implementing acts through specific rules included in an EU legislative act (basic act). These acts aim to create uniform conditions for the implementation of the legislative act in question, if and when this is necessary.

In certain areas, the EU enjoys exclusive competence, meaning that only the Union can legislate and adopt legally binding acts. The role of Member States is limited to applying the law, unless the EU authorises them to adopt certain laws themselves. The EU enjoys exclusive competence in the following areas:

- Customs union
- Competition rules for the internal market
- Monetary policy for the Member States whose currency is the euro
- Common Commercial Policy
- Marine plants and animals regulated by the common fisheries policy.

The EU also has exclusive competence for the conclusion of an international agreement when its conclusion is provided for in EU law or is necessary to enable the EU to exercise its internal competence, or in so far as its conclusion may affect common rules or alter their scope.

In certain areas, the Treaties provide for shared competences between the EU and Member States, meaning that both the EU and the Member States may legislate and adopt legally

binding acts. The Member States shall exercise their competence to the extent that the Union has not exercised its competence. The EU enjoys shared competence in the following areas:

- Internal market
- Employment and social affairs
- Economic, social and territorial cohesion
- Agriculture
- Fisheries
- Environment
- Consumer protection
- Transport
- Trans-European networks
- Energy
- Area of Freedom, Security and Justice
- Public health (specifically for the aspects defined in Article 168 of the TFEU)
- Research, technological development and space
- Development cooperation and humanitarian aid

In certain areas, the EU can only support, coordinate or complement the action of Member States. It has no power to harmonise Member States' legislation. In these areas, the EU has what the Treaties call supporting competence:

- Protection and improvement of human health Industry
- Culture
- Tourism
- Education and training, youth and sport
- Civil protection
- Administrative cooperation

In certain areas, special competences enable the EU to play a particular role or to go beyond what it is normally allowed under the Treaties:

- coordination of economic and employment policies
- definition and implementation of the Common Foreign and Security Policy
- the 'flexibility clause'²⁹, which under strict conditions enables the EU to take action outside its normal areas of responsibility.

2. The EU legislation to prevent and fight organised crime

The EU has a general right to act in the field of organised crime policies, within the limits established by the TFEU.

²⁹ See Article 352 of the TFEU.

- In particular, pursuant to Article 67 TFEU, the EU shall endeavour to ensure a high level of security, including through measures to prevent and combat crime and, if necessary, through the approximation of criminal laws.
- Article 83(1) TFEU identifies organised crime as one of the areas of particularly serious crime with a cross-border dimension. This provision empowers the Union to establish minimum rules concerning the definition of criminal offences and sanctions in the areas of particularly serious crime with a cross-border dimension resulting from the nature or impact of such offences or from a special need to combat them on a common basis. The Council may adopt a decision identifying additional areas of crime compared to those listed in the Treaty if they meet the criteria specified in this paragraph, acting unanimously after obtaining the consent of the European Parliament.
- Article 83(2) TFEU provides that, if the approximation of criminal laws and regulations of the Member States proves essential to ensure the effective implementation of a Union policy in an area which has been subject to harmonisation measures, directives may establish minimum rules with regard to the definition of criminal offences and sanctions in the area concerned.
- Where the conditions of Article 83(1) and (2) TFEU are not fulfilled, and in the absence of another appropriate legal basis, the Union would not generally be able to enact penal legislation since it would fall outside the competences conferred on the EU by the Treaties.

The EU has developed a comprehensive body of legislation to fight organised crime. The below is a non-exhaustive list of EU legislation to prevent and fight organised crime which has been quoted in the self-assessment questionnaire in this round of review:

- Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime³⁰ criminalises offences linked to participation in a criminal organisation.
- Directive (EU) 2018/1673 on combating money laundering by criminal law³¹ sets minimum rules on the criminalisation of money laundering. These rules complement and reinforce preventative measures of money laundering and terrorist financing, particularly those laid out in Directive (EU) 2015/849, i.e., the 5th Anti-Money

³⁰ Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime (OJ L 300, 11.11.2008, p. 42–45); <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32008F0841>.

³¹ Directive (EU) 2018/1673 of the European Parliament and of the Council of 23 October 2018 on combating money laundering by criminal law (OJ L 284, 12.11.2018, p. 22–30); <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32018L1673>.

Laundering Directive³², as amended by Directive 2018/843³³. Moreover, the EU adopted a package to strengthen the EU anti-money laundering and countering the financing of terrorism rules in 2024 (the 6th Anti-Money Laundering Package),³⁴ also replacing the 5th Anti-Money Laundering Directive. The EU further set up a specialised regime to tackle money laundering when concerning property derived from criminal offences affecting the Union's financial interests, which are subject to specific rules laid down in Directive (EU) 2017/1371 on the fight against fraud to the Union's financial interests by means of criminal law ('PIF Directive')³⁵. Moreover, the Commission adopted a proposal for a new Directive on combating corruption on 3 May 2023³⁶, which will amend the PIF Directive and is currently under negotiation.

- In the field of the fight against trafficking in human beings, the main instrument is Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims.³⁷ On 13 June 2024, Directive (EU) 2024/1712 amending Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims was adopted, which will have to be transposed by 15 July 2026.³⁸ The revised Directive includes additional forms of exploitation and requires EU Member States to ensure that people knowingly using services provided by victims of trafficking face sanctions. It further introduces stricter criminalisation and provides stronger tools for public authorities to investigate and prosecute new forms of

³² Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73–117), <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32015L0849>.

³³ Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU (Text with EEA relevance) (OJ L 156, 19.6.2018, p. 43–74); <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32018L0843>.

³⁴ See information available at <<https://www.consilium.europa.eu/en/press/press-releases/2024/05/30/anti-money-laundering-council-adopts-package-of-rules/>>.

³⁵ Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29–41); <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32017L1371>. PIF is the acronym for protection of the Union's financial interests ('*protection des intérêts financiers*', in French).

³⁶ Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on combating corruption, replacing Council Framework Decision 2003/568/JHA and the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union and amending Directive (EU) 2017/1371 of the European Parliament and of the Council (COM/2023/234 final); <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2023%3A234%3AFIN>.

³⁷ Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA (OJ L 101, 15.4.2011, p. 1–11). <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32011L0036>.

³⁸ Directive (EU) 2024/1712 of the European Parliament and of the Council amending Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims (OJ L, 2024/1712, 24.6.2024), <https://eur-lex.europa.eu/eli/dir/2024/1712>.

exploitation, including those that take place online, and ensures better assistance and support to victims.

- In the area of migrant smuggling, the main EU instruments are Council Directive 2002/90/EC defining the facilitation of unauthorised entry, transit and residence³⁹ and Council Framework Decision 2002/946/JHA on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence⁴⁰. On 28 November 2023, the Commission adopted proposals for a Directive of the European Parliament and of the Council laying down minimum rules to prevent and counter the facilitation of unauthorised entry, transit and stay in the Union, and replacing Council Directive 2002/90/EC and Council Framework Decision 2002/946 JHA⁴¹ and for a Regulation of the European Parliament and of the Council on enhancing police cooperation in relation to the prevention, detection and investigation of migrant smuggling and trafficking in human beings, and on enhancing Europol's support to preventing and combating such crimes and amending Regulation (EU) 2016/794⁴²
- In the field of firearms, the main EU instruments are Directive (EU) 2021/555 on control of the acquisition and possession of weapons⁴³ and Regulation (EU) 2025/41 on import, export and transit measures for firearms, essential components and ammunition (recast). The EU firearms *acquis* further includes five implementing and delegated acts,⁴⁴ respectively setting up rules on markings, technical rules on the

³⁹ Council Directive 2002/90/EC of 28 November 2002 defining the facilitation of unauthorised entry, transit and residence (OJ L 328, 5.12.2002, p. 17–18),

<https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32002L0090>

⁴⁰ 2002/946/JHA: Council framework Decision of 28 November 2002 on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence (OJ L 328, 5.12.2002, p. 1–3),

<https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32002F0946>.

⁴¹ Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL laying down minimum rules to prevent and counter the facilitation of unauthorised entry, transit and stay in the Union, and replacing Council Directive 2002/90/EC and Council Framework Decision 2002/946 JHA (COM/2023/755 final), <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2023%3A755%3AFIN>.

⁴² Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on enhancing police cooperation in relation to the prevention, detection and investigation of migrant smuggling and trafficking in human beings, and on enhancing Europol's support to preventing and combating such crimes and amending Regulation (EU) 2016/794 (COM/2023/754 final), <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52023PC0754>.

⁴³ Directive (EU) 2021/555 of the European Parliament and of the Council of 24 March 2021 on control of the acquisition and possession of weapons (OJ L 115, 6.4.2021, p. 1–25), <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32021L0555>.

⁴⁴ Commission Implementing Regulation (EU) 2015/2403 of 15 December 2015 establishing common guidelines on deactivation standards and techniques for ensuring that deactivated firearms are rendered irreversibly inoperable (OJ L 333, 19.12.2015, p. 62–72); https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2015.333.01.0062.01.ENG.

Commission Implementing Directive (EU) 2019/69 of 16 January 2019 laying down technical specifications for alarm and signal weapons under Council Directive 91/477/EEC on control of the acquisition and possession of weapons (OJ L 15, 17.1.2019, p. 22–26); <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32019L0069>.

deactivation of firearms and on alarm and signal weapons, as well rules on information exchange between Member States on refusals for permits and intra-EU transfers of firearms⁴⁵.

- With regards to the definition of controlled delivery, the term is used in a number of EU judicial cooperation instruments without being defined, for example Directive 2014/41/EU regarding the European Investigation Order (EIO) in criminal matters⁴⁶ and the Convention on Mutual Assistance in Criminal Matters between the Member States of the EU⁴⁷.

The EU acquis on the fight against organised crime also includes a number of important other instruments which were not subject to the review of Cluster I:

- In the field of asset recovery, the main EU instruments are Directive (EU) 2024/1260 on asset recovery and confiscation⁴⁸ and Regulation (EU) 2018/1805 on the mutual recognition of freezing orders and confiscation orders.⁴⁹

Commission Implementing Directive (EU) 2019/68 of 16 January 2019 establishing technical specifications for the marking of firearms and their essential components under Council Directive 91/477/EEC on control of the acquisition and possession of weapons (OJ L 15, 17.1.2019, p. 18–21); <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32019L0068>.

Commission Delegated Regulation (EU) 2019/686 of 16 January 2019 laying down the detailed arrangements under Council Directive 91/477/EEC for the systematic exchange, by electronic means, of information relating to the transfer of firearms within the Union (OJ L 116, 3.5.2019, p. 1–4); <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32019R0686>.

Commission Delegated Regulation (EU) 2021/1423 of 21 May 2021 laying down the detailed arrangements under Directive (EU) 2021/555 of the European Parliament and of the Council for the systematic exchange, by electronic means, of information relating to refusals to grant authorisations to acquire or possess certain firearms (OJ L 307, 1.9.2021, p. 3–8); <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32021R1423>.

⁴⁵ REGULATION (EU) 2025/41 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 December 2024 on import, export and transit measures for firearms, essential components and ammunition, implementing Article 10 of the United Nations Protocol against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, supplementing the United Nations Convention against Transnational Organised Crime (UN Firearms Protocol) (recast) (OJ L, 2025/41, 22.1.2025), https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L_202500041.

⁴⁶ Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters (OJ L 130, 1.5.2014, p. 1–36); <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32014L0041>.

⁴⁷ Council Act of 29 May 2000 establishing in accordance with Article 34 of the Treaty on European Union the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union (OJ C 197, 12.7.2000, p. 1–2); [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32000F0712\(02\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32000F0712(02)).

⁴⁸ Directive (EU) 2024/1260 of the European Parliament and of the Council of 24 April 2024 on asset recovery and confiscation (OJ L, 2024/1260, 2.5.2024) <http://data.europa.eu/eli/dir/2024/1260/oj>.

⁴⁹ Regulation (EU) 2018/1805 of the European Parliament and of the Council of 14 November 2018 on the mutual recognition of freezing orders and confiscation orders (OJ L 303, 28.11.2018, p. 1–38), <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32018R1805>.

- Directive (EU) 2019/1153 laying down rules facilitating the use of financial information⁵⁰ enhances the use of financial information by giving law enforcement authorities direct access to information about the identity of bank-account holders contained in national centralised registries. In addition, it gives law enforcement the possibility to access certain information from national Financial Intelligence Units (FIUs) – including data on financial transactions – and also improves the information exchange between FIUs as well as their access to law enforcement information necessary for the performance of their tasks. The Directive was amended on 31 May 2024 by Directive (EU) 2024/1654.
- Corruption, including any offence set out in the Convention drawn up on the basis of Article K.3(2)(c) of the TEU on the fight against corruption involving officials of the European Communities or officials of the Member States of the EU (‘Convention on the fight against corruption involving officials’)⁵¹ and in the Council Framework Decision 2003/568/JHA on combating corruption in the private sector⁵². Directive (EU) 2017/1371 (the ‘PIF Directive’) ensures that passive and active corruption affecting the EU’s financial interests, when committed intentionally, constitute criminal offences.⁵³ Moreover, the Commission adopted a proposal for a new Directive on combating corruption to strengthen EU rules on the fight against corruption on 3 May 2023⁵⁴, which has been agreed among co-legislators and is now to be formally adopted.
- In addition to the above, the EU has further harmonised a number of crimes punishable by a maximum deprivation of liberty of at least four years. Such “serious crimes” within the meaning of the UNTOC are included in selected articles of the following legal instruments: Terrorism, including any offence set out in Directive (EU) 2017/541 on

⁵⁰ Directive (EU) 2019/1153 of the European Parliament and of the Council of 20 June 2019 laying down rules facilitating the use of financial and other information for the prevention, detection, investigation or prosecution of certain criminal offences, and repealing Council Decision 2000/642/JHA (OJ L 186, 11.7.2019, p. 122–137); <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32019L1153>.

⁵¹ Convention drawn up on the basis of Article K.3 (2) (c) of the Treaty on European Union on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union (OJ C 195, 25.6.1997, p. 2–11). <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A41997A0625%2801%29>.

⁵² Council Framework Decision 2003/568/JHA of 22 July 2003 on combating corruption in the private sector (OJ L 192, 31.7.2003, p. 54-56); <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A32003F0568>.

⁵³ Article 4(2), Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union’s financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29–41); <https://eur-lex.europa.eu/eli/dir/2017/1371/oj/eng>.

⁵⁴ Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on combating corruption, replacing Council Framework Decision 2003/568/JHA and the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union and amending Directive (EU) 2017/1371 of the European Parliament and of the Council (COM/2023/234 final); <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2023%3A234%3AFIN>.

combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA⁵⁵;

- Sexual exploitation of children and child pornography, including any offence set out in Directive 2011/93/EU on combating the sexual abuse and sexual exploitation of children and child sexual abuse material, and replacing Council Framework Decision 2004/68/JHA⁵⁶. Moreover, the Commission adopted a proposal for a Directive of the European Parliament and of the Council on combating the sexual abuse and sexual exploitation of children and child sexual abuse material and replacing Council Framework Decision 2004/68/JHA (recast)⁵⁷;
- Illicit trafficking in narcotic drugs and psychotropic substances, including any offence set out in Council Framework Decision 2004/757/JHA laying down minimum provisions on the constituent elements of criminal acts and penalties in the field of illicit drug trafficking⁵⁸;
- Forgery of means of payment, including any offences set out in Directive (EU) 2019/713 on combating fraud and counterfeiting of non-cash means of payment and replacing Council Framework Decision 2001/413/JHA⁵⁹;

⁵⁵ Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA (OJ L 88, 31.3.2017, p. 6-21).

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32017L0541>. Under this Directive, the minimum maximum penalty is no less than 15 years for offences referred to in point (a) of Article 4 of Directive (EU) 2017/541, and no less than 8 years where the terrorist offence referred to in point (j) of Article 3(1) of Directive (EU) 2017/541 is committed by a person directing a terrorist group as referred to in point (a) of Article 4 of Directive (EU) 2017/541.

⁵⁶ Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA (OJ L 335, 17.12.2011, p. 1-14); <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32011L0093>. Under this Directive, the minimum maximum penalty is between no less than 5 or 10 years for offences regulated under Article 3(4), 3(5), 4(2), 4(3), 4(5), 4(6), and 4(7) of Directive 2011/93/EU.

⁵⁷ Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on combating the sexual abuse and sexual exploitation of children and child sexual abuse material and replacing Council Framework Decision 2004/68/JHA (recast) (COM/2024/60 final) <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52024PC0060>.

⁵⁸ Council Framework Decision 2004/757/JHA of 25 October 2004 laying down minimum provisions on the constituent elements of criminal acts and penalties in the field of illicit drug trafficking (OJ L 335, 11.11.2004, p. 8–11); https://eur-lex.europa.eu/eli/dec_framw/2004/757/oj/eng.

⁵⁹ Directive (EU) 2019/713 of the European Parliament and of the Council of 17 April 2019 on combating fraud and counterfeiting of non-cash means of payment and replacing Council Framework Decision 2001/413/JHA (OJ L 123, 10.5.2019, p. 18-29); Under this Directive, the minimum maximum penalty is no less than five years if offences referred to in Article 3 to 6 of Directive (EU) 2019/713 are committed within the framework of a criminal organisation as defined in Framework Decision 2008/841/JHA.

https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2019.123.01.0018.01.ENG.

- Counterfeiting currency, including the euro, as defined in Directive 2014/62/EU on the protection of the euro and other currencies against counterfeiting by criminal law⁶⁰;
- Computer-related crime including any offence set out in Directive 2013/40/EU on attacks against information systems and replacing Council Framework Decision 2005/222/JHA⁶¹;
- Fraud as defined in Directive (EU) 2017/1371 on the fight against fraud to the Union's financial interests by means of criminal law (the 'PIF Directive')⁶²; in addition to fraud, the Directive covers misappropriation and, as mentioned, corruption and money laundering, as long as they damage or are likely to damage the Union's financial interests. In accordance with Article 8 of the PIF Directive, committing such offences within a criminal organisation in the sense of Framework Decision 2008/841/JHA shall be considered to be an aggravating circumstance under national law. Moreover, the Commission adopted a proposal to amend the PIF Directive through a new Directive on combating corruption on 3 May 2023⁶³, which has been agreed among co-legislators and is now to be formally adopted;
- Insider trading and market manipulation, including offences set out in Directive 2014/57/EU on market abuse⁶⁴;
- Environmental crime, including Directive (EU) 2024/1203 of the European Parliament and of the Council of 11 April 2024 on the protection of the environment through criminal law, replacing Directive 2008/99/EC on 15 December 2021⁶⁵;

⁶⁰ Directive 2014/62/EU of the European Parliament and of the Council of 15 May 2014 on the protection of the euro and other currencies against counterfeiting by criminal law (OJ L 151, 21.5.2014, p. 1-8); <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32014L0062>. Under this Directive, the minimum maximum penalty is no less than 8 years under the conditions set out in Article 5(3) of Directive 2014/62/EU, and no less than 5 years under the conditions set out under Article 5(4) of Directive 2014/62/EU.

⁶¹ Directive 2013/40/EU of the European Parliament and of the Council of 12 August 2013 on attacks against information systems and replacing Council Framework Decision 2005/222/JHA (OJ L 218, 14.8.2013, p. 8–14); <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32013L0040>.

⁶² Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29-41); <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32017L1371>. Under this Directive, the minimum maximum penalty is no less than 4 years under the conditions set out in Article 7(3) of Directive (EU) 2017/1371.

⁶³ Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on combating corruption, replacing Council Framework Decision 2003/568/JHA and the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union and amending Directive (EU) 2017/1371 of the European Parliament and of the Council (COM/2023/234 final); <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2023%3A234%3AFIN>.

⁶⁴ Directive 2014/57/EU of the European Parliament and of the Council of 16 April 2014 on criminal sanctions for market abuse (market abuse directive) (OJ L 173, 12.6.2014, p. 179–189) <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32014L0057>.

⁶⁵ Directive (EU) 2024/1203 of the European Parliament and of the Council of 11 April 2024 on the protection of the environment through criminal law and replacing Directives 2008/99/EC and 2009/123/EC (OJ L, 2024/1203, 30.4.2024). <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32024L1203>

- Violations of Union restrictive measures, as set out in Directive (EU) 2024/1226 of the European Parliament and the Council of 24 April 2024 on the definition of criminal offences and penalties for the violation of Union restrictive measures and amending Directive (EU) 2018/1673.⁶⁶

2.1 EU policy tools and instruments in the fight against organised crime

Serious organised crime is cross-border in nature. This makes it necessary to have a sufficiently harmonised legal framework within the EU to avoid judicial forum shopping from organised criminal groups, and to have measures in place to facilitate cooperation and the mutual recognition of decisions across the EU.

Over the years, the EU has taken action taken at EU level to support Member States in the fight against organised crime not only of legislative nature but also with policy initiatives fostering a strong coordinated approach to prevention and response by setting common tools and practices enhancing Member States capabilities in the fight against organised crime and with the active engagement of relevant EU agencies.

Fighting organised crime has been and remains a priority area of policy intervention by the EU. Through the Security Union Strategy 2020-2025 the EU provided a solid framework to address evolving threats cohesively. Following the Security Union Strategy, the new European Internal Security Strategy – ProtectEU – was adopted by the Commission in April 2025. ProtectEU introduces a new European internal security governance, and also identifies key actions in the following areas:⁶⁷ integrated situational awareness and threat analysis; strengthened EU security capabilities; resilience against hybrid threats and other hostile acts; tightening the net on serious and organised crime; combating terrorism and violent extremism and; the EU as a strong global player on security. With ProtectEU, several new initiatives were announced with the aim of enhancing the EU’s fight against organised crime, with the aim to enhance security and to fight organised crime.

In October 2023 the Commission adopted the EU Roadmap to fight drug trafficking and organised crime (hereinafter ‘the Roadmap’), with 17 concrete actions in four priority areas: (1) strengthening the resilience of logistic hubs; (2) dismantling high-risk criminal networks; (3) crime prevention; (4) international cooperation. The Roadmap has been implemented, including for instance through the establishment of a European Ports Alliance,⁶⁸ the mapping of the criminal networks that pose the biggest threats to society,⁶⁹ the initiation of a network of

⁶⁶ Directive (EU) 2024/1226 of the European Parliament and of the Council of 24 April 2024 on the definition of criminal offences and penalties for the violation of Union restrictive measures and amending Directive (EU) 2018/1673 (OJ L, 2024/1226, 29.4.2024) <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32024L1226>.

⁶⁷ Most importantly, security considerations will now be integrated and mainstreamed across EU legislation, policies and programmes.

⁶⁸ See ‘European Ports Alliance to fight drug trafficking and organised crime’ at <https://home-affairs.ec.europa.eu/news/european-ports-alliance-fight-drug-trafficking-and-organised-crime-2024-01-24_en>.

⁶⁹ See European Union Agency for Law Enforcement Cooperation (Europol), ‘Decoding the EU’s Most Threatening Criminal Networks’, 2024, available at <<https://www.europol.europa.eu/publication-events/main-reports/decoding-eus-most-threatening-criminal-networks>>.

specialised prosecutors and judges to dismantle criminal networks,⁷⁰ the undertaking of preparatory work to strengthen the legal framework against organised crime,⁷¹ etc.

The Roadmap drew on and complemented the EU Strategy to tackle Organised Crime 2021-2025⁷² and the EU Drugs Strategy and Action Plan 2021-2025. The EU Strategy to tackle Organised Crime 2021-2025 set out actions of legislative and operational nature along four priorities: (1) boosting law enforcement and judicial cooperation, (2) effective investigations to tackle criminal networks and high-priority crimes, (3) eliminate criminal profits to fight infiltration of legal economy and (4) make law enforcement and the judiciary fit for the digital age. Most of the actions under the Strategy have been completed, such as: a stronger mandate for Europol⁷³ to allow the agency to step up its support to EU Member States in fighting crime, terrorism and emerging security threats, which entered into force on 28 June 2022; the adoption of the Directive (EU) 2024/1260 on asset recovery and confiscation,⁷⁴ to strengthen EU rules on the tracing, freezing, management and confiscation of criminal assets to ensure that crime does not pay; and the publication of the EU Action Plan against Trafficking in Cultural Goods⁷⁵, which aims at disrupting crime and protecting cultural heritage within and beyond the EU.

