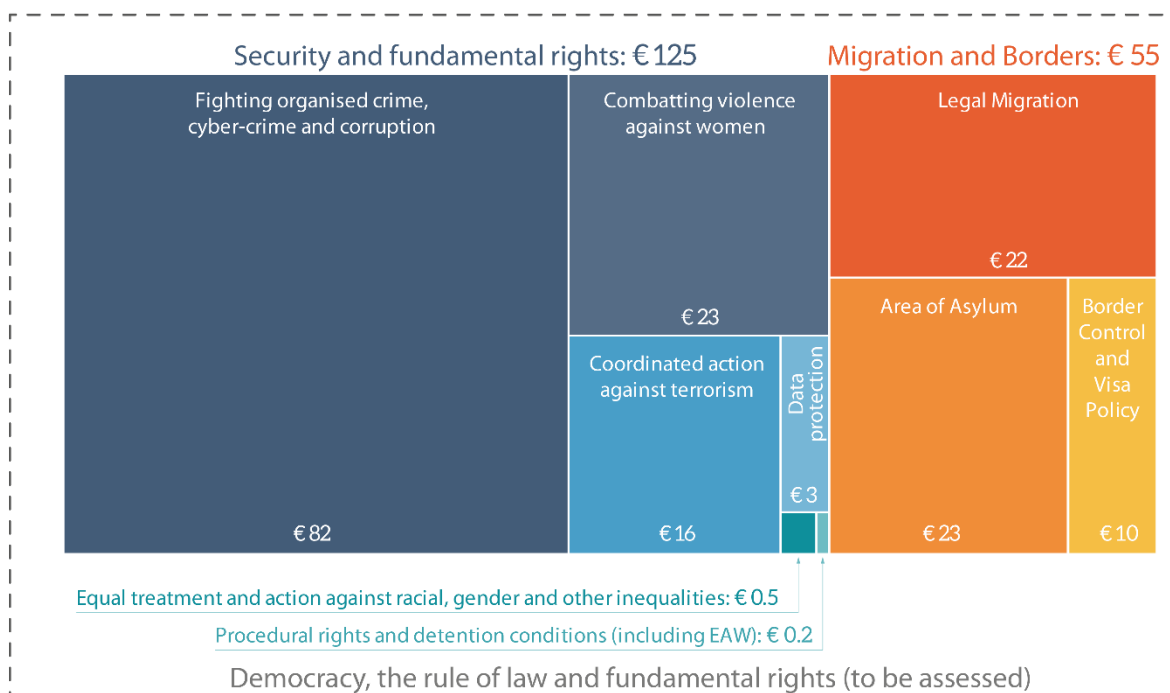


Area of freedom, security and justice: Cost of non-Europe

Figure 1: Mapping the costs of non-Europe in the area of freedom, security and justice



SUMMARY

Substantial progress has been made since creating an area of freedom, security and justice became a major political objective for the EU 20 years ago. However, EPRS research points to a number of gaps and barriers. In particular, there is a lack of consistent monitoring and enforcement of EU values and norms, as well as outstanding gaps in the EU's framework in certain areas. These deficiencies have a significant impact at individual level, notably in terms of preventing the effective exercise of fundamental rights by EU citizens and third country nationals alike. For example, negative impacts cumulate along the asylum journey and throughout the lives of victims of discrimination and hate crimes. These deficiencies also have a negative effect on budgetary spending, growth and tax revenue, which is estimated at at least €180 billion annually, with the lack of enforcement of EU values still to be assessed in more detail (see Figure 1). The same research suggests that further EU action in four main areas: 1. monitoring and enforcement; 2. creating safe legal pathways for migrants and asylum-seekers to enter the EU; 3. instilling a European law enforcement culture; and 4. completing the Union's fundamental rights framework, would have significant benefits. In particular, it could allow individuals to fully enjoy their fundamental rights and make EU society more secure, open, fair and prosperous. This would also foster trust in the EU on the basis of its ability to deliver on its aims.

