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Editorial

EDITORIAL

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Dear Readers,

Looking back at the last 20 years, the European Union has taken substantial strides towards establishing a specific legal framework to ensure the rights of defendants in criminal proceedings – as set out in its secondary law, underpinned by the EU Charter of Fundamental Rights. In parallel, the rights of crime victims – long given secondary consideration – have been strengthened across Member States in accordance with EU law, for example, in the newly revised Victims' Rights Directive.

While there have been welcome achievements, it remains crucial that the EU continues its efforts to ensure the effective implementation of procedural safeguards in line with the relevant case law of the Court of Justice of the European Union (CJEU) and the European Court of Human Rights (ECtHR).

The EU Agency for Fundamental Rights (FRA) has been supporting EU institutions and Member States on this implementation journey, regularly emphasising that Member States are obliged to protect these rights. In practice, we are seeing that they do not necessarily apply them in the same way. This can weaken trust between national judicial authorities, as well as with the general population, and interfere with cooperation in matters relating to the EU's area of freedom, security and justice – and, more broadly, the rule of law. Simply formally transposing EU legislative instruments into national law is not sufficient; they must be made effective in practice.

We are witnessing how rising concerns about terrorism, cybercrime, and hybrid threats often trigger calls for exceptional measures. Some argue that certain safeguards could hinder the ability to address such threats. However, procedural safeguards should not be viewed as obstacles to security but instead as prerequisites for legitimate and effective criminal justice and sustainable security responses. Security policies must be founded on our values, ensuring that the principles of necessity, proportionality and legality remain at the heart of responses to security threats. Appropriate safeguards must be in place to guarantee accountability and provide for judicial redress. In today's climate of polarisation and misinformation, procedural fairness is more important than ever – not only for guaranteeing justice in individual cases, but also for strengthening public confidence and for serving as a democratic stabiliser.

The increasing digitalisation of justice and the use of new technologies, such as AI, raise questions about whether a digital rendering of defence rights can be considered equivalent to the original concept. Rather than being merely technologically efficient, the EU owes its citizens an agile digital criminal justice response based on a "rights-by-design" approach, with oversight frameworks in place. This was one of the conclusions of the High-Level Forum on the Future of EU Criminal Justice, in which FRA participated. There is a need for continued examination of updates to the procedural rights acquis in light of technological developments, including AI-generated/produced evidence, as noted in FRA's reports on "Digitalising Justice" and "Assessing high-risk AI".

As the EU considers measures to make future EU law more responsive to emerging threats, it is important to keep the full spectrum of fundamental rights in mind.

All future measures in this area must be evidence-based, to ensure that we effectively close any gaps between the law on paper and the law in action, including critical assessments of shortcomings. FRA will continue to underpin this endeavour with its research, which is based on the experiences of hundreds of legal practitioners, alongside the experiences of defendants, offenders, witnesses, and victims. FRA's research findings can help support the EU and its Member States in developing effective criminal justice responses in order to better address crime and its newly arising challenges in the years to come.

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Editorially reviewed articles published in English, French, or German, are complemented by timely news and analysis of legal and policy developments across Europe.

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