The EU Drugs Strategy⁷⁶ defines an overarching political framework with a multi-dimensional and whole-of-society approach. It is focused on five key areas: (1) enhancing preparedness and response to drug related threats, with improved data collection, monitoring, early warning and

⁷⁰ See ‘[European prosecutors join forces to systemically fight organised criminal groups in new network](https://www.eurojust.europa.eu/news/european-prosecutors-join-forces-systemically-fight-organised-criminal-groups-new-network#:~:text=Dangerous%20criminal%20groups%20active%20in%20drug%20trafficking%2C%20money,specialised%20prosecutors%20from%20all%2027%20EU%20Member%20States)’ at <<https://www.eurojust.europa.eu/news/european-prosecutors-join-forces-systemically-fight-organised-criminal-groups-new-network#:~:text=Dangerous%20criminal%20groups%20active%20in%20drug%20trafficking%2C%20money,specialised%20prosecutors%20from%20all%2027%20EU%20Member%20States>>.

⁷¹ See [Criminal acts and penalties for drug trafficking – evaluation](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/14336-Evaluation-of-the-Council-Framework-Decision-on-criminal-acts-and-applicable-penalties-for-drug-trafficking-_en) at <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/14336-Evaluation-of-the-Council-Framework-Decision-on-criminal-acts-and-applicable-penalties-for-drug-trafficking-_en> and [Fighting organised crime – new EU rules](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/14639-Fighting-organised-crime-new-EU-rules_en) at <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/14639-Fighting-organised-crime-new-EU-rules_en>.

⁷² Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the EU Strategy to tackle Organised Crime 2021- 2025, COM(2021)170 final, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52021DC0170>.

⁷³ 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 (*OJ L 169*, 27.6.2022, p. 1–42); https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2022.169.01.0001.01.ENG.

⁷⁴ Directive (EU) 2024/1260 of the European Parliament and of the Council of 24 April 2024 on asset recovery and confiscation (*OJ L*, 2024/1260, 2.5.2024) <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32024L1260>.

⁷⁵ COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS on the EU Action Plan against Trafficking in Cultural Goods (COM/2022/800 final); <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52022DC0800>.

⁷⁶ https://home-affairs.ec.europa.eu/eu-drugs-strategy-0_en

rapid response measures; (2) protecting public health; (3) strengthening security with actions included to strengthening public-private cooperation; (4) measures to prevent drug-related harm focused on protecting young people from recruitment into organised crime and; (5) stronger partnerships with third countries. The EU Action Plan against drug trafficking⁷⁷ complements the EU Drugs Strategy, with 19 key operational actions across six priority areas. Actions include measures to adapt to evolving routes and methods used by criminal networks; prevent crime and reduce drug-related violence, in particular amongst young people; step up cooperation of law enforcement, judiciary and customs authorities, to allow for enhanced information sharing and joint analyses; address the challenge of synthetic drugs and drug precursors; advance research and development and innovation and; strengthen international cooperation.

The EU developed the European Multidisciplinary Platform Against Criminal Threats (EMPACT), a permanent security initiative to identify, prioritise and address threats posed by organised and serious international crime.⁷⁸ Running in four-year cycles, EMPACT promotes a multidisciplinary cooperation platform for Member States supported by all EU institutions, bodies, offices and agencies. Third countries, in particular enlargement partners, international organisations, and other public and private partners are also associated. In EMPACT, Member States and their partners perform joint actions in key priority areas that are of investigative and judicial nature, but that also relate to prevention, assistance to victims, awareness raising, capacity building, innovation, outreach to the public and private sector and external dimension. The EU crime priorities for the next cycle (2026-2029) are: 1) the most threatening criminal networks and individuals; 2) fastest growing crimes in the online sphere; 3) drug trafficking; 4) migrant smuggling and trafficking in human beings; 5) firearms and explosive crimes; 6) environmental crime; and 7) economic and financial crimes. EMPACT brings about tangible results in the fight against serious and organised crime, aligned with the recommendations of SOCTA and the ProtectEU strategy.⁷⁹

In addition, through the Internal Security Fund (2021 – 2027)⁸⁰ the Commission placed EUR 1.93 billion for the funding of activities contributing to ensuring a high level of security in the EU, in particular by preventing and combating terrorism, radicalisation, serious and organised crime and cybercrime, by assisting and protecting victims of crime, and by preparing for, protecting against and effectively managing security-related incidents, risks and crises. Projects aim to increase the exchange of information among and within the EU law enforcement and other competent authorities and relevant EU bodies, as well as with non-EU countries and

⁷⁷ https://home-affairs.ec.europa.eu/eu-action-plan-against-drug-trafficking_en

⁷⁸ See Council conclusions on the enhancement of EMPACT and on EU crime priorities for the next EMPACT cycle 2026-2029, approved by the Council (Justice and Home Affairs) at its 4102nd meeting held on 13 June 2025, Council document 9397/25, available at <<https://data.consilium.europa.eu/doc/document/ST-9397-2025-INIT/en/pdf>>.

⁷⁹ For the results of 2024, see the main figures available at <https://www.consilium.europa.eu/media/3qdixbn0/2025_2020_empact-factsheets-2024_onepage_04_print.pdf>.

⁸⁰ Regulation (EU) 2021/1149 of the European Parliament and of the Council of 7 July 2021 establishing the Internal Security Fund (OJ L 251, 15.7.2021, p. 94–13), <https://eur-lex.europa.eu/eli/reg/2021/1149/oj>.

international organisations. They also aim at intensifying cross-border cooperation, including joint operations, among and within the EU law enforcement and other competent authorities. Finally, projects further aim to support efforts to strengthen capabilities to combat and prevent security-related incidents, risks and crises.

In April 2021, the Commission also adopted the EU Strategy on Combatting Trafficking in Human Beings (2021-2025)⁸¹, which sets out the comprehensive EU response to trafficking in human beings, from prevention through protection of victims to prosecution and conviction of traffickers. The EU Strategy includes measures of legislative, policy and operational nature along four priorities: (1) reducing demand that fosters trafficking, (2) breaking the criminal model to halt victims' exploitation, (3) protecting, supporting and empowering the victims, especially women and children, and (4) the international dimension. The same strategic priorities were applied in responding to the risks of trafficking in human beings related to the Russian Federation's unprovoked and unjustified aggression against Ukraine. On 11 May 2022, the EU Solidarity Platform endorsed a Common Anti-Trafficking Plan⁸² developed under the lead of the EU Anti-trafficking Coordinator in Cooperation with the European External Action Service, the EU Agencies and the Member States. The Plan sets out EU-level actions and recommendations for Member States along five main goals: (1) strengthening awareness raising on the risks of trafficking in human beings and setting up helplines, (2) reinforcing prevention against trafficking in human beings, (3) enhancing the law enforcement and judicial response to trafficking in human beings, (4) improving the early identification, support and protection of victims of trafficking in human beings, and (5) addressing the risks of trafficking in human beings in non-EU countries, especially Ukraine and Moldova.

Providing a strong European response to migrant smuggling inside and outside the EU is an essential part of the comprehensive approach to migration. Migrant smuggling is a cross-border criminal activity that puts the lives of migrants at risk, showing disrespect for human life and dignity in the pursuit of profit, and undermines the migration management objectives of the EU and the fundamental rights of the people concerned. Stepping up the response to migrant smuggling is a common challenge for the EU, its Member States and partner countries alike. It requires a whole-of-route approach which combines international cooperation and coordination with our partners and between the Member States to break the business model of smugglers. On 29 September 2021, the Commission presented a renewed EU action plan against migrant smuggling (2021-2025)⁸³. The main pillars of the action plan are: (1) a reinforced cooperation

⁸¹ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the EU Strategy on Combatting Trafficking in Human Beings 2021-2025, COM(2021)171 final, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52021DC0171>.

⁸² A Common Anti-trafficking Plan to address the risks of trafficking in human beings and support potential victims among those fleeing the war in Ukraine under the lead of the EU Anti-trafficking Coordinator, 11 May 2022, https://home-affairs.ec.europa.eu/system/files/2022-05/Anti-Trafficking%20Plan_en.pdf.

⁸³ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and The Committee of the Regions A renewed EU action plan against migrant smuggling (2021-2025), COM(2021)591 final, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52021DC0591>.

with partner countries and international organisations; (2) sanctioning migrant smugglers and preventing the exploitation of migrants; (3) reinforcing cooperation and supporting the work of law enforcement and of the judiciary; and (4) increased knowledge base.

The 2020-2025 EU Action Plan on Firearms Trafficking is a comprehensive and multidisciplinary plan for both the EU and enlargement partners (Western Balkans, Moldova and Ukraine) around four specific priorities to address remaining legal loopholes and inconsistencies in firearms controls that hinder police cooperation.⁸⁴ The Action Plan provides a coherent framework for cooperation to intensify international cooperation according to specific needs, requirements and performance indicators to fight firearms trafficking, aligned with the actions of the EMPACT firearms. The last SOCTA report emphasised that the trafficking of illegal firearms is a key enabler for other criminal activities such as drug trafficking and amplifies the threat they pose to the internal security of the EU. The Action Plan sets out specific actions within four priorities: (1) safeguarding the licit market and limiting diversion, (2) building a better intelligence picture, (3) increasing pressure on the criminal market, and (4) stepping up international cooperation, in particular with South-Eastern Europe.

Given the global dimension of organised crime, the above-mentioned policy instruments strongly reflect the internal/external security nexus. The EU is further committed to work with third countries in the fight against organised crime, supporting the implementation of the UNTOC through the use of policy dialogues and technical assistance, which includes delivery of specialised equipment, institution building or training to enhance operational capacities to tackle transnational organised crime. The EU also funds research into criminal phenomena in third countries in order to better focus its assistance in the future. In the case of enlargement partners, the EU prioritises assistance on legal alignment with relevant EU criminal law, the establishment of specialised institutions focusing on prevention and prosecution, as well as on law enforcement and judicial cooperation and capacity building in view of operational cooperation. Building the capacities of enlargement partners' criminal justice system also remains a priority, as they need to demonstrate a solid track record of effectively fighting against organised crime ahead of their EU accession. In line with the ProtectEU strategy, enlargement partners are being gradually integrated into the EU's security architecture, reinforcing not only their internal security but also that of the whole EU.

2.2 The role of the European Union agencies and bodies in the fight against organised crime

The mission of the European Union Agency for Law Enforcement Cooperation (Europol)⁸⁵ is to support the EU Member States in preventing and combating all forms of serious cross-border

⁸⁴ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and The Committee of the Regions 2020-2025 EU action plan on firearms trafficking COM(2020) 608 final, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020DC0608>.

⁸⁵ Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA (OJ L 135, 24.5.2016, p. 53–114), <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32016R0794>.

and organised crime, cybercrime and terrorism. Europol is the EU's criminal information hub and offers a wide range of technical, forensic, analysis and coordination services to law enforcement partners in EU Member States and partner countries. In 2024, Europol supported more than 3,300 operations of EU Member States and partner countries and produced more than 21,000 operational reports. More than two million messages were exchanged through Europol's secure information exchange network application (SIENA). Europol also acts as a centre of law enforcement expertise, with a strong focus on research and innovation. It works closely with a number of EU institutions, bodies, offices and agencies as well as with non-EU partner countries, notably enlargement partners, and international organisations. Europol's work is guided by its Strategy "Delivering Security in Partnership". The Europol's work and annual objectives are set out in the Europol Programming Document⁸⁶, and results are published every year in Europol's Consolidated Annual Activity Report⁸⁷.

Europol hosts at its Headquarters a community of more than 300 Liaison Officers from over 50 EU Member States and partner countries. Europol employs more than 150 criminal analysts, who use state-of-the-art tools to support national agencies' investigations on a daily basis. To give a deeper insight into the EU's criminal threat landscape, the agency produces regular long-term analyses of crime and terrorism such as the 2025 EU SOCTA.

The European Union Agency for Criminal Justice Cooperation (Eurojust)⁸⁸ is actively involved in supporting judicial cooperation related to the specific field of organised crime, without carrying out investigations. Governed by its College, comprising a representative of each Member State and of the Commission, the main task of Eurojust is to support and improve the coordination of cross-border investigations and prosecutions and the cooperation between the competent authorities of the Member States and those third countries with which International Agreements exist, in relation to serious cross-border crime, including organised crime, drug trafficking, corruption, or money laundering. Twelve (12) Liaison Prosecutors from countries outside the EU are currently posted at Eurojust based on the international agreement with the respective country. They work side by side with their colleagues from Member States to provide support in cross-border investigations involving their country. Eurojust is also the EU hub for knowledge sharing and the exchange of best practices in criminal justice cooperation. In this regard, it hosts the Genocide Network, the Joint Investigation Teams Network, the European Judicial Network, the European Judicial Cybercrime Network, the European Judicial Organised Crime Network and the Focus Groups of Specialised prosecutors on Migrant Smuggling, Trafficking in Human Beings and Money Laundering and Asset Recovery.

⁸⁶ Available at <<https://www.europol.europa.eu/publications-events/publications/work-programmes>>.

⁸⁷ Available at <<https://www.europol.europa.eu/publications-events/publications/consolidated-annual-activity-reports-caar>>.

⁸⁸ Regulation (EU) 2018/1727 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for Criminal Justice Cooperation (Eurojust), and replacing and repealing Council Decision 2002/187/JHA (OJ L 295, 21.11.2018, p. 138–183), <https://eur-lex.europa.eu/eli/reg/2018/1727/oj/eng>.

The European Anti-Fraud Office (OLAF) was established by the Commission in 1999⁸⁹. OLAF conducts independent administrative investigations into fraud, corruption and any other illegal activity affecting the financial interests of the EU. OLAF also investigates serious misconduct by EU staff and members of the EU institutions, bodies, offices and agencies, thus helping to strengthen public trust in them. Finally, OLAF develops EU anti-fraud policies in its capacity as a Commission service. Regulation (EU, Euratom) No 883/2013 sets out OLAF's investigative remit⁹⁰. After an investigation is concluded, OLAF recommends action to the EU institutions, bodies, offices or agencies and authorities of Member States concerned. This usually includes recommendations to launch criminal investigations, financial recoveries, administrative or disciplinary measures. It then monitors how these recommendations are implemented⁹¹.

The European Public Prosecutor's Office (EPPO) was established by Council Regulation (EU) 2017/1939⁹² ('the EPPO Regulation') by means of enhanced cooperation (24 Member States, i.e. all MS except for HU, IE, and DK, currently participate in it) and became operational on 1 June 2021.⁹³ It is the independent public prosecution office of the EU and the only EU body entitled to conduct criminal investigations, prosecute and bring to judgment perpetrators of, and accomplices to, crimes affecting the EU's financial interests.

The material competence of the EPPO is set out in Article 22 of the EPPO Regulation. It includes crimes affecting the EU's financial interests that are provided for in the PIF Directive, as implemented by national law (so called 'PIF crimes': notably revenue and expenditure fraud, active and passive corruption, misappropriation of EU funds or assets by a public official, and money laundering involving property derived from the just mentioned criminal offences affecting the Union's financial interests), With regard to VAT fraud, the EPPO is only competent for cross-border cases involving a total damage of at least 10 million euros. In addition, the EPPO is competent for offences regarding participation in a criminal organisation, if the focus of the criminal activity of such a criminal organisation is to commit PIF crimes. Finally, the EPPO is also competent for other criminal offences that are 'inextricably linked'

⁸⁹ Commission Decision (1999/352/EC, ECSC, Euratom) of 28 April 1999 establishing the European Anti-fraud Office ("OLAF") (OJ L 136, 31.5.1999, p. 20), <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:31999D0352>.

⁹⁰ Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office and repealing Regulation 1073/1999 of the European Parliament and of the Council and Council Regulation 1074/1999 (OJ L 248, 18.9.2013, p. 1), <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32013R0883&qid=1695724136580>.

⁹¹ The responsibility of protecting the EU's financial interests is shared between the European institutions and the Member States. Article 325(1) TFEU provides that the Union and the Member States shall take appropriate measures to counter fraud and any other illegal activities affecting the financial interests of the Union. This may include measures to fight organised crime, when it is detrimental to the Union's interests.

⁹² Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ("the EPPO") (OJ L 283, 31.10.2017, p. 1–71), <https://eur-lex.europa.eu/eli/reg/2017/1939/oj>.

⁹³ Activities of the EPPO since the beginning of its operations are available at:
2021 report: https://www.eppo.europa.eu/sites/default/files/2022-07/EPPO_Annual_Report_2021.pdf;
2022 report: https://www.eppo.europa.eu/sites/default/files/2023-02/EPPO_2022_Annual_Report_EN_WEB.pdf.

to a PIF crime; in such cases, it can exercise its competence in accordance with Article 25(3) of the EPPO Regulation.

Before the EPPO became operational, OLAF could conduct administrative investigations, while national authorities could conduct criminal investigations into cases of fraud against the EU budget, but only national authorities could prosecute such cases. After the EPPO became operational, OLAF remains competent to conduct administrative investigations into cases of fraud and corruption involving EU funds, as well as serious misconduct by Union staff and members of Union institutions⁹⁴ while the EPPO conducts criminal investigations and prosecutes cases falling under its competence before national courts⁹⁵. The EPPO and OLAF have established and maintain a close cooperation aimed at ensuring the complementarity of their respective mandates and avoiding duplication. In that regard, OLAF should report without undue delay to the EPPO any criminal conduct in respect of which it could exercise its competence and should not open any administrative investigations parallel to an investigation conducted by the EPPO into the same facts.⁹⁶

In relation to the crimes affecting the EU's financial interests, the EPPO Regulation contains provisions regarding cooperation between the EPPO and other Union partners and institutions, bodies, offices and agencies of the Union.⁹⁷, as well as with EU Member States that do not participate in the EPPO, third countries and international organisations⁹⁸. The EPPO, which operates as a single Office, has a multilevel structure⁹⁹, which includes a Central Office (the College, the Permanent Chambers, the European Chief Prosecutor, the Deputy European Chief Prosecutors, the European Prosecutors and the Administrative Director) and a decentralised level composed of the European Delegated Prosecutors that operate in each of the Member States participating in the EPPO. The Central Office and the European Delegated Prosecutors are both assisted by the staff of the EPPO. In cross-border cases, the European Delegated Prosecutor handling the case should be able to rely on assisting European Delegated Prosecutors when measures need to be undertaken in other participating Member States. The EPPO is independent and shall act in the interest of the Union as a whole, as defined by law, and neither seek nor take instructions from any person external to the EPPO, any Member State of the EU or any institution, body, office or agency of the Union in the performance of their duties.

⁹⁴ Article 1 of Regulation (EU, Euratom) 883/2013.

⁹⁵ Article 4 of Council Regulation (EU) 2017/1939.

⁹⁶ Recital 103 of Council Regulation (EU) 2017/1939.

⁹⁷ Articles 99–103 of the EPPO Regulation.

⁹⁸ Article 104 of the EPPO Regulation.

⁹⁹ See Europa website, European Public Prosecutor's Office, Structure and Characteristics <https://www.epppo.europa.eu/en/structure-and-characteristics>.

With its new mandate, the European Union Drugs Agency (EUDA), which replaced the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) on 2 July 2024¹⁰⁰, plays a stronger role in ensuring the EU’s preparedness to address developments on illicit drugs that negatively impact public health, safety and security. The EUDA provides the EU and its Member States with factual, objective, reliable and comparable information, early warning and risk assessment at EU level related to the health and supply aspects of the drug situation and recommends appropriate and concrete evidence-based actions on how to address those challenges. In order to address the rapid changes in the illicit drug market, the EUDA is developing a new European drug alert system, which will complement the EU early warning system on new psychoactive substances and set up a network of forensic and toxicological laboratories. The Agency is also now equipped with a health and security threat assessment capability to identify at an early-stage new developments of the drugs phenomenon with a potential health, social, safety and security impact within the EU. The EUDA also has a reinforced mandate to work with enlargement partners, notably in view of building their capacities for data collection and monitoring of the drug situation.

II. EU self-assessment United Nations Convention against Transnational Organized Crime

Cluster I: criminalization and jurisdiction (arts. 2, 5, 6, 8, 9, 10, 15 and 23 of the Convention)

Article 2. Use of terms

1. Does your country’s legal framework include the definitions set forth in article 2?

Yes Yes, in part No

(a) Please explain.

Article 2 of the UNTOC defines the terms of (a) organised criminal group, (b) serious crime, (c), structured group, (d) property, (e) proceeds of crime, (f) freezing and seizure, (g) confiscation, (h) predicate offence, (i) controlled delivery and (j) regional economic integration organisation.

The EU’s legal framework includes the definitions of (a) organised criminal group, (c), structured group, (d) property, (e) proceeds of crime, (f) freezing and seizure, (g) confiscation, and (h) predicate offence.

The terms (b) serious crime, (i) controlled delivery and (j) regional economic integration organisation are not explicitly defined but are *de facto* included in the EU legal system.

Organized criminal group and structured group

The definition of “organized criminal group” and “structured group” are included in the EU legal framework through Article 1 of Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime. Article 1(1) includes a definition of criminal organisation, whilst Article 1(2) includes a definition of a structured association.

Article 1 of Council Framework Decision 2008/841/JHA states:

¹⁰⁰ Regulation (EU) 2023/1322 of the European Parliament and of the Council of 27 June 2023 on the European Union Drugs Agency (EUDA) and repealing Regulation (EC) No 1920/2006, *OJ L 166*, 30.6.2023.

“(1) ‘criminal organisation’ means a structured association, established over a period of time, of more than two persons acting in concert with a view to committing offences which are punishable by deprivation of liberty or a detention order of a maximum of at least four years or a more serious penalty, to obtain, directly or indirectly, a financial or other material benefit;

“(2) ‘structured association’ means an association that is not randomly formed for the immediate commission of an offence, nor does it need to have formally defined roles for its members, continuity of its membership, or a developed structure.”

These definitions are comparable to those of “organised criminal group” and of “structured group” of Article 2(a) and (c) of the UNTOC, which read:

“(a) ‘Organized criminal group’ shall mean a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit;

“(c) ‘Structured group’ shall mean a group that is not randomly formed for the immediate commission of an offence and that does not need to have formally defined roles for its members, continuity of its membership or a developed structure;”

Property, proceeds of crime, freezing, confiscation

Article 3 of Directive (EU) 2024/1260 of the European Parliament and of the Council of 24 April 2024 on asset recovery and confiscation defines proceeds of crime, property, freezing and confiscation.

Article 3 of Directive (EU) 2024/1260 states:

“(1) ‘proceeds’ means any economic advantage derived directly or indirectly from a criminal offence consisting of any form of property, and including any subsequent reinvestment or transformation of direct proceeds and any valuable benefits;

“(2) ‘property’ means property of any description, whether corporeal or incorporeal, movable or immovable, including crypto-assets, and legal documents or instruments in any form, evidencing title or interest in such property;

“(4) ‘confiscation’ means a final deprivation of property ordered by a court in relation to a criminal offence;

“(5) ‘freezing’ means the temporary prohibition of the transfer, destruction, conversion, disposal or movement of property or temporarily assuming custody or control of property;”

Moreover, Regulation 2018/1805 of the European Parliament and of the Council of 14 November 2018 on the mutual recognition of freezing orders and confiscation orders, which lays down the rules under which a Member State recognises and executes in its territory freezing orders and confiscation orders issued by another Member State within the framework of proceedings in criminal matters, defines “freezing order” as:

Article 2 (1) Regulation 2018/1805:

“‘freezing order’ means a decision issued or validated by an issuing authority in order to prevent the destruction, transformation, removal, transfer or disposal of property with a view to the confiscation thereof;”

These definitions are comparable to those of “property,” “proceeds of crime,” “freezing,” and “confiscation” of Article 2(d), (e), (f), and (g) of the UNTOC, which read:

“(d) ‘Property’ shall mean assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments evidencing title to, or interest in, such assets;

(e) "Proceeds of crime" shall mean any property derived from or obtained, directly or indirectly, through the commission of an offence;

(f) "Freezing" or "seizure" shall mean temporarily prohibiting the transfer, conversion, disposition or movement of property or temporarily assuming custody or control of property on the basis of an order issued by a court or other competent authority;

(g) "Confiscation", which includes forfeiture where applicable, shall mean the permanent deprivation of property by order of a court or other competent authority;"

Predicate offence

Article 2(h) of the UNTOC reads:

"(h) "Predicate offence" shall mean any offence as a result of which proceeds have been generated that may become the subject of an offence as defined in article 6 of this Convention;"

Money laundering offences as criminalised in the EU apply to a number of criminal activities, which are listed in Article 2(1) of Directive (EU) 2018/1673 of the European Parliament and of the Council of 23 October 2018 on combating money laundering and are the predicate offences to the crime of money laundering, as amended by Article 18 of Directive (EU) 2024/1226. The definition for "predicate offence" is further clarified in recital 5 of Directive (EU) 2018/1673.

Article 2(1) of Directive (EU) 2018/1673 as amended by Article 18 of Directive (EU) 2024/1226 defines and lists the predicate offences of money laundering. It reads:

"'criminal activity' means any kind of criminal involvement in the commission of any offence punishable, in accordance with national law, by deprivation of liberty or a detention order for a maximum of more than one year or, as regards Member States that have a minimum threshold for offences in their legal systems, any offence punishable by deprivation of liberty or a detention order for a minimum of more than six months. In any case, offences within the following categories are considered a criminal activity:

(a) participation in an organised criminal group and racketeering, including any offence set out in Framework Decision 2008/841/JHA;

(b) terrorism, including any offence set out in Directive (EU) 2017/541 of the European Parliament and of the Council;

(c) trafficking in human beings and migrant smuggling, including any offence set out in Directive 2011/36/EU of the European Parliament and of the Council (10) and Council Framework Decision 2002/946/JHA;

(d) sexual exploitation, including any offence set out in Directive 2011/93/EU of the European Parliament and of the Council;

(e) illicit trafficking in narcotic drugs and psychotropic substances, including any offence set out in Council Framework Decision 2004/757/JHA;

(f) illicit arms trafficking;

(g) illicit trafficking in stolen goods and other goods;

(h) corruption, including any offence set out in the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union and in Council Framework Decision 2003/568/JHA;

- (i) fraud, including any offence set out in Council Framework Decision 2001/413/JHA;*
- (j) counterfeiting of currency, including any offence set out in Directive 2014/62/EU of the European Parliament and of the Council;*
- (k) counterfeiting and piracy of products;*
- (l) environmental crime, including any offence set out in Directive 2008/99/EC of the European Parliament and of the Council or in Directive 2009/123/EC of the European Parliament and of the Council;*
- (m) murder, grievous bodily injury;*
- (n) kidnapping, illegal restraint and hostage-taking;*
- (o) robbery or theft;*
- (p) smuggling;*
- (q) tax crimes relating to direct and indirect taxes, as laid down in national law;*
- (r) extortion;*
- (s) forgery;*
- (t) piracy;*
- (u) insider trading and market manipulation, including any offence set out in Directive 2014/57/EU of the European Parliament and of the Council;*
- (v) cybercrime, including any offence set out in Directive 2013/40/EU of the European Parliament and of the Council;*
- (w) violation of Union restrictive measures.”*

Moreover, recital 5 of Directive (EU) 2018/1673 states:

“The definition of criminal activities which constitute predicate offences for money laundering should be sufficiently uniform in all Member States. Member States should ensure that all offences that are punishable by a term of imprisonment as set out in this Directive are considered predicate offences for money laundering. Moreover, to the extent that the application of those penalty thresholds does not already do so, Member States should include a range of offences within each of the categories of offences listed in this Directive. In that case, Member States should be able to decide how to delimit the range of offences within each category. Where a category of offences, such as terrorism or environmental offences, includes offences set out in legal acts of the Union, this Directive should refer to those legal acts. Member States should, however, consider any offence set out in those legal acts as constituting a predicate offence for money laundering. Any kind of punishable involvement in the commission of a predicate offence as criminalised in accordance with national law should also be considered as a criminal activity for the purposes of this Directive. In cases where Union law allows Member States to provide for sanctions other than criminal sanctions, this Directive should not require Member States to classify the offences in those cases as predicate offences for the purposes of this Directive.”

The criminal offences listed in Article 2(1) of Directive (EU) 2018/1673, which are considered as criminal activity for the purposes of the Directive, constitute predicate offences for the purposes of money laundering offences as defined in Article 3 of Directive (EU) 2018/1673. Article 3 of Directive (EU) 2018/1673 states:

“1. Member States shall take the necessary measures to ensure that the following conduct, when committed intentionally, is punishable as a criminal offence:

(a) the conversion or transfer of property, knowing that such property is derived from criminal activity, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of such an activity to evade the legal consequences of that person’s action;

(b) the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of, property, knowing that such property is derived from criminal activity;

(c) the acquisition, possession or use of property, knowing at the time of receipt, that such property was derived from criminal activity.

2. Member States may take the necessary measures to ensure that the conduct referred to in paragraph 1 is punishable as a criminal offence where the offender suspected or ought to have known that the property was derived from criminal activity.

[...]

5. Member States shall take the necessary measures to ensure that the conduct referred to in points (a) and (b) of paragraph 1 is punishable as a criminal offence when committed by persons who committed, or were involved in, the criminal activity from which the property was derived.”

Whilst recital 5 in conjunction with Article 2(1) of Directive (EU) 2018/1673 define predicate offences, Article 3 of the Directive defines the offence itself in a comparable manner to Article 6 of the UNTOC.

2. Does your country’s legal framework permit it to implement the Convention without adopting the specific definitions set forth in article 2?

Yes Yes, in part No

(a) Please explain.

Article 2 of the UNTOC defines the terms of (a) organised criminal group, (b) serious crime, (c), structured group, (d) property, (e) proceeds of crime, (f) freezing and seizure, (g) confiscation, (h) predicate offence, (i) controlled delivery and (j) regional economic integration organisation.

The definitions of (b) serious crime and (i) controlled delivery are not explicitly defined in a legal instrument but are de facto included in the EU legal system. The EU qualifies as (j), regional economic integration organisation.

Serious crime

Article 2(b) of the UNTOC reads:

“(b) “Serious crime” shall mean conduct constituting an offence punishable by a maximum deprivation of liberty of at least four years or a more serious penalty;”

There is no closed definition of the term “serious crime” in a dedicated EU Directive or Regulation. However, the EU has harmonised several crimes punishable by a maximum deprivation of liberty of at least four years, such as those included in selected articles of the following legal instruments:

- laundering of the proceeds of crime, including a number of offences set out in Directive (EU) 2018/1673 of the European Parliament and of the Council of 23 October 2018 on combating money laundering by criminal law. In particular, the minimum maximum penalty is no less than 4 years for offences referred to in Article 3(1) and (5) of Directive (EU) 2018/1673, as per Article 5(2) of Directive (EU) 2018/1673;
- trafficking in human beings, including any offence set out in Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA, as amended by Directive (EU) 2024/1712. In particular, the minimum maximum penalty set out in Article 4(1) of Directive 2011/36/EU is no less than 5 years, and 10 years for offences referred to in Article 2 when committed under the circumstances listed under Article 4(2) of Directive 2011/36/EU, as amended by Article 1 of Directive (EU) 2024/1712;
- facilitation of unauthorised entry, transit and residence, as defined in Council Framework Decision 2002/946/JHA of 28 November 2002 on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence and Council Directive 2002/90/EC of 28 November 2002 defining the facilitation of unauthorised entry, transit and residence. In particular, the minimum maximum penalty set out in Article 1(4) for offences defined in Article 1(3) of Council Framework Decision 2002/946/JHA is no less than 5 years, if imperative to preserve the coherence of the national penalty system and provided that such penalty is among the most severe maximum sentences available for crimes of comparable gravity;
- terrorism, including a number of offences set out in Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA. In particular, the minimum maximum penalty is no less than 15 years for offences referred to in point (a) of Article 4 of Directive (EU) 2017/541, and no less than 8 years where the terrorist offence referred to in point (j) of Article 3(1) of Directive (EU) 2017/541 is committed by a person directing a terrorist group as referred to in point (a) of Article 4 of Directive (EU) 2017/541;
- sexual exploitation of children and child sexual abuse material, including a number of offences set out in Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA. In particular, the minimum maximum penalty is no less than 5 years for offences regulated under Article 3(4), 3(5), 4(2), 4(3), 4(5), 4(6), and 4(7) of Directive 2011/93/EU;
- illicit trafficking in narcotic drugs and psychotropic substances, including a number of offences set out in Council Framework Decision 2004/757/JHA of 25 October 2004 laying down minimum provisions on the constituent elements of criminal acts and penalties in the field of illicit drug trafficking. In particular, the penalty is a maximum of at least between 5 and 10 years for Article 4(2) and 4(4) and a maximum of at least 10 years for Article 4(3) of Council Framework Decision 2004/757/JHA;
- forgery of means of payment, including any offences set out in Directive (EU) 2019/713 of the European Parliament and of the Council of 17 April 2019 on combating fraud and counterfeiting of non-cash means of payment and replacing Council Framework Decision 2001/413/JHA. In particular, the minimum maximum penalty is no less than five years if offences referred to in Article 3 to 6 of Directive (EU) 2019/713 are committed within the framework of a criminal organisation as defined in Framework Decision 2008/841/JHA;
- counterfeiting currency, including the euro, including any as defined in Directive 2014/62/EU of the European Parliament and of the Council of 15 May 2014 on the protection of the euro and other currencies against counterfeiting by criminal law. In particular, the minimum maximum penalty is no less than 8 years under the conditions set out in Article 5(3) of Directive

2014/62/EU, and no less than 5 years under the conditions set out under Article 5(4) of Directive 2014/62/EU;

- computer-related crime including a number of offences set out in Directive 2013/40/EU of the European Parliament and of the Council of 12 August 2013 on attacks against information systems and replacing Council Framework Decision 2005/222/JHA. In particular, under Article 9(4) of Directive 2013/40/EU, the offences referred to in Articles 4 and 5 of Directive 2013/40/EU are punishable by a maximum term of imprisonment of at least five years where: (a) they are committed within the framework of a criminal organisation, as defined in Framework Decision 2008/841/JHA, irrespective of the penalty provided for therein; (b) they cause serious damage; or (c) they are committed against a critical infrastructure information system;
- fraud and other criminal offences as defined in Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law. In particular, the minimum maximum penalty is no less than 4 years under the conditions set out in Article 7(3) of Directive (EU) 2017/1371;
- Insider trading and market manipulation, including offences set out in Directive 2014/57/EU of the European Parliament and of the Council of 16 April 2014 on criminal sanctions for market abuse. In particular, under Article 7(2) of Directive 2014/57/EU, the offences referred to in Articles 3 and 5 of Directive 2014/57/EU are punishable by a maximum term of imprisonment of at least four years;
- Environmental crime, including Directive (EU) 2024/1203 of the European Parliament and of the Council of 11 April 2024 on the protection of the environment through criminal law, replacing Directive 2008/99/EC. It established the minimum maximum penalty for natural persons of at least of 3 or 5 years depending on the offence category, and at least 10 years if the conduct causes the death of any person;
- Violations of Union restrictive measures as defined as in Directive (EU) 2024/1226 of the European Parliament and of the Council of 24 April 2024 on the definition of criminal offences and penalties for the violation of Union restrictive measures and amending Directive (EU) 2018/1673. It established the minimum maximum penalty of no less than 5 years for offences referred to in Article 3(1) points (a), (b) and (h)(i) and (ii), when they involve funds or economic resources of a value of at least EUR 100 000, and criminal offences referred to in Article 3(1), points (d) to (g) and (i), when they involve goods, services, transactions or activities of a value of at least EUR 100 000. However, where arms or dual use items are concerned, the min-max of 5 years applies to the criminal offence referred to in Article 3(1)(e) irrespective of the value of such items.

These instruments include crimes for which the penalty level has been harmonised in line with of Article 2(b) of the UNTOC and are thus to be considered a “serious crime” as per the definition.

Controlled delivery

Article 2(i) of the UNTOC reads:

(i) “Controlled delivery” shall mean the technique of allowing illicit or suspect consignments to pass out of, through or into the territory of one or more States, with the knowledge and under the supervision of their competent authorities, with a view to the investigation of an offence and the identification of persons involved in the commission of the offence;”

The term “controlled delivery” is not expressly defined in a dedicated EU Directive or Regulation. The term is however mentioned in a number of EU judicial cooperation instruments without being defined, particularly Article 28(1)(b) of Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order (EIO) in criminal matters and Article 12 of the Convention on Mutual Assistance in Criminal Matters between the Member States of the EU.

Article 28(1)(b) of Directive 2014/41/EU regulates the rules on controlled delivery, including possibilities for refusal grounds, and reads:

“1. When the EIO is issued for the purpose of executing an investigative measure requiring the gathering of evidence in real time, continuously and over a certain period of time, such as:

(a) the monitoring of banking or other financial operations that are being carried out through one or more specified accounts;

(b) the controlled deliveries on the territory of the executing State;

its execution may be refused, in addition to the grounds for non-recognition and non-execution referred to in Article 11, if the execution of the investigative measure concerned would not be authorised in a similar domestic case.”

Moreover, recital 24 of Directive 2014/41/EU further reads:

“The EIO establishes a single regime for obtaining evidence. Additional rules are however necessary for certain types of investigative measures which should be indicated in the EIO, such as the temporary transfer of persons held in custody, hearing by video or telephone conference, obtaining of information related to bank accounts or banking transactions, controlled deliveries or covert investigations. Investigative measures implying a gathering of evidence in real time, continuously and over a certain period of time should be covered by the EIO, but, where necessary, practical arrangements should be agreed between the issuing State and the executing State in order to accommodate the differences existing in the national laws of those States.”

Article 12 of the Convention on Mutual Assistance in Criminal Matters between the Member States of the EU reads:

“1. Each Member State shall undertake to ensure that, at the request of another Member State, controlled deliveries may be permitted on its territory in the framework of criminal investigations into extraditable offences.

2. The decision to carry out controlled deliveries shall be taken in each individual case by the competent authorities of the requested Member State, with due regard for the national law of that Member State.

3. Controlled deliveries shall take place in accordance with the procedures of the requested Member State. The right to act and to direct and control operations shall lie with the competent authorities of that Member State.”

Moreover, Article 30 of the Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor’s Office (‘the EPPO’) provides that, at least in cases where the offence subject to the investigation is punishable by a maximum penalty of at least 4 years of imprisonment, Member States shall ensure that the European Delegated Prosecutors are entitled to order or request the tracking and tracing of an object by technical means, including controlled deliveries of goods.

Article 30 of Council Regulation (EU) 2017/1939 reads:

“1. At least in cases where the offence subject to the investigation is punishable by a maximum penalty of at least 4 years of imprisonment, Member States shall ensure that the European Delegated Prosecutors are entitled to order or request the following investigation measures:

[...]

(f) track and trace an object by technical means, including controlled deliveries of goods.”

Finally, controlled deliveries are a judicial cooperation instrument widely used in the EU and supported by Eurojust (see the webpage ‘[Controlled deliveries](https://www.eurojust.europa.eu/judicial-cooperation/instruments/controlled-deliveries)’ available at <https://www.eurojust.europa.eu/judicial-cooperation/instruments/controlled-deliveries>.)

The term “controlled delivery” is therefore included in EU legal instruments, allowing for the implementation of the convention without adopting the specific definition of Article 2 of the UNTOC. It is also to note that the definition is of relevance only for the implementation of Article 20 of the UNTOC, which is not the object of this round of review.

Regional economic integration organization

Article 2(j) of the UNTOC reads:

(j) “Regional economic integration organization” shall mean an organization constituted by sovereign States of a given region, to which its member States have transferred competence in respect of matters governed by this Convention and which has been duly authorized, in accordance with its internal procedures, to sign, ratify, accept, approve or accede to it; references to “States Parties” under this Convention shall apply to such organizations within the limits of their competence.”

The EU is a unique economic and political union between 27 European countries. In view of our competences, the EU also qualifies as a regional economic integration organisation as per Article 2(j) of the UNTOC.

Article 1 of the TEU reads:

“By this Treaty, the HIGH CONTRACTING PARTIES establish among themselves a EUROPEAN UNION, hereinafter called ‘the Union’, on which the Member States confer competences to attain objectives they have in common.”

Similarly, Article 3(2) TEU reads:

“2. The Union shall offer its citizens an area of freedom, security and justice without internal frontiers, in which the free movement of persons is ensured in conjunction with appropriate measures with respect to external border controls, asylum, immigration and the prevention and combating of crime.”

The EU is therefore “an organization constituted by sovereign States of a given region”. Moreover, the EU has competences spanning across specified policy areas, from the internal market, climate, environment and health to external relations and security, justice and migration.

The TFEU further defines the areas of competence within which the EU can act: most notably, in the area of criminal law, Article 83 TFEU empowers the Union to establish minimum rules concerning the definition of criminal offences and sanctions in the areas of particularly serious crime with a cross-border dimension resulting from the nature or impact of such offences or from a special need to combat them on a common basis.

Therefore, the EU is an organisation constituted by sovereign States of a given region “to which its member States have transferred competence in respect of matters governed by this Convention.”

Furthermore, Article 47 TEU now expressly establishes that the EU shall have legal personality. The EU ratified the UNTOC through COUNCIL DECISION of 29 April 2004 on the conclusion, on behalf of the European Community, of the United Nations Convention Against Transnational Organised Crime. The EU therefore “has been duly authorized, in accordance with its internal procedures, to sign, ratify, accept, approve or accede to [the UNTOC.]”

Therefore, the EU qualifies as a (j), regional economic integration organisation, in particular for the purposes of article 36(2) of the UNTOC.

Article 5. Criminalization of participation in an organized criminal group

3. Is participation in an organized criminal group criminalized under your country’s legal framework, in accordance with article 5?

Yes No

(a) If the answer to question 3 is “Yes”, does participation in an organized criminal group consist of agreeing with one or more other persons to commit a serious crime in order to obtain, directly or indirectly, a financial or other material benefit (art. 5, para. 1 (a) (i))?

Yes Yes, in part No

(i) If the answer to question 3 (a) is “Yes”, does the criminal offence as provided in your domestic law require an act undertaken by one of the participants in furtherance of the agreement or involving an organized criminal group (art. 5, para. 1 (a) (i))?

Yes Yes, in part No

(b) If the answer to question 3 is “Yes”, does participation in an organized criminal group consist of taking an active part in the criminal activities of an organized criminal group with knowledge of either the aim and general criminal activity of that group or its intention to commit the crimes concerned, or taking an active part in other activities of an organized criminal group in the knowledge that such participation will contribute to the achievement of the criminal aim of that group (art. 5, para. 1 (a) (ii))?

Yes Yes, in part No

(c) If the answer to question 3 (a) is “Yes”, please cite the applicable laws and/or other measures, including the applicable sanctions for this offence.

Article 5(1)(a) of the UNTOC on the criminalisation of participation in an organised criminal group reads:

“Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(a) Either or both of the following as criminal offences distinct from those involving the attempt or completion of the criminal activity:

(i) Agreeing with one or more other persons to commit a serious crime for a purpose relating directly or indirectly to the obtaining of a financial or other material benefit and, where required by domestic law, involving an act undertaken by one of the participants in furtherance of the agreement or involving an organized criminal group;

(ii) Conduct by a person who, with knowledge of either the aim and general criminal activity of an organized criminal group or its intention to commit the crimes in question, takes an active part in: a. Criminal activities of the organized criminal group; b. Other activities of the organized criminal group in the knowledge that his or her participation will contribute to the achievement of the above-described criminal aim.”

The EU has obliged member states to criminalise the participation in an organised criminal group in accordance with article 5 through Council Framework Decision 2008/841/JHA.

Article 2 of Council Framework Decision 2008/841/JHA criminalises offences relating to participation in a criminal organisation. It reads:

“Each Member State shall take the necessary measures to ensure that one or both of the following types of conduct related to a criminal organisation are regarded as offences:

(a) conduct by any person who, with intent and with knowledge of either the aim and general activity of the criminal organisation or its intention to commit the offences in question, actively takes part in the organisation’s criminal activities, including the provision of information or material means, the

recruitment of new members and all forms of financing of its activities, knowing that such participation will contribute to the achievement of the organisation's criminal activities;

(b) conduct by any person consisting in an agreement with one or more persons that an activity should be pursued, which if carried out, would amount to the commission of offences referred to in Article 1, even if that person does not take part in the actual execution of the activity."

Article 2(a) of Council Framework Decision 2008/841/JHA criminalises the taking part in an organisation's criminal activity with intent or knowledge of the aim or activity of a criminal organisation and with the knowledge that such participation would contribute to the achievement of the organisation's criminal activities. Article 2(b) of Council Framework Decision 2008/841/JHA criminalises the agreement to commit such activity, even if the offender does not take part in its actual execution.

This criminalisation is in line with the obligations of the UNTOC, as Article 2(a) of Council Framework Decision 2008/841/JHA covers the second part of Article 5(1)(a)(1) of the Convention, whilst Article 2(b) Council Framework Decision 2008/841/JHA covers the first part of Article 5(1)(a)(1) of the Convention. Moreover, Article 2(b) of Council Framework Decision 2008/841/JHA is in line with the obligations of Article 5(1)(a)(ii) of the UNTOC as well.

Sanctions

Article 3 of Council Framework Decision 2008/841/JHA states:

"1. Each Member State shall take the necessary measures to ensure that:

(a) the offence referred to in Article 2(a) is punishable by a maximum term of imprisonment of at least between two and five years; or

(b) the offence referred to in Article 2(b) is punishable by the same maximum term of imprisonment as the offence at which the agreement is aimed, or by a maximum term of imprisonment of at least between two and five years.

2. Each Member State shall take the necessary measures to ensure that the fact that offences referred to in Article 2, as determined by this Member State, have been committed within the framework of a criminal organisation, may be regarded as an aggravating circumstance."

Therefore, participation in an organised criminal group is sanctioned in the EU legal system by a maximum term of imprisonment of at least between two and five years or, in the case of the offences of Article 2(b), by the same maximum term of imprisonment as the offence at which the agreement is aimed.

A reduction or exception from the sanctions referred to in Article 3 may be possible according to the provisions of Article 4 of Council Framework Decision 2008/841/JHA when the offender renounces criminal activity or provides the administrative or judicial authorities with information which they would not otherwise have been able to obtain, helping them to: prevent, end or mitigate the effects of the offence; identify or bring to justice the other offenders; find evidence; deprive the criminal organisation of illicit resources or of the proceeds of its criminal activities; or prevent further offences referred to in Article 2 of Council Framework Decision 2008/841/JHA from being committed.

Article 6 of Council Framework Decision 2008/841/JHA further requires Member States to take the necessary measures to ensure that legal persons may be held liable for any of the offences referred to in Article 2 of Council Framework Decision 2008/841/JHA committed for their benefit by any person, acting either individually or as part of an organ of the legal person, and having a leading position within the legal person.

(d) If the answer to question 3 (a) is "Yes in part" or "No", please specify how participation in a criminal group is treated under your country's framework.

4. If your domestic law requires an act in furtherance of the agreement, has your country so informed the Secretary-General of the United Nations, as required under article 5, paragraph 3?

Yes No

5. Does your country's legal framework establish as criminal offences the acts of organizing, directing, aiding, abetting, facilitating or counselling the commission of serious crime involving an organized criminal group (art. 5, para. 1 (b))?

Yes Yes, in part No

(a) Please explain, if needed.

Article 5(1)(b) of the UNTOC states:

"1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

[...]

(b) Organizing, directing, aiding, abetting, facilitating or counselling the commission of serious crime involving an organized criminal group."

Article 2 of Council Framework Decision 2008/841/JHA criminalises the conduct of any person who "actively takes part in the organisation's criminal activities [...] knowing that such participation will contribute to the achievement of the organisation's criminal activities." This is a wide definition of criminalisation which covers all the active and knowingly taking part in the activities of the criminal organisation as a whole, whilst not explicitly distinguishing between the different roles in a criminal organisation or the counselling of the commission of serious crime involving an organised criminal group.

Article 6. Criminalization of the laundering of proceeds of crime

6. Is the laundering of proceeds of crime criminalized under your country's legal framework, in accordance with article 6, paragraph 1 (a), of the Convention (art. 6, paras. 1 (a) (i)–(ii))?

Yes Yes, in part No

(a) If the answer is "Yes, in part", please specify the manner in which the laundering of proceeds of crime is criminalized under your country's legal framework.

The EU has fully criminalised the laundering of proceeds of crime in accordance with Article 6(1)(a)(i)-(ii) of the UNTOC, establishing uniform minimum standards in all Member States regarding the criminalisation of money laundering through Directive (EU) 2018/1673.

Article 6(1)(a)(i)-(ii) of the UNTOC states:

"1. Each State Party shall adopt, in accordance with fundamental principles of its domestic law, such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(a) (i) The conversion or transfer of property, knowing that such property is the proceeds of crime, for the purpose of concealing or disguising the illicit origin of the property or of helping any person who

is involved in the commission of the predicate offence to evade the legal consequences of his or her action;

(ii) The concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property, knowing that such property is the proceeds of crime;”

The EU has adopted relevant legislation on the criminalization of the laundering of proceeds of crime. Article 4(1) of Directive (EU) 2017/1371 on the fight against fraud to the Union's financial interests by means of criminal law states that “Member States shall take the necessary measures to ensure that money laundering as described in Article 1(3) of Directive (EU) 2015/849 involving property derived from the criminal offences covered by this Directive constitutes a criminal offence.” Directive (EU) 2018/1673 on combating money laundering by criminal law seeks to set a framework in the Member States’ national criminal legislations on combating money laundering. The aim of Directive (EU) 2018/1673 is to create a more unified standard of criminalising money laundering within the EU, to close legal gaps and loopholes and thus to enable more efficient and swifter cross-border cooperation between competent authorities.

Directive (EU) 2018/1673 on combating money laundering by criminal law criminalises money laundering when it is committed intentionally and with the knowledge that the property was derived from criminal activity. In that context, this Directive does not distinguish between situations where property has been derived directly from criminal activity and situations where it has been derived indirectly from criminal activity, in line with the broad definition of ‘proceeds’ as laid down in Directive 2014/42/EU of the European Parliament and of the Council on the freezing and confiscation of instrumentalities and proceeds of crime in the EU.

In each case, when considering whether the property is derived from criminal activity and whether the person knew that the specific circumstances of the case should be taken into account, such as the fact that the value of the property is disproportionate to the lawful income of the accused person and that the criminal activity and acquisition of property occurred within the same time frame. Intention and knowledge can be inferred from objective, factual circumstances. As this Directive provides for minimum rules concerning the definition of criminal offences and sanctions in the area of money laundering, Member States can adopt or maintain more stringent criminal law rules in that area. Member States should be able, for example, to provide that money laundering committed recklessly or by serious negligence constitutes a criminal offence.

In particular, Article 3(1)(a)-(b) of Directive (EU) 2018/1673 of 23 October 2018 on combating money laundering by criminal law stipulates:

“Member States shall take the necessary measures to ensure that the following conduct, when committed intentionally, is punishable as a criminal offence:

(a), the conversion or transfer of property, knowing that such property is derived from criminal activity, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of such an activity to evade the legal consequences of that person’s action;

(b) the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of, property, knowing that such property is derived from criminal activity;”

In addition to the rules laid out in Directive (EU) 2018/1673, the EU has set up a specialised regime to tackle money laundering when concerning property derived from criminal offences affecting the Union’s financial interests, which is subject to specific rules laid down in the PIF Directive (Directive (EU) 2017/1371)¹⁰¹.

¹⁰¹ Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29–41); [https://eur-](https://eur-lex.europa.eu/eli/dir/2017/1371/oj)

Article 4(1) of the PIF Directive stipulates that:

“Member States shall take the necessary measures to ensure that money laundering as described in Article 1(3) of Directive (EU) 2015/849 involving property derived from the criminal offences covered by this Directive constitutes a criminal offence.”

Article 1(3) of Directive (EU) 2015/849, as amended by Directive 2018/843, stipulates that:

“For the purposes of this Directive, the following conduct, when committed intentionally, shall be regarded as money laundering:

(a) the conversion or transfer of property, knowing that such property is derived from criminal activity or from an act of participation in such activity, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of such an activity to evade the legal consequences of that person's action;

(b) the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of, property, knowing that such property is derived from criminal activity or from an act of participation in such an activity;

(c) the acquisition, possession or use of property, knowing, at the time of receipt, that such property was derived from criminal activity or from an act of participation in such an activity;

(d) participation in, association to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the actions referred to in points (a), (b) and (c).”

The EU criminalisation of the laundering of proceeds of crime adopts language mostly identical to that of Article 6(1)(a)(i)-(ii) of the UNTOC, therefore fully criminalising the laundering of proceeds of crime in accordance with Article 6(1)(a)(i)-(ii) of the obligations under the Convention.

7. Are the acquisition, possession and use of property known at the time of receipt to be the proceeds of crime criminalized under your country's legal framework (art. 6, para. 1 (b) (i))?

Yes Yes, in part No

(a) Please explain briefly.

The EU has obliged Member States to fully criminalise the laundering of proceeds of crime in accordance with Article 6(1)(b)(i) of the UNTOC, establishing uniform minimum standards regarding the criminalisation of money laundering through Directive (EU) 2018/1673.

Article 3(1)(c) of Directive (EU) 2018/1673 of 23 October 2018 on combating money laundering by criminal law stipulates:

“Member States shall take the necessary measures to ensure that the following conduct, when committed intentionally, is punishable as a criminal offence:

[...]

(c) the acquisition, possession or use of property, knowing at the time of receipt, that such property was derived from criminal activity.”

This Article is fully in line with Article 6(1)(b)(i) of the UNTOC, which states:

"1. Each State Party shall adopt, in accordance with fundamental principles of its domestic law, such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

[...]

(b) Subject to the basic concepts of its legal system:

(i) The acquisition, possession or use of property, knowing, at the time of receipt, that such property is the proceeds of crime;"

The EU criminalisation of the laundering of proceeds of crime adopts language mostly identical to that of Article 6(1)(b)(i) of the UNTOC, with Directive (EU) 2018/1673 seeking to close loopholes for criminals existing due to differences in national legislation within the EU.

8. Are participation in, association with and conspiracy to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of a money-laundering offence criminalized under your country's legal framework (art. 6, para. 1 (b) (ii))?

Yes Yes, in part No

(a) Please explain briefly.

The EU has almost fully obliged member states to criminalise participation in, association with and conspiracy to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of a money-laundering offence in its legal framework in line with Article 6(1)(b)(ii) of the UNTOC, which reads:

"1. Each State Party shall adopt, in accordance with fundamental principles of its domestic law, such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

[...]

(b) Subject to the basic concepts of its legal system:

[...]

(ii) Participation in, association with or conspiracy to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the offences established in accordance with this article."

Participation in

In the EU legal framework, participation as a main offender would directly fall under the criminalisation of the main offense as per Article 3 of Directive (EU) 2018/1673 and Article 4(1) of the PIF Directive (Directive (EU) 2017/1371).

Association with or conspiracy to commit

The concepts of association with or conspiracy to commit are not established in all Member States of the EU. Therefore, when exercising its competences, the EU made use of the flexibility granted by the United Nations Convention on Transnational Organised Crime and only covered aiding and abetting for money laundering offences by the EU acquis.

Only when these offences would be carried out in the context of a criminal organisation the concept of conspiracy to commit would apply. Framework Decision 2008/841/JHA criminalises the agreement to undertake a criminal activity (conspiracy to commit) within the framework of a criminal

organisation which if carried out, would amount to the commission of offences which are punishable by deprivation of liberty or a detention order of a maximum of at least four years or a more serious penalty, to obtain, directly or indirectly, a financial or other material benefit.

Article 2 Framework Decision 2008/841/JHA states:

“Each Member State shall take the necessary measures to ensure that one or both of the following types of conduct related to a criminal organisation are regarded as offences:

[...]

*(b) conduct by any person **consisting in an agreement** with one or more persons that an activity should be pursued, which if carried out, would amount to the commission of offences referred to in Article 1, even if that person does not take part in the actual execution of the activity.”*

Article 1(1) of Framework Decision 2008/841/JHA, in turn, states:

*“‘criminal organisation’ means a structured association, established over a period of time, of more than two persons acting in concert **with a view to committing offences which are punishable by deprivation of liberty or a detention order of a maximum of at least four years or a more serious penalty, to obtain, directly or indirectly, a financial or other material benefit;**”*

As money laundering is punishable by a maximum term of imprisonment of at least four years for the offences mentioned in Art 5(2) of the Directive, it falls among the offences for which Framework Decision 2008/841/JHA and Directive (EU) 2018/1673, and Directive (EU) 2017/1371 criminalise conspiracy to commit a money laundering offence in the framework of a criminal organisation.

Attempts to commit, aiding, abetting, and counselling

In addition, Article 4 of Directive (EU) 2018/1673 criminalises aiding and abetting, inciting and attempting, as well as providing explicit language criminalising attempt to commit money laundering offences.

Article 4 of Directive (EU) 2018/1673 states:

“Member States shall take the necessary measures to ensure that aiding and abetting, inciting and attempting an offence referred to in Article 3(1) and (5) is punishable as a criminal offence.”

Similarly, Article 5 of Directive (EU) 2017/1371 criminalises aiding and abetting, inciting and attempting the PIF crimes although it does not criminalise attempt to commit money laundering offences affecting the Union’s financial interests.

Article 5 of Directive (EU) 2017/1371 states:

“1. Member States shall take the necessary measures to ensure that inciting, and aiding and abetting the commission of any of the criminal offences referred to in Articles 3 and 4 are punishable as criminal offences.

2. Member States shall take the necessary measures to ensure that an attempt to commit any of the criminal offences referred to in Article 3 and Article 4(3) is punishable as a criminal offence.”

Facilitating

Regarding assistance, apart from the fact that it is covered by “aiding and abetting” in Article 4, it can also be covered by the provisions defining the main criminal offenses of money laundering: according to Article 3(1)(a) of Directive (EU) 2018/1673, Member States shall take the necessary measures to ensure that is punishable as a criminal offence the conversion or transfer of property, knowing that such property is derived from criminal activity, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of such an activity to evade the legal consequences of that person’s action.

Article 3(1)(a) of Directive (EU) 2018/1673:

“1. Member States shall take the necessary measures to ensure that the following conduct, when committed intentionally, is punishable as a criminal offence:

*(a) the conversion or transfer of property, knowing that such property is derived from criminal activity, for the purpose of concealing or disguising the illicit origin of the property or of **assisting** any person who is involved in the commission of such an activity to evade the legal consequences of that person’s action;”*

The combination of these Articles therefore fully aligns the EU legal framework with the obligations of Article 6(1)(b)(ii) of the UNTOC.

9. If the answer to question 6, 7 or 8 is “Yes”, are all serious crimes and the offences covered by the Convention and the Protocols to which your State is a party predicate offences under your domestic law to the offence of money-laundering (art. 6, paras. 2 (a) and (b))?

Yes No

(a) If the answer is “No”, please specify which of the offences covered by the Convention and the Protocols to which your State is a party are not predicate offences under your domestic law to the offence of money-laundering (art. 6, para. 2 (b)).

The EU has included all serious offences as defined in EU law (see answer to q 2) as predicate offences to money laundering, with the exception of the explicit inclusion of obstruction of justice. Obstruction of justice is a predicate offence to money laundering to the extent to which it is sanctioned by the Member States by deprivation of liberty or a detention order of at least one year.

Article 6(2)(b) of the UNTOC reads:

“2. For purposes of implementing or applying paragraph 1 of this article:

[...]

(b) Each State Party shall include as predicate offences all serious crime as defined in article 2 of this Convention and the offences established in accordance with articles 5, 8 and 23 of this Convention. In the case of States Parties whose legislation sets out a list of specific predicate offences, they shall, at a minimum, include in such list a comprehensive range of offences associated with organized criminal groups;”

Serious crimes defined in Article 2 of the UNTOC are:

“(b) “Serious crime” shall mean conduct constituting an offence punishable by a maximum deprivation of liberty of at least four years or a more serious penalty;”

Article 5, 8 and 23 of UNTOC and offenses covered by the convention and protocols concern the criminalisation of participation in a criminal organisation, obstruction of justice, trafficking in human beings, migrants smuggling, firearms trafficking.

Article 2(1)(a)(c), (f), (h) and (p) of Directive (EU) 2018/1673 include, among others, the following predicate offences which fall among the scope of criminalisation of the UNTOC and that are associated with organised criminal groups:

“(a) participation in an organised criminal group and racketeering, including any offence set out in Framework Decision 2008/841/JHA;”

“(c) trafficking in human beings and migrant smuggling, including any offence set out in Directive 2011/36/EU of the European Parliament and of the Council and Council Framework Decision 2002/946/JHA;”

“(f) illicit arms trafficking;”

“(h) corruption, including any offence set out in the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the EU and in Council Framework Decision 2003/568/JHA;”

“(p) smuggling”.

With regard to money laundering affecting the Union’s financial interests, Article 4(1) of Directive (EU) 2017/1371 makes a reference to “property derived from the criminal offences covered by this Directive”, which in turn include corruption that damages or is likely to damage the Union’s financial interests (Article 4(2) of the PIF Directive).

With regards to obstruction of justice, even though the crime is currently not listed as a predicate offence (or rather predicate criminal activity) under Article 2 (1) of Directive (EU) 2018/1673, the crime is a predicate offence to money laundering to the extent to which it is sanctioned by the Member States by deprivation of liberty or a detention order of at least one year.

Article 2(1) of the Directive (EU) on predicate offences stipulates that:

*“(1) ‘criminal activity’ means any kind of criminal involvement in the commission of any offence punishable, in accordance with national law, by deprivation of liberty or a detention order for a maximum of **more than one year** or, as regards Member States that have a minimum threshold for offences in their legal systems, any offence punishable by deprivation of liberty or a detention order for a minimum of **more than six months**.”*

As such, money laundering provisions would apply to the crime of obstruction of justice as long as the national threshold of punishment are for a minimum of more than six months or maximum of more than one year. 25 Member States have criminalised obstruction of justice in their national legal system, and all of them have a penalty threshold for the crime above one year.¹⁰²

Moreover, the Commission adopted a proposal for a new Directive on combating corruption to strengthen EU rules on the fight against corruption on 3 May 2023¹⁰³. This proposal for a Directive includes the offence of obstruction of justice in the context of criminal proceedings regarding corruption charges. If the proposal is adopted as such by the European Parliament and the Council, the references to the EU acquis on corruption in Directive 2018/1673 would have to be read as covering the new anti-corruption Directive and its offences of obstruction of justice. In that case, Directive 2018/1673 would also require that EU Member States criminalise money laundering with the predicate offence of obstruction of justice in the context of corruption proceedings.

10. Please provide information on the scope of predicate offences set out in your domestic law, including any list of specific predicate offences that may be set out by your domestic law; indicate, for example, the relevant acts

¹⁰² Questionnaire conducted in the course of the consultation of the Commission proposal for a Directive on the criminalisation of corruption, available at:

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2023%3A234%3AFIN>.

¹⁰³ Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on combating corruption, replacing Council Framework Decision 2003/568/JHA and the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union and amending Directive (EU) 2017/1371 of the European Parliament and of the Council (COM/2023/234 final); <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2023%3A234%3AFIN>.

and
(art. 6, para. 2 (b)).

article

numbers

Directive (EU) 2018/1673 lists predicate offences to money laundering by defining them as predicate “criminal activity” in Article 2(1) of Directive (EU) 2018/1673, as amended by Article 18 of Directive (EU) 2024/1226.

According to this provision, ‘criminal activity’ means any kind of criminal involvement in the commission of any offence punishable, in accordance with national law, by deprivation of liberty or a detention order for a maximum of more than one year or, as regards Member States that have a minimum threshold for offences in their legal systems, any offence punishable by deprivation of liberty or a detention order for a minimum of more than six months.

The provision further clarifies that in any case, offences within the following categories are considered a criminal activity:

- (a) participation in an organised criminal group and racketeering, including any offence set out in Framework Decision 2008/841/JHA;
- (b) terrorism, including any offence set out in Directive (EU) 2017/541 of the European Parliament and of the Council;
- (c) trafficking in human beings and migrant smuggling, including any offence set out in Directive 2011/36/EU of the European Parliament and of the Council and Council Framework Decision 2002/946/JHA;
- (d) sexual exploitation, including any offence set out in Directive 2011/93/EU of the European Parliament and of the Council;
- (e) illicit trafficking in narcotic drugs and psychotropic substances, including any offence set out in Council Framework Decision 2004/757/JHA;
- (f) illicit arms trafficking;
- (g) illicit trafficking in stolen goods and other goods;
- (h) corruption, including any offence set out in the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the EU and in Council Framework Decision 2003/568/JHA;
- (i) fraud, including any offence set out in Council Framework Decision 2001/413/JHA;
- (j) counterfeiting of currency, including any offence set out in Directive 2014/62/EU of the European Parliament and of the Council;
- (k) counterfeiting and piracy of products;
- (l) environmental crime, including any offence set out in Directive 2008/99/EC of the European Parliament and of the Council or in Directive 2009/123/EC of the European Parliament and of the Council;
- (m) murder, grievous bodily injury;
- (n) kidnapping, illegal restraint and hostage-taking;
- (o) robbery or theft;
- (p) smuggling;
- (q) tax crimes relating to direct and indirect taxes, as laid down in national law;
- (r) extortion;

- (s) forgery;
- (t) piracy;
- (u) insider trading and market manipulation, including any offence set out in Directive 2014/57/EU of the European Parliament and of the Council;
- (v) cybercrime, including any offence set out in Directive 2013/40/EU of the European Parliament and of the Council;
- (w) violation of Union restrictive measures.

The above list was extended by Directive (EU) 2024/1226 on the violation of Union restrictive measures,¹⁰⁴ which amended Directive (EU) 2018/1673 to include violations of Union restrictive measures as a predicate offence to money laundering.

Moreover, the Commission adopted a proposal for a new Directive on combating corruption to strengthen EU rules on the fight against corruption on 3 May 2023.¹⁰⁵ Once adopted, the offences included in this proposal will become a predicate offence to Directive (EU) 2018/1673.

11. Does your country’s legal framework include predicate offences committed outside your country’s jurisdiction (art. 6, para. 2 (c))?

Yes Yes, in part No

(a) If the answer is “Yes” or “Yes, in part”, please describe the circumstances under which a predicate offence committed in a foreign jurisdiction may be recognized pursuant to your domestic law.

According to Article 3(3)(c) of Directive 2018/1673, Member States shall take the necessary measures to ensure that the money laundering offences extend to property derived from conduct that occurred on the territory of another Member State or of a third country, where that conduct would constitute a criminal activity (see the definition of criminal activity in Article 2(1) of Directive 2018/1673) had it occurred domestically.

Article 3(3)(c) of Directive 2018/1673 states:

“3. Member States shall take the necessary measures to ensure that:

[...]

(c) the offences referred to in paragraphs 1 and 2 extend to property derived from conduct that occurred on the territory of another Member State or of a third country, where that conduct would constitute a criminal activity had it occurred domestically.”

Moreover, according to Article 3(4) of Directive 2018/1673, Member States may further require that the “the acquisition, possession or use of property, knowing at the time of receipt, that such property was derived from criminal activity” constitute a criminal offence under the national law of the other Member State or of the third country where such conduct was committed. This possibility is however precluded where the possession, acquisition, or use of such property constitutes an offence as defined

¹⁰⁴ Directive (EU) 2024/1226 of the European Parliament and of the Council of 24 April 2024 on the definition of criminal offences and penalties for the violation of Union restrictive measures <https://eur-lex.europa.eu/eli/dir/2024/1226/oj/eng>.

¹⁰⁵ Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on combating corruption, replacing Council Framework Decision 2003/568/JHA and the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union and amending Directive (EU) 2017/1371 of the European Parliament and of the Council (COM/2023/234 final); <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2023%3A234%3AFIN>.

under Union law in the area of participation in an organised criminal group and racketeering, illicit trafficking in narcotic drugs and psychotropic substances, and corruption.

Article 3(4) of Directive 2018/1673 states:

“4. In the case of point (c) of paragraph 3 of this Article, Member States may further require that the relevant conduct constitutes a criminal offence under the national law of the other Member State or of the third country where that conduct was committed, except where that conduct constitutes one of the offences referred to in points (a) to (e) and (h) of point (1) of Article 2 and as defined in the applicable Union law.”

Article 3(c) of Directive 2018/1673 states:

“the acquisition, possession or use of property, knowing at the time of receipt, that such property was derived from criminal activity.”

In turn, Article 2(1)(a), (e), and (h) of Directive 2018/1673 states:

“(a) participation in an organised criminal group and racketeering, including any offence set out in Framework Decision 2008/841/JHA;

(e) illicit trafficking in narcotic drugs and psychotropic substances, including any offence set out in Council Framework Decision 2004/757/JHA;

(h) corruption, including any offence set out in the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union (14) and in Council Framework Decision 2003/568/JHA.”

12. Has your country furnished copies of its laws that give effect to article 6 and of any subsequent changes to such laws or a description thereof to the Secretary-General of the United Nations (art. 6, para. 2 (d))?

2. Yes No

(a) If yes, please provide a link.

The criminalisation of money laundering is regulated by Directive (EU) 2018/1673 of 23 October 2018 on combating money laundering by criminal law [OJ L 284, 12.11.2018, p. 22–30]

The EU furnished a copy of Directive (EU) 2018/1673 of 23 October 2018 on combating money laundering by criminal law in the course of the EU review under the UNCAC, as required by Article 23(2)(d) of the UNCAC.

The EU self-assessment under the UNCAC is available at [this link](#) [SWD(2022) 295 final]

The criminalisation of money laundering affecting the Union’s financial interests is regulated by Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union’s financial interests by means of criminal law [OJ L 198, 28.7.2017, p. 29–41]

The EU provided a copy of Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union’s financial interests by means of criminal law in the course of the EU review under the UNCAC, as required by Article 23(2)(d) of the UNCAC.

(b) If not, please provide this information.

Article 8. Criminalization of corruption

The review of articles 8 and 9 of the Convention is only for those States parties to the Organized Crime Convention that are not parties to the United Nations Convention against Corruption.

13. Is the conduct described in article 8, paragraph 1 (a), criminalized in your country's legal framework?

Yes Yes, in part No

(a) Please explain briefly.

For answers relative to the criminalisation of corruption, please see the EU's self-assessment for the first round implementation review under UNCAC, available at [this link](#) [SWD(2022) 295 final] and the EU "country profile" on the [UNCAC webpage](#)

a. Is the conduct described in article 8, paragraph 1 (b), criminalized in your country's legal framework?

Yes Yes, in part No

(a) Please explain briefly.

For answers relative to the criminalisation of corruption, please see the EU's self-assessment for the first round implementation review under UNCAC, available at [this link](#) [SWD(2022) 295 final] and the EU "country profile" on the [UNCAC webpage](#)

14. Is the form of corruption described in article 8, paragraph 1, involving a foreign public official or international civil servant criminalized in your country's legal framework (art. 8, para. 2)?

Yes Yes, in part No

(a) If appropriate, please explain briefly.

For answers relative to the criminalisation of corruption, please see the EU's self-assessment for the first round implementation review under UNCAC, available at [this link](#) [SWD(2022) 295 final] and the EU "country profile" on the [UNCAC webpage](#)

15. Is any other form of corruption established as a criminal offence in your country's legal framework (art. 8, para. 2)?

Yes Yes, in part No

(a) If appropriate, please explain briefly.

For answers relative to the criminalisation of corruption, please see the EU's self-assessment for the first round implementation review under UNCAC, available at [this link](#) [SWD(2022) 295 final] and the EU "country profile" on the [UNCAC webpage](#)

16. Is participation as an accomplice in offences established in accordance with article 8 criminalized under your country's legal framework (art. 8, para. 3)?

Yes No

Article 9. Measures against corruption

The review of articles 8 and 9 of the Convention is only for those States parties to the Organized Crime Convention that are not parties to the Convention against Corruption.

17. Has your country adopted measures to promote integrity and to prevent, detect and punish the corruption of public officials (art. 9, para. 1)?

Yes No

(a) If the answer is “Yes”, please specify the measures implemented to promote integrity and to prevent, detect and punish the corruption of public officials.

For answers relative to the criminalisation of corruption, please see the EU’s self-assessment for the first round implementation review under UNCAC, available at [this link](#) [SWD(2022) 295 final] and the EU “country profile” on the [UNCAC webpage](#)

18. Has your country taken measures to ensure effective action by its authorities in the prevention, detection and punishment of the corruption of public officials, including providing such authorities with adequate independence to deter the exertion of inappropriate influence on their actions (art. 9, para. 2)?

Yes No

(a) If the answer is “Yes”, please specify the measures implemented to ensure effective action by its authorities in the prevention, detection and punishment of the corruption of public officials, including providing such authorities with adequate independence to deter the exertion of inappropriate influence on their actions.

For answers relative to the criminalisation of corruption, please see the EU’s self-assessment for the first round implementation review under UNCAC, available at [this link](#) [SWD(2022) 295 final] and the EU “country profile” on the [UNCAC webpage](#)

Article 10. Liability of legal persons

20. Is the liability of legal persons for participation in serious crimes involving an organized criminal group and for the offences covered by the Convention and the Protocols to which your State is a party established under your country’s legal framework (art. 10)?

Yes Yes, in part No

(a) If the answer is “Yes, in part” or “No”, please explain.

The EU acquis has explicitly established the liability of legal persons for the participation in serious crimes involving an organised criminal group and for the offences covered by the Convention (money laundering) and the Protocols object of this review (trafficking in human beings, migrants smuggling, firearms trafficking). With regards to corruption offences, please see the EU review under the UNCAC.¹⁰⁶

Article 10 of the UNTOC on the liability of legal persons states:

“1. Each State Party shall adopt such measures as may be necessary, consistent with its legal principles, to establish the liability of legal persons for participation in serious crimes involving an

¹⁰⁶ EU self-assessment for the UNCAC 1st round implementation review https://home-affairs.ec.europa.eu/system/files/2022-09/Commission%20Staff%20Working%20document%20Review%20implementation%20by%20European%20Union%20of%20United%20Nations%20Convention%20against%20Corruption_en.PDF.

organized criminal group and for the offences established in accordance with articles 5, 6, 8 and 23 of this Convention.

2. Subject to the legal principles of the State Party, the liability of legal persons may be criminal, civil or administrative.

3. Such liability shall be without prejudice to the criminal liability of the natural persons who have committed the offences.

4. Each State Party shall, in particular, ensure that legal persons held liable in accordance with this article are subject to effective, proportionate and dissuasive criminal or non-criminal sanctions, including monetary sanctions.”

Liability of legal persons for participation in serious crimes involving an organised criminal group

The liability of legal persons for the participation in serious crimes involving an organised criminal group is established under the EU legal system through Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime.

Article 5 of Council Framework Decision 2008/841/JHA states:

“1. Each Member State shall take the necessary measures to ensure that legal persons may be held liable for any of the offences referred to in Article 2 committed for their benefit by any person, acting either individually or as part of an organ of the legal person, and having a leading position within the legal person, based on one of the following:

(a) a power of representation of the legal person;

(b) an authority to take decisions on behalf of the legal person;

or (c) an authority to exercise control within the legal person.

2. Member States shall also take the necessary measures to ensure that legal persons may be held liable where the lack of supervision or control by a person referred to in paragraph 1 has made possible the commission, by a person under its authority, of any of the offences referred to in Article 2 for the benefit of that legal person.

3. Liability of legal persons under paragraphs 1 and 2 shall be without prejudice to criminal proceedings against natural persons who are perpetrators of, or accessories to, any of the offences referred to in Article 2.

4. For the purpose of this Framework Decision ‘legal person’ shall mean any entity having legal personality under the applicable law, except for States or public bodies in the exercise of State authority and for public international organisations.”

For liability of legal persons for corruption, please see the implementation review of the EU under UNCAC, as indicated under Article 8.

Liability of legal persons for money laundering

The liability of legal persons for money laundering is established under the EU legal system through Directive (EU) 2018/1673 of the European Parliament and of the Council of 23 October 2018 on combating money laundering. Moreover, Directive (EU) 2017/1371 on the fight against fraud to the Union’s financial interests by means of criminal law further establishes liability of legal persons for money laundering offences involving property derived from criminal offences affecting the Union’s financial interests.

Article 7 of Directive (EU) 2018/1673 states:

“1. Member States shall take the necessary measures to ensure that legal persons can be held liable for any of the offences referred to in Article 3(1) and (5) and Article 4 committed for their benefit by

any person, acting either individually or as part of an organ of the legal person and having a leading position within the legal person, based on any of the following:

- (a) a power of representation of the legal person;
- (b) an authority to take decisions on behalf of the legal person; or
- (c, an authority to exercise control within the legal person.

2. Member States shall take the necessary measures to ensure that legal persons can be held liable where the lack of supervision or control by a person referred to in paragraph 1 of this Article has made possible the commission of any of the offences referred to in Article 3(1) and (5) and Article 4 for the benefit of that legal person by a person under its authority.

3. Liability of legal persons under paragraphs 1 and 2 of this Article shall not preclude criminal proceedings from being brought against natural persons who are perpetrators, inciters or accessories in any of the offences referred to in Article 3(1) and (5) and Article 4.”

In the same vein, Article 6 of Directive (EU) 2017/1371 reads as follows:

“1. Member States shall take the necessary measures to ensure that legal persons can be held liable for any of the criminal offences referred to in Articles 3, 4 and 5 committed for their benefit by any person, acting either individually or as part of an organ of the legal person, and having a leading position within the legal person, based on:

- (a) a power of representation of the legal person;
- (b) an authority to take decisions on behalf of the legal person; or
- (c) an authority to exercise control within the legal person.

2. Member States shall also take the necessary measures to ensure that legal persons can be held liable where the lack of supervision or control by a person referred to in paragraph 1 of this Article has made possible the commission, by a person under its authority, of any of the criminal offences referred to in Article 3, 4 or 5 for the benefit of that legal person.

3. Liability of legal persons under paragraphs 1 and 2 of this Article shall not exclude the possibility of criminal proceedings against natural persons who are perpetrators of the criminal offences referred to in Articles 3 and 4 or who are criminally liable under Article 5.”

Liability of legal persons for trafficking in human beings

The liability of legal persons for the offences covered by the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime is established under the EU legal system through Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA, as amended by Directive (EU) 2024/1712.

Article 5 of Directive 2011/36/EU as amended by Article 1 of Directive (EU) 2024/1712 states:

“1. Member States shall take the necessary measures to ensure that legal persons can be held liable for the offences referred to in Article 2, Article 3 and Article 18a(1) committed for their benefit by any person, acting either individually or as part of an organ of the legal person, who has a leading position within the legal person, based on:

- (a) a power of representation of the legal person;
- (b) an authority to take decisions on behalf of the legal person; or
- (c) an authority to exercise control within the legal person.

2. Member States shall also ensure that a legal person can be held liable where the lack of supervision or control, by a person referred to in paragraph 1, has made possible the commission of the offences referred to in Article 2, Article 3 and Article 18a(1) for the benefit of that legal person by a person under its authority.

3. Liability of a legal person under paragraphs 1 and 2 shall not exclude criminal proceedings against natural persons who are perpetrators of, inciters to, or accessories to the offences referred to in Article 2, Article 3 and Article 18a(1).

4. For the purpose of this Directive, 'legal person' shall mean any entity having legal personality under the applicable law, except for States or public bodies in the exercise of State authority and for public international organisations."

Liability of legal persons on the smuggling of migrants

The liability of legal persons for the offences covered by the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime is established under the EU legal system through Council Framework Decision (2002/946/JHA) on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence.

Article 2 of Council Framework Decision (2002/946/JHA) states:

"1. Each Member State shall take the measures necessary to ensure that legal persons can be held liable for the infringements referred to in Article 1(1) and which are committed for their benefit by any person, acting either individually or as part of an organ of the legal person, who has a leading position within the legal person, based on:

- a power of representation of the legal person,*
- an authority to take decisions on behalf of the legal person, or*
- an authority to exercise control within the legal person.*

2. Apart from the cases already provided for in paragraph 1, each Member State shall take the necessary measures to ensure that a legal person can be held liable where the lack of supervision or control by a person referred to in paragraph 1 has made possible the commission of the infringements referred to in Article 1(1) for the benefit of that legal person by a person under its authority.

3. Liability of a legal person under paragraphs 1 and 2 shall not exclude criminal proceedings against natural persons who are perpetrators or instigators of or accessories in the offences referred to in paragraph 1."

Liability of legal persons for firearms trafficking

There is currently no EU Directive or Regulation harmonizing the definitions of the offences described in the UN Firearms Protocol. The EU is currently reviewing the need to adopt such a specific criminalisation Directive. A legislative proposal could be expected in early 2026.

Nevertheless, Article 23 of Directive (EU) 2021/555 of the European Parliament and of the Council of 24 March 2021 on control of the acquisition and possession of weapons (Firearms Directive) provides that Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive.

Article 16 of Regulation (EU) No 258/2012 on import and export of firearms reads:

"Member States shall lay down the rules on penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive."

Both EU acts include infringements of legal persons, as dealer and brokers in the case of Firearms Directive and economic operators in the case of Regulation (EU) on import and export of firearms.

21. If the answer is “Yes”, is this liability:

(a) Criminal?

Yes No

(b) Civil?

Yes No

(c) Administrative?

Yes No

22. What kind of sanctions are provided for in your country’s legal framework to implement article 10, paragraph 4, bearing in mind article 11, paragraph 6, of the Convention?

The EU established sanctions for legal persons for the participation in serious crimes involving an organised criminal group and for the offences covered by the Convention (money laundering) and the Protocols object of this review (trafficking in human beings, migrants smuggling, firearms trafficking).

Article 10(4) of the UNTOC reads:

“4. Each State Party shall, in particular, ensure that legal persons held liable in accordance with this article are subject to effective, proportionate and dissuasive criminal or non-criminal sanctions, including monetary sanctions.”

By and large, the provisions on the liability of legal persons included in the different EU instruments have the same pattern. First, such liability is not labelled as criminal or administrative, hence the Member States retain a certain discretion in that respect.¹⁰⁷ Second, the EU instruments provide that the Member States shall take the necessary measures to ensure that legal persons can be held liable for any of the criminal offences committed for their benefit by any person, acting either individually or as part of an organ of the legal person, and having a leading position within the legal person, based on: (a) a power of representation of the legal person; (b) an authority to take decisions on behalf of the legal person; or (c) an authority to exercise control within the legal person.¹⁰⁸ No further requirement is provided for when the predicate offence is committed by a person having a leading position.

Third, when it comes to persons subject to the authority of persons in a leading position, the EU instruments require the Member States to take the necessary measures to ensure that legal persons can be held liable where the lack of supervision or control by persons in a leading position has made possible the commission, by a person under their authority, of the predicate offences.¹⁰⁹ Fourth, the EU instruments clarify that the liability of legal persons – to be regulated in accordance with the above-mentioned rules – shall not preclude criminal proceedings from being brought against natural persons who are perpetrators,

¹⁰⁷ Opinion of Advocate General Campos Sánchez-Bordona, delivered on 12 September 2017(1), Case C-524/15, <https://curia.europa.eu/juris/document/document.jsf?text=&docid=194362&doclang=EN#:~:text=The%20first%20Engel%20criterion%20concerns,of%20a%20criminal%20nature>.

¹⁰⁸ See 5(1) of the Council Framework Decision on combating corruption in the private sector; Article 7(1) of the Directive on combating money laundering by criminal law; and Article 6(1) of the Directive on the fight against fraud to the Union’s financial interests by means of criminal law.

¹⁰⁹ See 5(2) of the Council Framework Decision on combating corruption in the private sector; Article 7(2) of the Directive on combating money laundering by criminal law; and Article 6(2) of the Directive on the fight against fraud to the Union’s financial interests by means of criminal law.

inciters or accessories in the predicate offences¹¹⁰. Finally, the EU instruments require the Member States to take the necessary measures to ensure that legal persons held liable pursuant to the relevant provisions are subject to effective, proportionate and dissuasive sanctions, which *shall* include criminal or non-criminal fines and *may* include other sanctions.¹¹¹

Whenever the suspected liability of legal persons is of criminal nature, and the predicate offences committed for their benefit are criminal offences affecting the Union's financial interests as provided for by Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law, the EPPO is competent to investigate and prosecute legal persons in accordance with Regulation (EU) 2017/1939 and the applicable national law.

Liability of legal persons for participation in serious crimes involving an organised criminal group

Sanctions for legal persons for the participation in serious crimes involving an organised criminal group are established under the EU legal system through Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime.

Article 6 of Council Framework Decision 2008/841/JHA states:

“1. Each Member State shall take the necessary measures to ensure that a legal person held liable pursuant to Article 5(1) is punishable by effective, proportionate and dissuasive penalties, which shall include criminal or non-criminal fines and may include other penalties, for example:

(a) exclusion from entitlement to public benefits or aid;

(b) temporary or permanent disqualification from the practice of commercial activities;

(c) placing under judicial supervision;

(d) judicial winding-up;

(e) temporary or permanent closure of establishments which have been used for committing the offence.

2. Each Member State shall take the necessary measures to ensure that a legal person held liable pursuant to Article 5(2) is punishable by penalties or measures which are effective, proportionate and dissuasive.”

Liability of legal persons for money laundering

Sanctions for legal persons for the participation in serious crimes involving an organised criminal group are established under the EU legal system through Directive (EU) 2018/1673 of the European Parliament and of the Council of 23 October 2018 on combating money laundering and, when money laundering involves property derived from PIF crimes, Directive (EU) 2017/1371 of the European Parliament and

¹¹⁰ See 5(3) of the Council Framework Decision on combating corruption in the private sector; Article 7(3) of the Directive on combating money laundering by criminal law; and Article 6(3) of the Directive on the fight against fraud to the Union's financial interests by means of criminal law.

¹¹¹ See 6 of the Council Framework Decision on combating corruption in the private sector; Article 8 of the Directive on combating money laundering by criminal law; and Article 9 of the Directive on the fight against fraud to the Union's financial interests by means of criminal law. In accordance with the latter two provisions, the additional sanctions to which the Member States may subject legal persons that have been held liable are: (a) exclusion from entitlement to public benefits or aid; (b) temporary or permanent exclusion from public tender procedures; (c) temporary or permanent disqualification from the practice of commercial activities; (d) placing under judicial supervision; (e) judicial winding-up; (f) temporary or permanent closure of establishments which have been used for committing the criminal offence. The same optional sanctions – with the exception of those mentioned under lit. (b) and (f) – are also listed in Article 6(1) of the Council Framework Decision on combating corruption in the private sector.

the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law.

Article 8 of Directive (EU) 2018/1673 states:

“Member States shall take the necessary measures to ensure that a legal person held liable pursuant to Article 7 is punishable by effective, proportionate and dissuasive sanctions, which shall include criminal or non-criminal fines and may include other sanctions, such as:

- (a) exclusion from entitlement to public benefits or aid;*
- (b) temporary or permanent exclusion from access to public funding, including tender procedures, grants and concessions;*
- (c) temporary or permanent disqualification from the practice of commercial activities;*
- (d) placing under judicial supervision;*
- (e) a judicial winding-up order;*
- (f) temporary or permanent closure of establishments which have been used for committing the offence.”*

Article 9 of Directive (EU) 2017/1371 states:

“Member States shall take the necessary measures to ensure that a legal person held liable pursuant to Article 6 is subject to effective, proportionate and dissuasive sanctions, which shall include criminal or non-criminal fines and may include other sanctions, such as:

- (a) exclusion from entitlement to public benefits or aid;*
- (b) temporary or permanent exclusion from public tender procedures;*
- (c) temporary or permanent disqualification from the practice of commercial activities;*
- (d) placing under judicial supervision;*
- (e) judicial winding-up;*
- (f) temporary or permanent closure of establishments which have been used for committing the criminal offence.”*

Liability of legal persons for trafficking in human beings

Sanctions for legal persons for the offences covered by the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime are established under the EU legal system through Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA.

Article 6 of Directive 2011/36/EU as amended by Article 1 of Directive (EU) 2024/1712 states:

“1. Member States shall take the necessary measures to ensure that a legal person held liable pursuant to Article 5(1) or (2) is punishable by effective, proportionate and dissuasive criminal or non-criminal sanctions or measures.

2. Member States shall take the necessary measures to ensure that sanctions or measures for legal persons held liable pursuant to Article 5(1) or (2) for the offences referred to in Article 2, Article 3 and Article 18a(1) shall include criminal or non-criminal fines, and may include other criminal or non-criminal sanctions or measures, such as:

- (a) exclusion from entitlement to public benefits or aid;*
- (b) exclusion from access to public funding, including tender procedures, grants, concessions and licenses;*
- (c) temporary or permanent disqualification from the practice of business activities;*
- (d) withdrawal of permits and authorisations to pursue activities that resulted in the relevant offence;*

- (e) *placing under judicial supervision;*
- (f) *judicial winding-up;*
- (g) *closure of establishments used for committing the offence;*
- (h) *where there is a public interest, publication of all or part of the judicial decision relating to the criminal offence committed and the sanctions or measures imposed, without prejudice to rules on privacy and the protection of personal data.”*

Liability of legal persons on the smuggling of migrants

Sanctions for legal persons for the offences covered by the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime are established under the EU legal system through Council Framework Decision (2002/946/JHA) on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence.

Article 3 of Council Framework Decision (2002/946/JHA) states:

“1. Each Member State shall take the measures necessary to ensure that a legal person held liable pursuant to Article 2(1) is punishable by effective, proportionate and dissuasive sanctions, which shall include criminal or non-criminal fines and may include other sanctions such as:

- (a) exclusion from entitlement to public benefits or aid;*
- (b) temporary or permanent disqualification from the practice of commercial activities;*
- (c) placing under judicial supervision;*
- (d) a judicial winding-up order.*

2. Each Member State shall take the measures necessary to ensure that a legal person held liable pursuant to Article 2(2) is punishable by effective, proportionate and dissuasive sanctions or measures.”

Liability of legal persons for firearms trafficking

There are currently no specific rules at EU level harmonizing the offences and penalties pursuant to the offences described in the UN Firearms Protocol. The EU is currently reviewing the need to adopt such a specific criminalisation. Nevertheless, Article 23 of Directive (EU) 2021/555 of the European Parliament and of the Council of 24 March 2021 on control of the acquisition and possession of weapons (Firearms Directive) provides that Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive.

Article 16 of Regulation (EU) No 258/2012 on import and export of firearms provides that “Member States shall lay down the rules on penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive.”

Both EU Acts include infringements of legal persons, as dealer and brokers in the case of Firearms Directive and economic operators in the case of Regulation (EU) on import and export of firearms.

Article 15. Jurisdiction

23. Are there any circumstances under which your country does not have jurisdiction over offences established in accordance with articles 5, 6, 8 and 23 of the Convention and the Protocols to which it is a party committed in its territory (art. 15, para. 1 (a))?

Yes No

(a) If the answer is “Yes”, please specify the circumstance(s) under which your country does not have jurisdiction over offences committed in its territory.

24. Does your country have jurisdiction to prosecute the offences established in accordance with articles 5, 6, 8 and 23 of the Convention and the Protocols to which it is a party when the offences are committed on board a vessel flying its flag or an aircraft registered under its laws (art. 15, para. 1 (b))?

Yes Yes, in part No

(a) If the answer is “Yes” or “Yes, in part”, please specify the manner in which your country has jurisdiction to prosecute the offences covered by the Convention and the Protocols to which it is a party, in accordance with article 15, paragraph 1 (b).

The EU is a party to certain international agreements that provide for the requirement of establishing jurisdiction, for example the United Nations Convention on the Law of the Sea (UNCLOS). In such cases, the fact that the Union is a party to the Convention means that it is also binding on the Member States. Moreover, all Member States are parties to certain international agreements that establish jurisdiction rules, for example the Tokyo Convention (Convention on Offences and Certain Other Acts Committed on Board Aircraft). Therefore, the interpretation of jurisdiction to prosecute offences covered by the Convention and the Protocol depends on whether those offences have an equivalent in Union law, and needs to take into account the fact that the Member States who implement them are parties to these international agreements.

25. Does your country’s legal framework allow for the following extraterritorial jurisdictional bases:

(a) Jurisdiction to prosecute the offences established in accordance with articles 5, 6, 8 and 23 of the Convention and the Protocols to which your country is a party when committed outside its territory by its nationals (or stateless persons who have habitual residence in the country) (art. 15, para. 2 (b))?

Yes No

(b) Jurisdiction to prosecute the offences established in accordance with articles 5, 6, 8 and 23 of the Convention and the Protocols to which your country is a party when committed outside its territory against its nationals (art. 15, para. 2 (a))?

Yes No

(c) Jurisdiction to prosecute participation in an organized criminal group that occurred outside its territory with a view to the commission of a serious crime (art. 2, para. (b)) within its territory (art. 15, para. 2 (c) (i))?

Yes No

(d) Jurisdiction to prosecute ancillary offences related to money-laundering offences committed outside its territory with a view to the commission of the laundering of proceeds of crime in its territory (art. 15, para. 2 (c) (ii))?

Yes No

Article 23. Criminalization of obstruction of justice

26. Is obstruction of justice in relation to offences covered by the Convention and the Protocols to which your country is a party criminalized under your country's legal framework, in accordance with article 23 of the Convention?

Yes Yes, in part No

(a) Please explain briefly.

Article 23 of the UNTOC on the criminalisation of obstruction of justice reads:

“Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(a) The use of physical force, threats or intimidation or the promise, offering or giving of an undue advantage to induce false testimony or to interfere in the giving of testimony or the production of evidence in a proceeding in relation to the commission of offences covered by this Convention;

(b) The use of physical force, threats or intimidation to interfere with the exercise of official duties by a justice or law enforcement official in relation to the commission of offences covered by this Convention. Nothing in this subparagraph shall prejudice the right of States Parties to have legislation that protects other categories of public officials.”

Obstruction of justice is at the time of answering to the questionnaire not generally criminalised at EU level since it does not fall under the areas of crime listed under Article 83(1) TFEU. However, obstruction of justice is criminalised when committed in the framework of a criminal organisation through Framework Decision 2008/841/JHA, which criminalises (1) active participation in an organisation's criminal activities, with the knowledge of its aim or of its intention to commit crimes and/or (2) agreement to the carrying out of crimes without necessarily taking part in committing them. Article 1 of Framework Decision 2008/841/JHA further includes among the possible predicate offences all those punished with at least four years of maximum imprisonment and committed to obtain, directly or indirectly, a financial or other material benefit. Where obstruction of justice is defined in the legal orders of the Member States as entailing a minimum maximum imprisonment of at least four years will amount to a predicate offence for the purposes of Framework Decision 2008/841/JHA. Moreover, the Commission adopted a proposal for a new Directive on combating corruption to strengthen EU rules on the fight against corruption on 3 May 2023.¹¹² The proposal, which is currently under negotiation in the Council and the Parliament, aims at criminalising at EU level the crime of obstruction of justice when committed intentionally and entailing the exercise of physical force, threats or intimidation, or the promise, offering or giving of an advantage when related to a proceeding regarding any of the corruption offences defined in that Directive.

Article 12 of the Commission proposal on combating corruption states:

¹¹² Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on combating corruption, replacing Council Framework Decision 2003/568/JHA and the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union and amending Directive (EU) 2017/1371 of the European Parliament and of the Council (COM/2023/234 final); <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2023%3A234%3AFIN>.

“Member States shall take the necessary measures to ensure that the following conduct is punishable as a criminal offence, when committed intentionally:

1. the use, directly or through an intermediary, of physical force, threats or intimidation or the promise, offering or giving of an advantage to induce false testimony or to interfere in the giving of testimony or the production of evidence in a proceeding concerning any of the offences referred to in Article 7 to 11, 13 and 14;

2. the use, directly or through an intermediary, of physical force, threats or intimidation to interfere in the exercise of official duties by a person holding a judicial office or a member of law enforcement concerning any of the offences referred to in Article 7 to 11, 13 and 14.”

Should the Directive on combating corruption come into force with the inclusion of this article, the EU will have criminalised the obstruction of justice in the context of criminal proceedings regarding corruption charges.

Furthermore, the EU has rules in place in order to prevent and avoid obstructive conduct from different individuals and stakeholders. There are different tools that aim to detect, prevent, assess and sanction obstructive behaviours.

Since January 2016, the Commission has set up the European Early Detection and Exclusion System (EDES) aiming at protecting the EU’s financial interests in relation to fraud and corruption prevention, detection, deterrence and sanctioning. The System allows the early detection of fraudulent or unreliable economic operators (recipient or applicants to EU funds), their possible blacklisting (exclusion) by banning them from obtaining EU funds and the imposition of financial penalties. In the most severe cases, the EDES also allows the publication of the name of the economic operator and the description of the corresponding sanctions.¹¹³ A number of cases of obstruction are sanctioned through the EDES.¹¹⁴

According to Regulation (EU/Euratom) No 883/2013 (among others Article 3) at the request of OLAF, the competent authority of the Member State concerned shall provide the staff of the Office with the assistance needed in order to carry out their tasks effectively, as specified in the written authorisation. In accordance with Regulation (EU, Euratom) 2020/2092 on a general regime of conditionality for the protection of the Union budget¹¹⁵ (and the Guidelines from the Commission¹¹⁶) non-effective or untimely cooperation with the EPPO and OLAF constitutes a ground for action under that Regulation. Pursuant to Article 3(3) of Regulation (EU Euratom) No 883/2013 economic operators have an obligation to cooperate with OLAF. Moreover, the EU case law recognised that economic operators do not have a right to resist an on-the-spot check (See

¹¹³ Regulation (EU, Euratom) 2024/2509 of the European Parliament and of the Council of 23 September 2024 on the financial rules applicable to the general budget of the Union (recast) (OJ L, 2024/2509, 26.9.2024), available at <<https://eur-lex.europa.eu/eli/reg/2024/2509/oj/eng>>..

¹¹⁴ See for example Case 2017/08 and 2018/03, Commission Staff Working Document Early Detection and Exclusion System (EDES) - Panel referred to in Article 108 of the Financial Regulation Accompanying the document Report from the Commission to the European Parliament and the Council, 30th Annual Report on the Protection of the European Union's financial interests - Fight against fraud – 2018, https://ec.europa.eu/anti-fraud/system/files/2021-09/pif_2018_early_detection_and_exclusion_system_edes_en.pdf.

¹¹⁵ Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council of 16 December 2020 on a general regime of conditionality for the protection of the Union budget (OJ L 433I , 22.12.2020, p. 1–10), <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32020R2092>.

¹¹⁶ Guidelines on the application of the Regulation (EU, EURATOM) 2020/2092 on a general regime of conditionality for the protection of the Union budget, https://ec.europa.eu/info/sites/default/files/about_the_european_commission/eu_budget/c_2022_1382_3_en_act_part1_v7.pdf.

[Sigma Orionis v Commission](#), case T-48/16¹¹⁷, paragraph 95). Pursuant to Article 3(6) of Regulation (EU Euratom) No 883/2013, Member States have an obligation to assist OLAF during on-the-spot checks.

Pursuant to Article 4(7) of Regulation (EU, Euratom) No 883/2013, staff members have a duty to cooperate with and supply information to the Office, while ensuring the confidentiality of the internal investigation. Furthermore, according to Article 7(3b) of Regulation (EU, Euratom) No 883/2013, institutions, bodies, offices and agencies of the EU (IBOAs) shall ensure that their staff members provide the necessary assistance to enable the OLAF staff to fulfil their tasks effectively and without undue delay. Article 22a of the Staff Regulations requires each staff member who becomes aware of facts which give rise to a presumption of possible illegal activity detrimental to the interests of the EU or of conduct relating to the discharge of professional duties which may constitute a serious failure to comply with the obligations to inform either his superior or the Secretary-General or directly OLAF. In addition to this, Article 11 of the Staff Regulations specifically sets out the duty of loyalty of EU staff members. According to EU case law, the duty of loyalty is infringed where, by a failure to cooperate in good faith, the official prevents the institution from verifying whether that official complies with his obligations under the Staff Regulations.¹¹⁸ Concerning internal investigations, EU staff members have a duty to cooperate with OLAF. Lack of cooperation with OLAF could be seen as a breach of the duty of loyalty and cooperation and thus make them liable to disciplinary proceedings under Article 86 of the Staff Regulations.

Rules on obstruction are also applied by the EIB Group.

The EIB Group maintains an Anti-Fraud Policy.¹¹⁹ The EIB will not tolerate Prohibited Conduct (i.e., corruption, fraud, collusion, coercion, obstruction, money laundering and terrorist financing) in its activities or operations.

More specifically, the EIB Group Anti-Fraud Policy indicates that ‘In pursuance of this policy, Prohibited Conduct includes corruption, fraud, coercion, collusion, theft at EIB Group premises, obstruction, misuse of EIB Group resources or assets, money laundering and financing of terrorism defined as follows: [...]

e. An obstructive practice is:

(a) destroying, falsifying, altering or concealing of evidence material to the investigation; or making false statements to investigators, with the intent to impede the investigation;

(b) threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or

(c) acts intended to impede the exercise of the EIB Group's contractual rights of audit or inspection or access to information The EIB Group's definition of obstructive practice covers the rights that any EU competent body, in particular OLAF and the EPPO, may have concerning any EIB Group-related operations or activities in accordance with any law, regulation or treaty or pursuant to any agreement into which the EIB or the EIF has entered in order to implement such law, regulation or treaty.

Criminalization: cases and judgments

¹¹⁷ Court of Justice of the European Union, Judgment of the General Court (First Chamber) of 3 May 2018, *Sigma Orionis SA v European Commission*, Case T-48/16, EU:T:2018:245, paragraph 95.

¹¹⁸ Judgment of 11 September 2002, *Willeme v Commission*, T-89/01, EU:T:2002:212, paragraph 78; Judgment of 15 May 1997, *N v Commission*, T-273/94, EU:T:1997:71, paragraph 132.

¹¹⁹ See EIB Group Anti Fraud Policy, which provide that it will not tolerate Prohibited Conduct in its activities or operations. https://www.eib.org/attachments/publications/eib_group_anti-fraud_policy_en.pdf

27. States are invited to provide examples, relevant cases or judgments relating to successful implementation and enforcement for each of the criminal offences reviewed above.

Difficulties encountered

28. Has your country encountered any difficulties or challenges in implementing the Convention?

Yes No

(a) If the answer is “Yes”, please specify:

- Problems with the formulation of legislation
- Need for further implementing legislation (laws, regulations, decrees, etc.)
- Reluctance of practitioners to use existing legislation
- Insufficient dissemination of existing legislation
- Limited inter-agency coordination
- Specificities of the legal system
- Competing priorities for the national authorities
- Limited resources for the implementation of existing legislation
- Limited cooperation with other States
- Lack of awareness of the existing legislation
- Other issues (please specify)

Need for technical assistance

29. Does your country require technical assistance to overcome difficulties in implementing the Convention?

Yes No

30. If the answer is “Yes”, please specify the type of technical assistance needed.

31. Which of the following forms of technical assistance, if available, would assist your country in fully implementing the provisions of the Convention? In identifying the forms of technical assistance as listed below, please also indicate for which provisions of the Convention such assistance would be needed.

- Legal advice
- Legislative drafting support
- Model legislation or regulations

- Model agreements
- Standard operating procedures
- Development of strategies, policies or action plans
- Dissemination of good practices or lessons learned
- Capacity-building through the training of practitioners or trainers
- On-site assistance by a mentor or relevant expert
- Institution-building or the strengthening of existing institutions
- Prevention and awareness-raising
- Technological assistance
- Establishment or development of information technology infrastructure, such as databases or communication tools
- Measures to enhance regional cooperation
- Measures to enhance international cooperation
- Other assistance (please specify)

32. Please provide any other information that you believe is important for the Conference of the Parties to the United Nations Convention against Transnational Organized Crime to consider regarding aspects of, or difficulties in, the implementation of the Convention other than those mentioned above.

III. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime

Cluster I: criminalization and jurisdiction (arts. 3 and 5 of the Protocol)

Article 3, Use of terms, and article 5, Criminalization

33. Is trafficking in persons, when committed intentionally, criminalized under your country's legal framework (art. 5, para. 1, in conjunction with art. 3)?

X Yes Yes, in part No

(a) If yes, please cite the applicable laws and/or other measures, including the applicable sanctions for this offence.

Criminalisation of trafficking in human beings

Trafficking in human beings is criminalised at the EU level through Directive 2011/36/EU of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA, as amended by Directive (EU) 2024/1712 (hereinafter, the 'EU Anti-trafficking Directive'). Member States of the Union have until 15 July 2026 to transpose these new rules into their national law.

The 2024 revision included the addition of new forms of exploitation and the criminalisation of the knowingly use of services provided by victims of trafficking. It also introduced stricter criminal provisions and provided stronger tools for public authorities to investigate and prosecute trafficking in human beings, while ensuring improved assistance and support for victims.

Article 1 of the EU Anti-trafficking Directive establishes minimum rules concerning the definition of criminal offences and sanctions in the area of trafficking in human beings.

Liability of natural persons

Article 2 of the EU Anti-trafficking Directive provides that Member States shall take the necessary measures to ensure that intentional acts constituting trafficking in human beings are punishable.

Penalties for natural persons

Pursuant to Article 4(1) of the EU Anti-trafficking Directive, EU Member States shall take the necessary measures to ensure that the offences concerning trafficking in human beings are punishable by a maximum penalty of at least five years of imprisonment. Pursuant to Article 4(2), the maximum penalty shall be at least 10 years of imprisonment where the offence (a) was committed against a victim who was particularly vulnerable, which, in the context of the Directive, shall include at least child victims; (b) was committed within the framework of a criminal organisation; (c) endangered the life of the victim, deliberately or by gross negligence; (d) was committed by use of serious violence or has caused particularly serious harm to the victim, including physical or psychological harm. Pursuant to Article 4(3), the following shall be regarded as aggravating circumstances: (a) the fact that the offence was committed by public officials in the performance of their duties; and (b) the fact that the perpetrator facilitated or committed, by means of information and communication technologies, the dissemination of images or videos or similar material of a sexual nature involving the victim.

Pursuant to Article 18a, Member States shall take the necessary measures to ensure that, when it is an intentional act, the use of services provided by a victim of trafficking in human beings constitutes a criminal offence, where the victim is exploited to render such services and the user of the services knows that the person providing the service is a victim of trafficking.

Liability of legal persons

Pursuant to Article 5(1) of the EU Anti-trafficking Directive, EU Member States shall take the necessary measures to ensure that legal persons can be held liable for the offences referred to in Article 2, Article 3 and Article 18a(1) of the EU Anti-trafficking Directive committed for their benefit by any person, acting either individually or as part of an organ of the legal person, who has a leading position within the legal person, based on: (a) a power of representation of the legal person; (b) an authority to take decisions on behalf of the legal person; or (c) an authority to exercise control within the legal person. Pursuant to Article 5(2), EU Member States shall also ensure that a legal person can be held liable where the lack of supervision or control, by a person referred to in paragraph 1, has made possible the commission of the offences referred to in Article 2, Article 3 and Article 18a(1) of the EU Anti-trafficking Directive for the benefit of that legal person by a person under its authority. Pursuant to Article 5(3), Liability of a legal person under paragraphs 1 and 2 shall not exclude criminal proceedings against natural persons who are perpetrators of, inciters to, or accessories to the offences referred to in Article 2, Article 3 and Article 18a(1) of the EU Anti-trafficking Directive.

Sanctions for legal persons

Pursuant to Article 6 of the EU Anti-trafficking Directive, EU Member States shall take the necessary measures to ensure that legal persons held liable are pursuant to Article 5(1) or (2) of the EU Anti-trafficking Directive are punishable by effective, proportionate and dissuasive criminal or non-criminal sanctions or measures. These shall include criminal or non-criminal fines, and may include other criminal or non-criminal sanctions or measures, such as: (a) exclusion from entitlement to public benefits or aid; (b) exclusion from access to public funding, including tender procedures, grants, concessions and licences; (c) temporary or permanent disqualification from the practice of business activities; (d) withdrawal of permits and authorisations to pursue activities that resulted in the relevant offence; (e) placing under judicial supervision; (f) judicial winding-up; (g) closure of establishments used for committing the offence; (h) where there is a public interest, publication of all or part of the judicial decision relating to the criminal offence committed and the sanctions or measures imposed, without prejudice to rules on privacy and the protection of personal data.

34. If the answer to question 33 is “Yes, in part” or “No”, please specify how trafficking in persons is treated under your country’s legal framework.

35. If the answer to question 33 is “Yes”, is trafficking in persons treated as a criminal offence in your country, in accordance with article 3, paragraph (a), of the Protocol (combination of three elements: action, means and purpose of exploitation)?

Yes No

- (a) Please explain.

The definition of trafficking in human beings included in Article 2(1) of the EU Anti-trafficking Directive includes the combination of action, means and purpose of exploitation.

Article 2(1) of the EU Anti-trafficking Directive provides that Member States shall take the necessary measures to ensure that the following intentional acts are punishable: the recruitment, transportation, transfer, harbouring or reception of persons, including the exchange or transfer of control over those persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of

deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

36. If the answer to question 33 is “Yes”, are the following actions of trafficking in persons criminalized in your country (art. 3, para. (a))?

- (a) Recruitment X Yes No
- (b) Transportation X Yes No
- (c) Transfer X Yes No
- (d) Harboursing X Yes No
- (e) Receipt of persons X Yes No
- (f) Other actions, please specify. X Yes No

(g) Please provide further detail, if needed.

Article 2(1) of the EU Anti-trafficking Directive provides that the act of harboursing or receipt of persons includes the exchange or transfer of control over such persons.

37. If the answer to question 33 is “Yes”, do the means of trafficking in persons consist of any of the following (art. 3, para. (a))?

- (a) Threat or the use of force or other forms of coercion X Yes No
- (b) Abduction X Yes No
- (c) Fraud X Yes No
- (d) Deception X Yes No
- (e) Abuse of power X Yes No
- (f) Abuse of position of vulnerability X Yes No

(g) The giving or receiving of payments or benefits to achieve the consent of a person having control over another person

X Yes No

(h) Other means, please specify.

(i) Please provide further details, if needed.

38. If the answer to question 33 is “Yes”, does the purpose of exploitation include, at a minimum, any of the following (art. 3, para. (a))?

(a) The exploitation of the prostitution of others or other forms of sexual exploitation

X Yes No

(b) Forced labour or services

X Yes No

(c) Slavery or practices similar to slavery

X Yes No

(d) Servitude

X Yes No

(e) The removal of organs

X Yes No

(f) Other purpose, please specify.

Article 2(3) of the EU Anti-trafficking Directive provides that exploitation shall include, as a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, including begging, slavery or practices similar to slavery, servitude, or the exploitation of criminal activities, or the removal of organs, or the exploitation of surrogacy, of forced marriage, or of illegal adoption.

The phrase “as a minimum” indicates that the list is not exclusive and further forms of exploitation are covered, in so far as they fulfil the constitutive elements of trafficking in human beings, even if they are not explicitly mentioned.

Recital 11 of Directive 2011/36/EU also specifies that begging is included under forced labour or services when all the elements of forced labour or services occur.

(g) Please provide further details, if needed.

39. Does your country ensure that, when the means set forth in article 3, paragraph (a), of the Protocol have been established, the consent of the victim to the intended exploitation is irrelevant (art. 3, para. (b))?

X Yes No

(a) Please explain.

Article 2(4) of the EU Anti-trafficking Directive provides that the consent of a victim of trafficking in human beings to the exploitation, whether intended or actual, shall be irrelevant where any of the means of trafficking in human beings has been used.

40. Does your country's legal framework criminalize trafficking in children (recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation) even where it does not involve any of the means set forth in article 3, paragraph (a), of the Protocol (art. 3, para. (c))?

Yes No

- (a) If yes, please cite the applicable laws and/or other measures, including the applicable sanctions for this offence.

Article 2(5) of the EU Anti-trafficking Directive provides that when one of the listed conducts involves a child, it shall be a punishable offence of trafficking in human beings even if none of the listed means has been used. However, this does not apply to the exploitation of surrogacy, unless the surrogate mother is a child.

41. Who is considered to be a "child" under your country's legal framework (art. 3, para. (d)):

"Child" means any person under 18 years of age (art. 3, para. (d))?

Other? Please specify.

42. Subject to the basic concepts of your legal framework, does your country criminalize attempting to commit trafficking in persons (art. 5, para. 2 (a), in conjunction with art. 3)?

Yes Yes, in part No

- (a) Please explain. If the answer is "Yes" or "Yes, in part", please cite the applicable laws and/or other measures, including the applicable sanctions for this offence.

Article 3 of the EU Anti-trafficking Directive provides that Member States shall take the necessary measures to ensure that attempting to commit an offence of trafficking in human beings is punishable.

Article 4(4) of the EU Anti-trafficking Directive provides that Member States shall take the necessary measures to ensure that an offence referred to in Article 3 of the EU Anti-trafficking Directive is punishable by effective, proportionate, and dissuasive penalties, which may entail surrender. The determination of the nature and level of sanctions is left to Member States.

- (b) If your answer is "No", do the basic concepts of your legal framework prevent the adoption of measures to criminalize attempting to commit trafficking in persons?

43. Does your country criminalize participating as an accomplice in trafficking in persons (art. 5, para. 2 (b), in conjunction with art. 3)?

Yes Yes, in part No

(a) Please provide further details, if needed.

(b) If the answer is “Yes” or “Yes, in part”, please cite the applicable laws and/or other measures, including the applicable sanctions for this offence.

Article 3 of the EU Anti-trafficking Directive provides that “Member States shall take the necessary measures to ensure that inciting, aiding and abetting or attempting to commit an offence referred to in Article 2 is punishable”.

Article 4(4) the EU Anti-trafficking Directive provides that “Member States shall take the necessary measures to ensure that an offence referred to in Article 3 is punishable by effective, proportionate and dissuasive penalties, which may entail surrender”. The determination of the nature and level of sanctions is left to Member States.

44. Does your country criminalize organizing or directing other persons to commit trafficking in persons (art. 5, para. 2 (c), in conjunction with art. 3)?

Yes Yes, in part No

(a) If your answer is “Yes” or “Yes, in part”, please cite the applicable laws and/or other measures, including the applicable sanctions for this offence.

Article 3 of the EU Anti-trafficking Directive provides that “Member States shall take the necessary measures to ensure that inciting, aiding and abetting or attempting to commit an offence referred to in Article 2 is punishable”.

Article 4(4) the EU Anti-trafficking Directive provides that “Member States shall take the necessary measures to ensure that an offence referred to in Article 3 is punishable by effective, proportionate and dissuasive penalties, which may entail surrender”. The determination of the nature and level of sanctions is left to Member States.

Criminalization: cases and judgments

45. States are invited to provide examples, relevant cases or judgments relating to successful implementation and enforcement for each of the criminal offences reviewed above.

Difficulties encountered

46. Does your country encounter difficulties or challenges in implementing any provisions of the Trafficking in Persons Protocol relevant to cluster I?

Yes No

(a) If the answer is “Yes”, please explain.

Need for technical assistance

47. Does your country require technical assistance to implement the Protocol?

Yes No

(a) If the answer is “Yes”, please indicate the type of assistance required:

- Assessment of criminal justice response to trafficking in persons
- Legal advice or legislative drafting support
- Model legislation, regulations or agreements
- Development of strategies, policies or action plans
- Good practices or lessons learned
- Capacity-building through the training of criminal justice practitioners and/or the training of trainers
- Capacity-building through awareness-raising among the judiciary
- On-site assistance by a relevant expert
- Institution-building or the strengthening of existing institutions
- Prevention and awareness-raising
- Technological assistance and equipment

(b) Please be specific.

- Development of data collection or databases
- Workshops or platforms to enhance regional and international cooperation
- Specialized tools, such as e-learning modules, manuals, guidelines and standard operating procedures
- Other (please specify)

48. Is your country already receiving technical assistance in those areas?

Yes No

(a) If the answer is “Yes”, please specify the area of assistance and who is providing it.

49. Please provide any other information that you believe is useful to understand your implementation of the Trafficking in Persons Protocol and information that is important for the Conference of the Parties to the United Nations Convention against Transnational Organized Crime to consider regarding aspects of, or difficulties in, the implementation of the Protocol.

Article 83 of the TFEU provides that the Parliament and the Council may establish minimum rules concerning the definition of criminal offences and sanctions in the areas of particularly serious crimes with a cross-border dimension resulting from the nature or impact of such offences or from a special need to combat them on a common basis. Trafficking in human beings is explicitly mentioned among such offences.

Directive 2011/36/EU was adopted in 2011 to provide for minimum rules concerning the definition of criminal offences and sanctions in the area of trafficking in human beings. In accordance with the EU's legal system, the transposition of the Directive (including the right to adopt higher standards than those provided for in the Directive) is left to EU Member States. Pursuant to Article 22(1) of the EU Anti-trafficking Directive, Member States had to bring into force the laws, regulations and administrative provisions necessary to comply with it by 6 April 2013. In accordance with Article 23(1) of the EU Anti-trafficking Directive, in 2016, the Commission adopted a report assessing the extent to which Member States have taken the necessary measures to comply with the provisions included therein (COM (2016) 722 final).

Directive (EU) 2024/1712 amending Directive 2011/36/EU was adopted on 13 June 2024. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 15 July 2026.

In addition, trafficking in human beings is explicitly prohibited under Article 5(3) of the Charter of Fundamental Rights of the EU (Prohibition of slavery and forced labour).

IV. Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime

Cluster I: criminalization and jurisdiction (arts. 3, 5 and 6 of the Protocol)

Article 3, Use of terms, article 5, Criminal liability of migrants, and article 6, Criminalization

50. Is the smuggling of migrants criminalized under your domestic legal framework (art. 6, para. 1)?

Yes No

(a) If the answer is “No”, please explain.

(b) If the answer is “Yes”, is the smuggling of migrants defined in your country as a criminal offence, in accordance with article 3, paragraph (a)?

The Council Directive 2002/90/EC (‘the Facilitation Directive’) of 28 November 2002 is the EU legal act that defines the facilitation of unauthorised entry, transit, and residence in Article 1(1)(a) and (b). It sets binding objectives to be achieved by the EU Member States and obliges all the EU Member States to adopt appropriate sanctions on:

“(a) any person who intentionally assists a person who is not a national of a Member State to enter, or transit across, the territory of a Member State in breach of the laws of the State concerned on the entry or transit of aliens;

(b) any person who, for financial gain, intentionally assists a person who is not a national of a Member State to reside within the territory of a Member State in breach of the laws of the State concerned on the residence of aliens.”

The facilitation offence as set out in Article 1(1) of Council Directive 2002/90/EC is broader than the definition provided in Article 3, paragraph (a) of the UN Protocol against the Smuggling of Migrants by Land, Sea and Air insofar as it does not entail the involvement of organised criminal groups (as per Article 4 on the scope of application of the Protocol), and as the purpose obtaining a financial or other material benefit is not a constituent element of the offence of facilitation of irregular entry (or transit). However, other (aggravated) offences in Article 1(3) of Council Framework Decision 2002/946/JHA of 28 November 2002 cover the purpose of obtaining financial gain when the offence was committed as an activity of a criminal organisation, or while endangering the lives of persons who are the subject of the offence:

“Each Member State shall take the measures necessary to ensure that, when committed for financial gain, the infringements defined in Article 1(1)(a) and, to the extent relevant, Article 2(a) of Directive 2002/90/EC are punishable by custodial sentences with a maximum sentence of not less than eight years where they are committed in any of the following circumstances:

— the offence was committed as an activity of a criminal organisation as defined in Joint Action 98/733/JHA,

— the offence was committed while endangering the lives of the persons who are the subject of the offence.”

51. Is in particular the purpose of obtaining a “financial or other material benefit” a constituent element of the offence, in accordance with article 6, paragraph 1, in conjunction with article 3, paragraph (a), of the Protocol?

Yes No

52. Can the presence of a “financial or other material benefit”, when appropriate, constitute an aggravating circumstance of the crime?

Yes No

(a) Please cite the applicable laws and/or other measures, including the applicable sanctions for this offence.

As recalled in the previous paragraph, in addition to the broader offences where the purpose of obtaining a financial or other material benefit is not a constituent element, under Article 1(3) of Framework Decision 2002/946/JHA, the EU has in place an offence of facilitation of unauthorised entry where obtaining financial gain (and commission as an activity of a criminal organisation or while endangering the lives of persons who are the subject of the offence) are constituent elements, which is punishable by custodial sentence with a maximum of not less than eight years.

Under Article 1(3) of Framework Decision 2002/946/JHA:

“Each Member State shall take the measures necessary to ensure that, when committed for financial gain, the infringements defined in Article 1(1)(a) and, to the extent relevant, Article 2(a) of Directive 2002/90/EC are punishable by custodial sentences with a maximum sentence of not less than eight years where they are committed in any of the following circumstances:

— the offence was committed as an activity of a criminal organisation as defined in Joint Action 98/733/JHA,

— the offence was committed while endangering the lives of the persons who are the subject of the offence.”

Regarding the applicable sanctions, under Article 3 of Council Directive 2002/90/EC:

“Each Member State shall take the measures necessary to ensure that the infringements referred to in Articles 1 and 2 are subject to effective, proportionate and dissuasive sanctions.”

53. Does your country’s legal framework make a distinction between the smuggling of migrants and trafficking in persons?

Yes No

(a) If the answer is “No”, please explain.

54. Is producing, procuring, providing or possessing a fraudulent travel or identity document (as defined in art. 3, para. (c)) for the purpose of smuggling migrants criminalized under your country’s legal framework (art. 6, para. 1 (b)), or as a related offence or offences?

Yes No

(a) If the answer is “Yes”, please specify.

55. Is enabling a person who is not a national of or a permanent resident in your country to remain in its territory without complying with the necessary requirements for legally remaining, by using the means referred to in question 54 or any other illegal means, criminalized under your domestic legislation (art. 6, para. 1 (c))?

Yes No

56. Does your country's legal framework establish as a criminal offence the attempt to commit the offences referred to in questions 50, 54 and 55 (art. 6, para. 2 (a), in conjunction with art. 6, para. 1)?

Yes No

(a) If the answer is "Yes", please cite the applicable laws and/or other measures, including the applicable sanctions.

Article 2(c) obliges all EU Member States to ensure sanctioning of any person who attempts to commit the offences of facilitation of entry, transit, and residence.

Article 2 Instigation, participation and attempt

"Each Member State shall take the measures necessary to ensure that the sanctions referred to in Article 1 are also applicable to any person who:

(a) is the instigator of,

(b) is an accomplice in, or

(c) attempts to commit

an infringement as referred to in Article 1(1)(a) or (b)."

As regards the sanctions, Article 3 of the said Directive obliges EU Member States to ensure that the infringements referred to in Articles 1 (the actual offences) and 2 (instigation, participation and attempt) are subject to effective, proportionate and dissuasive sanctions. The sanctions are further set out in Article 1 and 3 of Council Framework Decision 2002/946/JHA.:

Article 1 Penalties:

"1. Each Member State shall take the measures necessary to ensure that the infringements defined in Articles 1 and 2 of Directive 2002/90/EC are punishable by effective, proportionate and dissuasive criminal penalties which may entail extradition.

2. Where appropriate, the criminal penalties covered in paragraph 1 may be accompanied by the following measures:

— confiscation of the means of transport used to commit the offence,

— a prohibition on practising directly or through an intermediary the occupational activity in the exercise of which the offence was committed,

— deportation.

3. Each Member State shall take the measures necessary to ensure that, when committed for financial gain, the infringements defined in Article 1(1)(a) and, to the extent relevant, Article 2(a) of Directive 2002/90/EC are punishable by custodial sentences with a maximum sentence of not less than eight years where they are committed in any of the following circumstances:

— the offence was committed as an activity of a criminal organisation as defined in Joint Action 98/733/JHA,

— the offence was committed while endangering the lives of the persons who are the subject of the offence.

4. If imperative to preserve the coherence of the national penalty system, the actions defined in paragraph 3 shall be punishable by custodial sentences with a maximum sentence of not less than six years, provided that it is among the most severe maximum sentences available for crimes of comparable gravity.”

Article 3 Sanctions for legal persons

“1. Each Member State shall take the measures necessary to ensure that a legal person held liable pursuant to Article 2(1) is punishable by effective, proportionate and dissuasive sanctions, which shall include criminal or non-criminal fines and may include other sanctions such as:

- (a) exclusion from entitlement to public benefits or aid;
- (b) temporary or permanent disqualification from the practice of commercial activities;
- (c) placing under judicial supervision;
- (d) a judicial winding-up order.

2. Each Member State shall take the measures necessary to ensure that a legal person held liable pursuant to Article 2(2) is punishable by effective, proportionate and dissuasive sanctions or measures.”

It is noted, however, that under EU law there is no specific obligation to criminalise producing, procuring, providing or possessing a fraudulent travel or identity document for the purpose of smuggling migrants (answer “no” to question 54; therefore, answer “yes” to question 56 does not include the offences referred to in question 54).

57. Is participating as an accomplice in the offences referred to in questions 50, 54 and 55 criminalized under your country’s legal framework (art. 6, para. 2 (b), in conjunction with art. 6, para. 1)?

Yes No

(a) If the answer is “Yes”, please cite the applicable laws and/or other measures, including the applicable sanctions.

Article 2(b) of Council Directive 2002/90/EC obliges all the EU Member States to ensure sanctioning of accomplices to the offences of facilitation of entry, transit and residence.

Article 2 Instigation, participation and attempt

“Each Member State shall take the measures necessary to ensure that the sanctions referred to in Article 1 are also applicable to any person who:

- (a) is the instigator of,
- (b) is an accomplice in, or
- (c) attempts to commit

an infringement as referred to in Article 1(1)(a) or (b).”

The articles on sanctions are the same as those recalled in the answer to question 56(a).

It is noted, however, that under EU law there is no obligation to criminalise producing, procuring, providing or possessing a fraudulent travel or identity document (answer “no” to question 54; therefore, answer “yes” to question 57 does not include the offences referred to in question 54).

58. Is organizing or directing other persons to commit the offences referred to in questions 50, 54 and 55 criminalized under your country's legal framework (art. 6, para. 2 (c), in conjunction with art. 6, para. 1)?

Yes No

(a) If the answer is "Yes", please cite the applicable laws and/or other measures, including the applicable sanctions.

Article 2(a) of Council Directive 2002/90/EC obliges all EU Member States to ensure sanctioning of instigators of facilitation of entry, transit, and residence.

It is noted, however, that under EU law there is no obligation to criminalise producing, procuring, providing or possessing a fraudulent travel or identity document (answer "no" to question 54; therefore, answer "yes" to question 58 does not include the offences referred to in question 54).

59. Does your country adopt such legislative and other measures as might be necessary to establish as aggravating circumstances to any of the offences referred to in questions 50, 54, 55, 57 and 58, conduct that endangers, or is likely to endanger, the lives or safety of the smuggled migrants or that subjects them to inhuman or degrading treatment, including for exploitation (art. 6, para. 3, in conjunction with art. 6, paras. 1 and 2)?

Yes No

(a) If the answer is "Yes", please cite the applicable laws and/or other measures, including the applicable sanctions.

Pursuant to Article 1(3) of Framework Decision 2002/946/JHA, the EU has in place a provision where endangering the lives of persons who are the subject of the offence is a constituent element of an offence of facilitation of unauthorised entry, transit or stay that is committed for financial gain, and which carries a maximum sentence of not less than eight years:

"Each Member State shall take the measures necessary to ensure that, when committed for financial gain, the infringements defined in Article 1(1)(a) and, to the extent relevant, Article 2(a) of Directive 2002/90/EC are punishable by custodial sentences with a maximum sentence of not less than eight years where they are committed in any of the following circumstances:

— the offence was committed as an activity of a criminal organisation as defined in Joint Action 98/733/JHA,

— the offence was committed while endangering the lives of the persons who are the subject of the offence."

The reply to question 59 is yes because the situations covered by this offence would overlap with those covered by an offence integrated by an aggravating circumstance.

It is noted, however, that under EU law there is no specific obligation to criminalise producing, procuring, providing or possessing a fraudulent travel or identity document (answer "no" to question 54; therefore, answer "yes" to question 59 does not include the offences referred to in question 54).

Criminalization: cases and judgments

60. States are invited to provide examples, relevant cases or judgments relating to successful implementation and enforcement for each of the criminal offences reviewed above.

Difficulties encountered

61. Does your country encounter difficulties or challenges in implementing any provisions of the Smuggling of Migrants Protocol relevant to cluster I?

Yes No

(a) If the answer is “Yes”, please explain.

62. If domestic legislation has not been adapted to the Protocol requirements, what steps remain to be taken? Please specify.

Need for technical assistance

63. Does your country require additional measures, resources or technical assistance to implement the Protocol effectively?

Yes No

(a) If the answer is “Yes”, please indicate the type of assistance required to implement the Protocol:

- Assessment of criminal justice response to the smuggling of migrants
- Legal advice or legislative drafting support
- Model legislation, regulations or agreements
- Development of strategies, policies or action plans
- Good practices or lessons learned
- Capacity-building through the training of criminal justice practitioners and/or the training of trainers
- Capacity-building through awareness-raising among the judiciary
- On-site assistance by a relevant expert
- Institution-building or the strengthening of existing institutions
- Prevention and awareness-raising
- Technological assistance and equipment (please be specific)
- Development of data collection or databases
- Workshops or platforms to enhance regional and international cooperation
- Specialized tools, such as e-learning modules, manuals, guidelines and standard operating procedures
- Other (please specify)

[Empty text box]

64. In which areas would border, immigration and law enforcement officials in your country need more capacity-building?

[Empty text box]

65. In which areas would criminal justice institutions in your country need more capacity-building?

[Empty text box]

66. Is your country already receiving technical assistance in those areas?

Yes No

(a) If the answer is “Yes”, please specify the area of assistance and who is providing it.

[Empty text box]

V. Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime

Cluster I: criminalization and jurisdiction (arts. 3, 5 and 8 of the Protocol)

General information

67. States are invited to list other multilateral, regional or bilateral international firearms control regimes to which they are a party.

--

Article 3. Use of terms

68. Does your country's legal framework permit your country to implement the Firearms Protocol without adopting the specific definitions set forth in article 3 of the Firearms Protocol?

Yes Yes, in part No

(a) Please explain.

The Commission signed the United Nations Protocol on the illicit manufacturing of and trafficking in firearms, their parts, components, and ammunition, annexed to the Convention against transnational organised crime on behalf of the Union on 16 January 2002, in accordance with Council Decision 2001/748/EC of 16 October 2001 concerning the signing on behalf of the Union. The accession of the EU to the Protocol required amendments to certain provisions of Council Directive 91/477/EEC on control of the acquisition and possession of weapons. Those changes were introduced by the Directive 2008/51/EC of the European Parliament and of the Council of 21 May 2008, amending Council Directive 91/477/EC. The Directive was updated by Directive (EU) 2017/853 and repealed and codified in Directive (EU) 2021/555 of the European Parliament and of the Council of 24 March 2021.

The Firearms Directive sets common minimum standards on the acquisition, possession, and commercial exchange of civilian firearms (e.g., firearms used for sport shooting and hunting) within the EU. This helps to balance internal market objectives (i.e., the cross-border movement of firearms) and security policy objectives (i.e. the high level of security and protection against criminal acts and illicit trafficking) within the EU.

There are few slight differences between the definitions set out in the UN Firearms Protocol and the Firearms Directive, as in the definition of firearms, the Firearms Directive uses the expression “combustible propellant” instead of “explosive”, used in the UN Protocol. Also, there are differences in the term “parts and components” of the UN Protocol, where it is defined in the Firearms Directive as “essential components”, without a specific definition of them and just listing them with some differences, as the no inclusion of “devices designed or adapted to diminish the sound caused by firing a firearm” among these essential components.

The application of the UN Firearms Protocol by the EU is further complemented by Regulation (EU) 2025/41 of the European Parliament and of the Council of 19 December 2024 on import, export and transit measures for firearms, essential components and ammunition, implementing Article 10 of the United Nations’ Protocol against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, supplementing the United Nations Convention against Transnational Organized Crime (UN Firearms Protocol) (recast).

On 26 February 2026, the European Commission proposed new legislation on combating firearms trafficking and other firearms-related crimes. Subject still to negotiations with the European Parliament and Council, this new legislation will specifically implement Articles 5 and 6 of the UN Firearms Protocol.

69. Does your country’s legal framework include definitions for the following terms?

(a) Firearms (art. 3, para. (a))

Yes Yes, in part No

(i) If the answer is “Yes” or “Yes, in part”, are antique firearms and their replicas excluded from the definition of firearms?

Yes No

– Please indicate any method or threshold used to exclude antique firearms and describe any criterion used to exclude replicas from the scope of application of your country’s national laws on firearms.

The way to exclude antique firearms is by Article 1(1) of Directive (EU) 2021/555, when it is stated “‘firearm’ means any portable barrelled weapon that expels, is designed to expel or may be converted to expel a shot, bullet or projectile by the action of a combustible propellant, **unless it is excluded** from this definition for one of the reasons listed in Part III of Annex I. Firearms are classified in Part II of Annex I.”

Part III of Annex I provides that: “For the purposes of this Annex, objects which correspond to the definition of ‘firearm’ shall not be included in that definition if they: [...]

(b) are regarded as antique weapons where such weapons have not been included in the categories set out in Part II and are subject to national laws.

Pending coordination throughout the Union, Member States may apply their national laws to the firearms listed in this Part.

Recital (36) explains that replicas do not fall within the scope of the Firearms Directive: Objects which have the physical appearance of a firearm (replicas), but which are manufactured in such a way that they cannot be converted to expel a shot, bullet, or projectile by the action of a combustible propellant, should not be covered by this Directive.

In addition, article 3 of Regulation (EU) 2025/41 excludes from its scope “antique firearms as defined in accordance with national legislation, **provided that antique firearms do not include firearms manufactured after 1899.**”

(ii) If the answer to question 69 (a) is “Yes” or “Yes, in part”, do weapons that may be readily converted to expel a shot, bullet or projectile by the action of an explosive¹²⁰ fall under the definition of firearms in your country’s legal framework (art. 3, para. (a))?

Yes No

(b) Parts and components of firearms (art. 3, para. (b))

Yes No

(c) Ammunition (art. 3, para. (c))

Yes No

(i) If the answer is “Yes”, please indicate which of the components of ammunition referred to in article 3, paragraph (c), are themselves subject to authorization in your country.

¹²⁰ A convertible weapon is a device capable of being converted to expel a shot, bullet or projectile which has the appearance of a firearm, and, as a result of its construction or the material from which it is made, it can be so converted. Explanation: these weapons primarily include short-barrelled weapons (firearms such as pistols and revolvers) built to fire irritant gas ammunition and blank-firing weapons variously referred to as signal, starting and alarm guns, as well as some partially deactivated firearms used as props, for example in film production. Another example is air guns, which can be converted to fire cartridges.

The same as in the UN Firearms Protocol, by Article 1(3) of the Firearms Directive 2021/555: ‘ammunition’ means the complete round or the components thereof, including cartridge cases, primers, propellant powder, bullets, or projectiles, that are used in a firearm, provided that those components are themselves subject to authorisation in the Member State concerned.

Also, the control of ammunition is reinforced by Article 13(1) of the Firearms Directive 2021/555: “The arrangements for the acquisition and possession of ammunition shall be the same as those for the possession of the firearms for which the ammunition is intended.”

(d) Tracing (art. 3, para. (f))

Yes No

(e) Other definitions relevant to the implementation of the Firearms Protocol (please cite them).

The Firearms Directive includes the following definitions which are relevant:

Article 1(4): ‘alarm and signal weapons’ mean devices with a cartridge holder which are designed to fire only blanks, irritants, other active substances or pyrotechnic signalling rounds and which are not capable of being converted to expel a shot, bullet or projectile by the action of a combustible propellant.

Article 1(5): ‘salute and acoustic weapons’ means firearms specifically converted for the sole use of firing blanks, for use such as in theatre performances, photographic sessions, film and television recordings, historical re-enactments, parades, sporting events and training.

Article 1(6): ‘deactivated firearms’ means firearms that have been rendered permanently unfit for use by deactivation, ensuring that all essential components of the firearm in question have been rendered permanently inoperable and incapable of removal, replacement or modification in a manner that would permit the firearm to be reactivated in any way.

Annex I, Part I: For the purpose of this Directive, ‘weapon’ means:

- any firearm as defined in Article 1,
- weapons other than firearms as defined in national legislation.

Annex I, Part IV: For the purposes of this Annex:

- (a) ‘short firearm’ means a firearm with a barrel not exceeding 30 centimetres or whose overall length does not exceed 60 centimetres;
- (b) ‘long firearm’ means any firearm other than a short firearm;
- (c) ‘automatic firearm’ means a firearm which reloads automatically each time a round is fired and can fire more than one round with one pull on the trigger;
- (d) ‘semi-automatic firearm’ means a firearm which reloads automatically each time a round is fired and can fire only one round with one pull on the trigger;
- (e) ‘repeating firearm’ means a firearm which, after a round has been fired, is designed to be reloaded from a magazine or cylinder by means of a manually-operated action;
- (f) ‘single-shot firearm’ means a firearm with no magazine which is loaded before each shot by the manual insertion of a round into the chamber or a loading recess at the breech of the barrel;
- (g) ‘ammunition with penetrating projectiles’ means ammunition for military use where the projectile is jacketed and has a penetrating hard core;

(h) ‘ammunition with explosive projectiles’ means ammunition for military use where the projectile contains a charge which explodes on impact;

(i) ‘ammunition with incendiary projectiles’ means ammunition for military use.

Regulation (EU) 2025/41 on import, export and transit of firearms also includes definitions of firearm, essential components, ammunition, deactivated firearms, alarm and signal weapons, import, importer, re-export, dealer, broker, export, exporter, illicit trafficking, and transshipment.

(f) If the answer to any of the follow-up questions 69 (a) to (e) is “Yes”, please cite the relevant laws or regulations and definitions.

Article 5. Criminalization

Regarding question 69(a), weapons are considered as firearms if:

Article 1(1): ‘firearm’ means any portable barrelled weapon that expels, is designed to expel, or may be converted to expel a shot, bullet or projectile by the action of a combustible propellant, unless it is excluded from this definition for one of the reasons listed in Part III of Annex I. Firearms are classified in Part II of Annex I.

and

Any weapons do not match with the definition of alarm and signal weapon (Article 1(4) of the Firearms Directive), salute and acoustic weapons (Article 1(5)) or deactivated firearm (Article 1(6))

Also Article 14(2) of the Firearms Directive provides that Member States shall classify as firearms devices with a cartridge holder which are designed to fire only blanks, irritants, other active substances or pyrotechnic signalling rounds, and which are capable of being converted to expel a shot, bullet or projectile by the action of a combustible propellant.

Regarding question 69(b), parts and components of firearms are defined in the Firearms Directive as “essential components” by Article 1(2): ‘essential component’ means the barrel, the frame, the receiver, whether an upper or lower receiver, where applicable, the slide, the cylinder, the bolt or the breech block, which, being separate objects, are included in the category of the firearms on which they are or are intended to be mounted.

Regarding question 69 (c), ammunition is defined in Firearms Directive by Article 1(3): ‘ammunition’ means the complete round or the components thereof, including cartridge cases, primers, propellant powder, bullets or projectiles, that are used in a firearm, provided that those components are themselves subject to authorisation in the Member State concerned.

Regarding question 69(d), tracing is defined by Article 1(13): ‘tracing’ means the systematic tracking of firearms and, where possible, their essential components and ammunition from manufacturer to purchaser, for the purpose of assisting the competent authorities of Member States in detecting, investigating, and analysing illicit manufacturing and illicit trafficking.

70. Is the illicit manufacturing or assembly of firearms, their parts and components, and ammunition, when committed intentionally, a criminal offence under your country’s legal framework, according to article 5, paragraph 1 (a), in conjunction with article 3, paragraph (d)?

Yes Yes, in part No

(a) If the answer is “Yes, in part” or “No”, please explain, if needed.

Illicit manufacturing is defined by point 11 of Article 1 of the Firearms Directive: ‘illicit manufacturing’ means the manufacturing or assembly of firearms, their essential components and ammunition:

(a) from any essential component of such firearms illicitly trafficked;

(b) without an authorisation issued in accordance with Article 4 by a competent authority of the Member State where the manufacture or assembly takes place; or

(c) without marking firearms at the time of manufacture in accordance with Article 4;

Article 23 of Firearms Directive provides that Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive.

Recital (50) of Regulation (EU) 2025/41 on import, export and transit of firearms provides that “Compliance with the UN Firearms Protocol also requires that illicit manufacture of or trafficking in firearms, their parts and essential components and ammunition be established as criminal offences, and that measures be taken to enable the confiscation of items so manufactured or trafficked. “Also recital (51) of the same Regulation provides that “Member States should lay down rules on penalties applicable to infringements of this Regulation and ensure that they are implemented. Those penalties should be effective, proportionate and dissuasive.”

Article 38 of the above Regulation (EU) provides that “Member States shall lay down the rules on penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate, and dissuasive.”

On 26 February 2026, the European Commission proposed new legislation on combating firearms trafficking and other firearms-related crimes. Subject still to negotiations with the European Parliament and Council, this new legislation will specifically implement Articles 5 and 6 of the UN Firearms Protocol.

(b) If the answer is “Yes” or “Yes, in part”, are the following conducts, when committed intentionally, included in the criminal offence of the illicit manufacturing or assembly of firearms, their parts and components, and ammunition?

(i) The manufacturing or assembly of firearms from illicitly trafficked parts and components (art. 5, para. 1 (a), in conjunction with art. 3, para. (d) (i))

Yes Yes, in part No

(ii) The manufacturing or assembly of firearms, their parts and components and ammunition without a licence or authorization from a competent national authority (art. 5, para. 1 (a), in conjunction with art. 3, para. (d) (ii))

Yes Yes, in part No

(iii) The reactivation of deactivated firearms or essential parts thereof without a licence or authorization from a competent national authority (art. 5, para. 1 (a), and art. 3, para. (d) (ii), in conjunction with art. 9 (1))

Yes Yes, in part No

(iv) The conversion of weapons into a firearm without a licence or authorization from a competent national authority (art. 5, para. 1 (a), in conjunction with art. 3, para. (d) (ii))

Yes Yes, in part No

(v) The manufacturing or assembly of firearms, without marking them at the time of manufacture or with markings that do not meet the requirements of article 8 of the Firearms Protocol (art. 5, para. 1 (a), in conjunction with art. 3, para. (d) (iii))

Yes Yes, in part No

(c) If the answer to any of these questions is “Yes” or “Yes, in part”, please cite for each of these modalities the applicable laws and regulations and/or other measures, including the applicable sanctions.

Article 3 of Firearms Directive states that Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate, and dissuasive. These measures could be as criminal offences or as administrative penalties.

On 26 February 2026, the European Commission proposed new legislation on combating firearms trafficking and other firearms-related crimes. Subject still to negotiations with the European Parliament and Council, this new legislation will specifically implement Articles 5 and 6 of the UN Firearms Protocol.

(d) If the answer to any of these questions is “Yes, in part” or “No”, please explain how the modalities of the illicit manufacturing or assembly of firearms, their parts and components and ammunition are treated under your country’s legal framework.

See previous question.

71. Is the offence of illicit trafficking in firearms, their parts and components and ammunition, when committed intentionally, criminalized under your country’s legal framework, in accordance with article 5, paragraph 1 (b), in conjunction with article 3, paragraph (e), of the Firearms Protocol?

Yes Yes, in part No

(a) If the answer is “Yes, in part” or “No”, please explain, if needed.

Illicit trafficking is defined by point 12 of Article 1 of Firearms Directive: ‘illicit trafficking’ means the acquisition, sale, delivery, movement or transfer of firearms, their essential components or ammunition from or through the territory of one Member State to that of another Member State, if any of the Member States concerned does not authorise it in accordance with this Directive, or if the firearms, essential components or ammunition are not marked in accordance with Article 4.

Article 23 of Firearms Directive states that Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate, and dissuasive.

Also illicit trafficking is defined more specifically by point 35 of Article 2 of Regulation (EU) 2025/14 on import, export and transit of firearms: ‘illicit trafficking’ means the import, export, sale, delivery, movement or transfer of listed goods to, from or across the territory of a Member State to or from the territory of a third country, if any of the following applies:

- the Member State concerned does not authorise it in accordance with this Regulation;
- the listed goods are not marked in accordance with the rules on marking referred to in Article 6(1); or
- the listed goods are declared for release for free circulation without the marking required in the rules on marking referred to in Article 6(2), unless they are exempt in accordance with paragraphs 2 or 3 of that Article;

Recital (50) of Regulation (EU) 2025/41 on import, export and transit of firearms provides that “Compliance with the UN Firearms Protocol also requires that illicit manufacture of or trafficking in firearms, their parts and essential components and ammunition be established as criminal offences, and that measures be taken to enable the confiscation of items so manufactured or trafficked. “Article 16 of the above Regulation (EU) provides that “Member States shall lay down the rules on penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive.”

(b) If the answer is “Yes” or “Yes, in part”, are the following conducts, when committed intentionally, included in the criminal offence of illicit trafficking in firearms, their parts and components and ammunition?

(i) The import, export, acquisition, sale, delivery, movement or transfer of firearms, their parts and components or ammunition from or across the territory of one State to that of another State without authorization of any of the countries concerned (art. 5, para. 1 (b), in conjunction with art. 3, para. (e), and art. 10)

Yes Yes, in part No

(ii) The import, export, acquisition, sale, delivery, movement or transfer of firearms from or across the territory of one State to that of another State without appropriate marking, in accordance with article 8 of the Firearms Protocol (art. 5, para. 1 (b), in conjunction with art. 3, para. (e), and art. 8)

Yes Yes, in part No

(c) If the answer to any of the questions above is “Yes” or “Yes, in part”, please cite for each of the modalities the applicable laws and regulations and/or other measures, including the applicable sanctions.

Article 3 of Firearms Directive states that Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate, and dissuasive. These measures could be as criminal offenses or as administrative fees.

Illegal trafficking of firearms is defined by Article 2(35) of Regulation (EU) 2025/41 on import, export and transit of firearms and include all above cases (i) and (ii).

Recital (50) of Regulation (EU) 2025/41 on import, export and transit of firearms stated that “Compliance with the UN Firearms Protocol also requires that illicit manufacture of or trafficking in firearms, their parts and essential components and ammunition be established as criminal offences, and that measures be taken to enable the confiscation of items so manufactured or trafficked. “Article 38 of the above Regulation (EU) states that “Member States shall lay down the rules on penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive.”

On 26 February 2026, the European Commission proposed new legislation on combating firearms trafficking and other firearms-related crimes. Subject still to negotiations with the European Parliament and Council, this new legislation will specifically implement Articles 5 and 6 of the UN Firearms Protocol.

(d) If the answer to any of the questions above is “Yes, in part” or “No”, please explain how these modalities of the illicit transfer of firearms, their parts and components and ammunition are treated under your country’s legal framework.

See previous question.

72. If the answer to question 71 is “Yes” or “Yes, in part”, are any of the following actions included in the offence(s) of illicit trafficking established under your country’s legal framework (art. 5, para. 1 (b), in conjunction with art. 3, para. (e))?

- Import
- Export
- Acquisition
- Sale
- Delivery
- Movement
- Transfer
- Other, if any

Articles of illicit trafficking of firearms of Firearms Directive and Regulation (EU) 2025/41 on import, export and transit of firearms are complementary, as the Firearms Directive (Article 1(12)) covers the case of illicit trafficking of firearms, their essential components or ammunitions from or through the territory of one Member State to that of another Member States and in the case of Article 2(35) of Regulation (EU) 2025/41 on import, export and transit of firearms establish the trafficking of firearms from or across the territory of one Member State to that of a third country.

On 26 February 2026, the European Commission proposed new legislation on combating firearms trafficking and other firearms-related crimes. Subject still to negotiations with the European Parliament and Council, this new legislation will specifically implement Articles 5 and 6 of the UN Firearms Protocol.

(a) Please provide further details, if needed.

See previous question.

73. If the answer to question 71 is “Yes” or “Yes, in part”, does the offence of illicit trafficking established under your country’s legal framework require a transnational transfer of the items between at least two States to qualify as illicit trafficking under your country’s legal framework (art. 5, para. 1 (b), in conjunction with art. 3, para. (e))?

Yes Yes, in part No

(a) If your answer is “Yes, in part” or “No”, please explain, on a voluntary basis, and cite the applicable laws and regulations and/or other measures.

Article 1(12) of Firearms Directive and Article 2(35) of Regulation (EU) 2025/41 on import, export and transit of firearms.

74. Is the act of falsifying or illicitly obliterating, removing or altering the marking(s) on firearms, when committed intentionally, criminalized under your country’s legal framework according to article 5, paragraph 1 (c), in conjunction with article 8 of the Firearms Protocol?¹²¹

Yes Yes, in part No

(a) If the answer is “Yes” or “Yes, in part”, please cite the applicable laws and regulations and/or other measures, including the applicable sanctions for this offence(s).

¹²¹ The answers to question 74 should be prepared in conjunction with the answers to the relevant questions on the marking of firearms in cluster I.

Article 8 of UN Protocol of firearms is covered by the following Articles of Firearms Directive:

Recital (11): In order to increase the traceability of all firearms and essential components and to facilitate their free movement, all firearms or their essential components should be marked with a clear, permanent and unique marking and registered in the data-filing systems of the Member States.

Recital (12): The records held in the data-filing systems should contain all information allowing a firearm to be linked to its owner and should record the name of the manufacturer or brand, the country or place of manufacture, the type, make, model, calibre and serial number of the firearm and any unique marking applied to the frame or receiver of the firearm. Essential components other than the frame or receiver should be recorded in the data-filing systems under the record relating to the firearm to which they are to be fitted.

Recital (13): In order to facilitate the tracing of weapons, it is necessary to use alphanumeric codes and to include in the marking the year of manufacture of the weapon, if the year is not part of the serial number.

Recital (14): To prevent markings from being easily erased and to clarify to which essential components the marking should be affixed, common Union rules on marking are necessary. Those rules should apply only to firearms or essential components manufactured or imported into the Union on or after 14 September 2018, when they are placed on the market, while firearms and parts manufactured or imported into the Union before that date should remain covered by the marking and registration requirements under Directive 91/477/EEC that were applicable until that date.

Article 4:

(1): With regard to firearms manufactured or imported into the Union on or after 14 September 2018, Member States

shall ensure that any such firearm, or any essential component, placed on the market has been:

(a) provided with a clear, permanent and unique marking without delay after manufacture and at the latest before its

placement on the market, or without delay after importation into the Union; and

(b) registered in compliance with this Directive without delay after manufacture.

(2): The unique marking referred to in point (a) of paragraph 1 shall include the name of the manufacturer or brand, the country or place of manufacture, the serial number and the year of manufacture, if not already part of the serial number, and the model where feasible. This shall be without prejudice to the affixing of the manufacturer's trademark. Where an essential component is too small to be marked in compliance with this Article, it shall be marked at least with a serial number or an alphanumeric or digital code.

The marking requirements for firearms or essential components that are of particular historical importance shall be determined in accordance with national law.

Member States shall ensure that each elementary package of complete ammunition is marked in such a way as to indicate the name of the manufacturer, the batch or lot identification number, the calibre and the type of ammunition.

For the purposes of paragraph 1 and this paragraph, Member States may choose to apply the provisions of the Convention for the Reciprocal Recognition of Proof Marks on Small Arms of 1 July 1969 (the '1969 Convention').

Furthermore, Member States shall ensure, at the time of transfer of a firearm or its essential components from government stocks to permanent civilian use, the unique marking, as provided for under paragraph 1, permitting identification of the transferring entity.

(3): The Commission shall adopt implementing acts establishing technical specifications for the marking. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 20(2).

The implementing act cited above is the Commission Implementing Directive (EU) 2019/68 of 16 January 2019 establishing technical specifications for the marking of firearms and their essential components under Council Directive 91/477/EEC on control of the acquisition and possession of weapons, which entered into force in February 2019.

(b) If the answer is “Yes, in part” or “No”, please explain how the falsifying, obliterating, removing or altering of required marking(s) on firearms is treated under your country’s legal framework.

75. Subject to the basic concepts of its legal system, does your country’s legal framework criminalize the following ancillary offences:

– Attempting to commit any of the offences covered by article 5, paragraph 1 (art. 5, para. 2 (a))?

Yes Yes, in part No

– Participating as an accomplice in any of the offences covered by article 5, paragraph 1 (art. 5, para. 2 (a))?

Yes Yes, in part No

– Organizing, directing, aiding, abetting, facilitating or counselling the commission of any of the offences covered by article 5, paragraph 1 (art. 5, para. 2 (b))?

Yes Yes, in part No

(a) If the answer to any of the questions above is “Yes” or “Yes, in part”, please cite for each of these offences the applicable laws and regulations and/or other measures, including the applicable sanctions.

(b) If the answer to any of the questions above is “Yes, in part” or “No”, please explain how these conducts are treated under your country’s legal framework.

The criminalization of above conducts may be done by the Member States, by application of Article 3 of Firearms Directive (Member States may adopt in their legislation provisions which are more stringent than those laid down in the Firearms Directive)

76. States are invited to provide any information on any additional criminal offences that may be established under their country’s legal framework to enforce the provisions of the Firearms Protocol (art. 34, para. 3, of the Convention, in conjunction with art. 1, para. 2, of the Firearms Protocol):

Acts related to the failure to keep records of firearms and, where appropriate and feasible, their parts and components and ammunition, and the falsification and destruction of such

records, when committed intentionally (art. 7 of the Firearms Protocol)

- Criminalization of acts of intentionally giving false or misleading information likely to unduly influence the issuance of the required licence or authorization for either the manufacture or assembly of firearms, their parts and components or ammunition or for actions referred to under article 3, paragraph (e), of the Firearms Protocol, including, when requested by law, end use or end user certificates
- Criminalization of acts related to the intentional falsification or misuse of documents for the purpose of achieving the issuance of the required licence or authorization for either the manufacture or assembly of firearms, their parts and components or ammunition or for actions referred to under article 3, paragraph (e), of the Firearms Protocol, including, when requested by law, end use or end user certificates
- Criminalization of acts related to the intentional possession or use of fraudulent licences or authorizations in relation to the manufacture or assembly of firearms, their parts and components or ammunition or for actions referred to under article 3, paragraph (e), of the Firearms Protocol, including, when requested by law, fraudulent end use or end user certificates
- Criminalization of intentional acts related to the illicit reactivation of deactivated firearms, consistent with article 9, paragraphs (a) to (c), of the Firearms Protocol
- Criminalization of the illicit brokering of firearms, their parts and components or ammunition and failure to provide required information about brokering activities (see also art. 15)
- Other(s) (please specify)

(a) Please explain and cite the applicable laws and regulations and/or other measures, including the applicable sanctions.

Acts related to the failure to keep record of firearms are covered by Article 4(5) of Firearms Directive: “Member States shall ensure the establishment and maintenance of a computerised data-filing system, either centralised or decentralised, which guarantees to authorised authorities access to the data-filing systems in which each firearm subject to this Directive is recorded. That data-filing system shall record all information relating to firearms which is needed in order to trace and identify those firearms...” “Member States shall ensure that the record of firearms and the essential components, including the related personal data, is retained in the data-filing systems by the competent authorities for a period of 30 years after the destruction of the firearms or essential components in question...” “Throughout their period of activity, dealers and brokers shall be required to maintain a register in which each firearm and each essential component subject to this Directive that is received or disposed of by them is recorded, together with particulars enabling the firearm or essential component concerned to be identified and traced, in particular the type, make, model, calibre and serial number thereof and the names and addresses of the suppliers and of the persons acquiring it.

Upon the cessation of their activities, dealers and brokers shall deliver that register to the national authorities responsible for the data-filing systems provided for in the first subparagraph.

Member States shall ensure that dealers and brokers established in their territory report transactions involving firearms or essential components without undue delay to the national competent authorities, that dealers and brokers have an electronic connection to those authorities for such reporting purposes and that the data-filing systems are updated immediately upon receipt of information concerning such transactions.”

Regarding the criminalization of intentional acts related to the illicit reactivation of deactivated firearms, deactivated firearms are defined in Firearms Directive by Article 1(6), which in conjunction with Article 15 (1)¹²² and (2)¹²³ ensure that a firearms deactivated should be not possible to be reactivated in any way.

Regarding the criminalization of the illicit brokering of firearms, their parts and components or ammunition and failure to provide required information about brokering activities, the Firearms Directive regulates the activity of brokers and dealers by their definitions in Article 1(9) for the dealers¹²⁴ and Article 1(10) for the brokers¹²⁵.

The activity of dealers and brokers are regulated by Article 4(4) of Firearms Directive.¹²⁶ Also it is relevant the Article 4(5) “...Throughout their period of activity, dealers and brokers shall be required to maintain a register in which each firearm and each essential component subject to this Directive that is received or disposed of by them is recorded, together with particulars enabling the firearm or essential component concerned to be identified and traced, in particular the type, make, model, calibre and serial number thereof and the names and addresses of the suppliers and of the persons acquiring it.

Upon the cessation of their activities, dealers and brokers shall deliver that register to the national authorities responsible for the data-filing systems provided for in the first subparagraph.

Member States shall ensure that dealers and brokers established in their territory report transactions involving firearms or essential components without undue delay to the national competent authorities, that dealers and brokers have an electronic connection to those authorities for such reporting purposes and that the data-filing systems are updated immediately upon receipt of information concerning such transactions. Also it is relevant the application of Article 13(2) of Firearms Directive: Dealers and brokers may refuse to complete any transaction for the acquisition of complete rounds of ammunition, or components of ammunition, which they reasonably consider to be suspicious owing to its nature or scale, and shall report any such attempted transaction to the competent authorities.

Criminalization: cases and judgments

77. If possible, provide examples, relevant cases or judgments of successful implementation and enforcement for each of the criminal offences reviewed above.

Judgment in *Czech Republic v Parliament and Council (C-482/17)*, delivered on 3 December 2019, the Court dismissed the action for whole or partial annulment of Directive 2017/8531 ('the contested directive') by which the European Parliament and the Council amended Council Directive 91/477/EEC on control of the acquisition and possession of weapons ('the Firearms Directive'). The Court held that the measures taken by the European Parliament and the Council in the contested directive do not entail breaches of the principles of conferral of powers, proportionality, legal certainty, protection of legitimate expectations or non-discrimination as alleged by the Czech Republic in support of its action.

Difficulties encountered

78. Does your country encounter difficulties in implementing the provisions of the Firearms Protocol?

Yes Yes, in part No

- (a) If the answer is "Yes" or "Yes, in part", please explain.

¹²² (1): Member States shall make arrangements for the deactivation of firearms to be verified by a competent authority in order to ensure that the modifications made to a firearm render all its essential components permanently inoperable and incapable of removal, replacement or modification in a manner that would permit the firearm to be reactivated in any way. Member States shall, in the context of that verification, provide for the issuance of a certificate and record attesting to the deactivation of the firearm and the apposition of a clearly visible mark to that effect on the firearm.

¹²³ (2) The Commission shall adopt implementing acts laying down deactivation standards and techniques to ensure that all essential components of a firearm are rendered permanently inoperable and incapable of removal, replacement or modification in a manner that would permit the firearm to be reactivated in any way. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 20(2).

¹²⁴ 'dealer' means any natural or legal person whose trade or business consists wholly or partly of either of the following:

(a) the manufacture, trade, exchange, hiring out, repair, modification or conversion of firearms or essential components;

(b) the manufacture, trade, exchange, modification or conversion of ammunition;

¹²⁵ 'broker' means any natural or legal person, other than a dealer, whose trade or business consists wholly or partly of either of the following:

(a) the negotiation or arrangement of transactions for the purchase, sale or supply of firearms, essential components or ammunition;

(b) arranging the transfer of firearms, essential components or ammunition within a Member State, from one Member State to another Member State, from a Member State to a third country or from a third country to a Member State;

¹²⁶ 4. Each Member State shall establish a system for the regulation of the activities of dealers and brokers. Such systems shall include at least the following measures:

(a) the registration of dealers and brokers operating within the territory of that Member State;

(b) the licensing or authorisation of the activities of dealers and brokers within the territory of that Member State; and

(c) a check of the private and professional integrity and of the relevant abilities of the dealer or broker concerned.

Last revision of Firearms Directive was in 2017. Some Member States did not correctly transpose parts of the provisions, as stated in the report from the Commission to the European Parliament and the Council on the application of Directive (EU) 2021/555 of the European Parliament and of the Council of 24 March 2021 on control of the acquisition and possession of weapons, published in October 2021.

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52021DC0647&qid=1639497580946>

In preparation of the possible legislative proposal on harmonising the criminalisation of firearms related offences in the EU, the Commission subcontracted a study focusing on the level of criminalisation in the different Member States for illicit trafficking, illicit manufacturing, illicit modification of marking and illicit possession of firearms. The study revealed gaps in transposition in multiple Member States.

79. Has your country assessed the effectiveness of its measures against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition?

Yes No

(a) If the answer is “Yes”, please explain and cite any relevant document(s) (e.g., assessments, gap analysis, reports of other international and regional review mechanisms, policy studies, etc.).

Report from the Commission to the European Parliament and the Council on the application of Directive (EU) 2021/555 of the European Parliament and of the Council of 24 March 2021 on control of the acquisition and possession of weapons. (COM/2021/647 final of 27/10/2021)

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52021DC0647&qid=1639497580946>

Report from the Commission to the European Parliament and the Council in accordance with Article 21(3) of Regulation (EU) No 258/2012 of the European Parliament and of the Council of 14 March 2012 implementing Article 10 of the United Nations’ Protocol against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, supplementing the United Nations Convention against Transnational Organized Crime (UN Firearms Protocol), and establishing export authorisation, and import and transit measures for firearms, their parts and components and ammunition (COM(2017)737 of 18/01/2018)

[https://ec.europa.eu/transparency/documents-register/detail?ref=COM\(2017\)737&lang=en](https://ec.europa.eu/transparency/documents-register/detail?ref=COM(2017)737&lang=en)

80. Does your country have a national strategy or action plan to counter the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition or to implement relevant regional or international instruments in this field?

Yes No

(a) If the answer is “Yes”, please cite the relevant strategy or action plan, providing a short explanation of their scope, and/or other measure(s).

EU Action Plan on firearms trafficking 2020-25 (COM/2020/608 final of 24/07/2020)

The Commission proposed a single action plan for both the EU and south-east Europe partners (Western Balkans, Moldova and Ukraine) around four specific priorities to address remaining legal loopholes and inconsistencies in firearms controls that hinder police cooperation. This action plan defines activities for a shared understanding and a common way forward on how to address the threat of illicit firearms.

This action plan is developed in conjunction with the operational action plans for the period 2020-25 of the EMPACT firearms.

Also, there are Council Conclusions on the adoption of an EU Strategy against illicit firearms, small arms and light weapons and their ammunition (reference 13581/18 of 19/11/2018).

81. If your country’s domestic legal framework has not been adapted to the Protocol requirements, please specify what steps remain to be taken.

The Commission is assessing the conformity of national laws with the Firearms Directive and has already identified instances of incorrect transposition in several Member States. This implies that the benefits of the Directive cannot be fully applied. The Commission will continue to support Member States in the implementation of the Firearms Directive, replying to requests for clarifications, and organising transposition workshops within the Firearms Committee, including technical meetings with specific Member States if necessary.

The Commission will also step up its monitoring of the implementation in Member States, and will make full use of the powers conferred upon it by the Treaty whenever necessary.

On 26 February 2026, the European Commission proposed new legislation on combating firearms trafficking and other firearms-related crimes. Subject still to negotiations with the European Parliament and Council, this new legislation will specifically implement Articles 5 and 6 of the UN Firearms Protocol.

(a) Are there any difficulties with regard to the adoption of new national legislation or the implementation of national legislation?

Yes No

(i) If the answer is “Yes”, does any of the below apply?

Problems with the formulation of legislation

Need for institutional reforms or the establishment of new institutions

Need for further implementing legislation (laws, regulations, decrees, etc.)

Difficulties encountered by practitioners in using legislation

Lack of awareness

- Lack of inter-agency coordination
- Specificities of the legal framework
- Lack of technical knowledge and skills
- Limited or no cooperation from other States
- Limited resources for implementation
- Other issues (please specify)

Need for technical assistance

82. Does your country require technical assistance to overcome difficulties in implementing the Protocol?

Yes No

(a) If the answer is “Yes”, please indicate the type of assistance required:

- Assessment of criminal justice response to the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition and its links to other serious crimes
- Legal advice or legislative reforms and regulations
- Model legislation, regulations or agreements
- Establishment of competent authorities, national focal points or points of contacts on firearms
- Institution-building or the strengthening of existing institutions
- Development of strategies, policies or action plans
- Dissemination of good practices or lessons learned
- Capacity-building through the training of criminal justice practitioners and/or the training of trainers
- Prevention and awareness-raising
- On-site assistance by a mentor or relevant expert
- Border control and risk assessment
- Standard operating procedures
- Detection of illicit trafficking flows at border crossings, by postal services or by means of the Internet
- Information exchange
- Investigation and prosecution
- Measures to enhance regional and international cooperation
- Establishment or development of information technology infrastructure, such as record-keeping systems, digital templates and tools, databases or communication tools
- Collection and analysis of firearms trafficking data

- Other areas (please specify). Please prioritize the technical assistance needs and refer to the specific provisions of the Protocol when providing information.

(b) Technological assistance and equipment:

- Marking
- Record-keeping systems
- Identification and tracing of firearms
- Transfer controls
- Collection campaigns
- Deactivation and destruction
- Stockpile management

(c) Is your country already receiving technical assistance in those areas?

Yes No

(i) If the answer is "Yes", please specify the area of assistance and who is providing it.

(d) Please describe practices in your country that you consider to be good practices in relation to the control of firearms and to prevent and combat the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, which might be of interest to other States in their efforts to implement the Firearms Protocol.

(e) Please provide any other information that you believe is important to consider regarding aspects of, or difficulties in, the implementation of the Protocol other than those mentioned above.

Article 83 of the **TFEU** provides that the Parliament and the Council may establish minimum rules concerning the definition of criminal offences and sanctions in the areas of particularly serious crimes with a cross-border dimension resulting from the nature or impact of such offences or from a special need to combat them on a common basis. Illicit arms trafficking is explicitly mentioned among such offences.

In the field of firearms, the main EU instruments are Directive (EU) 2021/555 on control of the acquisition and possession of weapons and Regulation (EU) 2025/41 on import, export and transit measures for firearms, essential components and ammunition, implementing Article 10 of the United Nations' Protocol against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, supplementing the United Nations Convention against Transnational Organised Crime, and establishing export authorisation, and import and transit measures for firearms, their parts and components and ammunition. The EU firearms acquis further includes five implementing and delegated acts, respectively setting up rules on markings, technical rules on the deactivation of firearms and on alarm and signal weapons, as well rules on information exchange between Member States on refusals for permits and intra-EU transfers of firearms.