Introduction

Since the entry into force of the [Treaty of Amsterdam](#) in 1999, the EU offers its citizens an [area of freedom, security and justice](#) (AFSJ). In this area, the free movement of persons should be ensured, in conjunction with appropriate measures with respect to external border controls, asylum and migration, as well as preventing and combating crime. At the same time, it builds on the [EU values](#) of democracy, the rule of law and fundamental rights. As regards the latter, the EU has adopted its own [Charter of Fundamental Rights](#) and is committed to acceding to the [European Convention on Human Rights](#). The European Parliament has gradually acquired equal [legislative powers](#) with the Council of Ministers, in an area that was previously [intergovernmental](#). This contributes to [better law-making](#), trust and legitimacy in the area of justice and home affairs. The policy agenda in the area of [migration](#) and [security](#) was, however, fundamentally reshaped following the rapid rise in the number of asylum seekers and irregular migrants arriving in the EU in 2015, and a string of terrorist attacks. In particular, a number of 'crisis' measures were adopted to restore trust in the [Schengen area](#), after several Member States [reintroduced internal border controls](#). A number of these measures have been [criticised](#) for failing to respect the EU treaties.

Despite these challenges, surveys show that [citizens expect](#) the EU and its Member States to deliver an AFSJ, notably in the area of free movement, immigration and the fight against terrorism. In October 2016, the European Parliament's Civil Liberties, Justice and Home Affairs (LIBE) Committee requested the European Parliamentary Research Service (EPRS) produce a 'cost of non-Europe Report' on the AFSJ. The concept of 'non-Europe' was coined in a 1983 [report](#) for the European Parliament which, warned that 'non-Europe, under-employment, non-growth, decadence, are all part of the same phenomenon, which in everyday life is reflected in growing despair and sometimes violence'. This briefing contains an overview of the existing gaps and barriers in the main policy areas covered by the AFSJ, and assesses their economic impact, as well as impacts at individual level on fundamental rights and freedoms. It also assesses options for action at EU level that could address those gaps and barriers, together with an estimation of their potential costs and benefits. It synthesises a number of relevant EPRS publications that have been presented to the LIBE committee over the last three years (see Table 1 below). A further study, covering border control and visa policy, is forthcoming. Possibilities for EU action that the next Parliament might propose in accordance with the procedure under Article 225 of the Treaty on the Functioning of the European Union (TFEU) are listed in the annex to this briefing.

Table 1 – EPRS publications presented to the LIBE committee

Cost of non-Europe report/European added value assessment	Year
An EU mechanism on Democracy, the Rule of Law and Fundamental rights	2016
The cost of non-Schengen: Civil Liberties, Justice and Home Affairs aspects	2016
The cost of non-Europe in the area of Organised Crime and Corruption	2016
The cost of non-Europe in the area of Procedural Rights and Detention Conditions	2017
The cost of non-Europe in the area of Equality and the fight against Racism and Xenophobia	2018
The cost of non-Europe in the fight against Terrorism	2018
Humanitarian visas	2018
The cost of non-Europe in Asylum Policy	2018
The cost of non-Europe in the area of Legal Migration	2019

State of play

Substantial progress has been made since the EU declared its aim of creating an area of freedom, security and justice 20 years ago. A short overview is provided below.

Asylum, migration and border control: in this area, the [Schengen Borders Code](#) abolishes internal border controls except under specific circumstances and provides EU Member States with common rules that govern external border controls and entry requirements. Similarly, the EU [Visa Code](#) has harmonised conditions for Member States issuing short-stay visas. According to the [UN Refugee Convention](#) and EU law, EU Member States have committed to offering protection to those who have to leave their home country to seek safety from persecution or serious harm. In this context, the EU has developed a [Common European Asylum System](#) (CEAS), which covers rules in relation to the allocation of [responsibility for examining asylum applications](#), the [identification of asylum seekers](#), [reception conditions](#), [asylum procedures](#), and [qualification standards for international protection](#). Furthermore, the EU aims at building a comprehensive immigration policy under which legally residing third-country nationals (TCNs) should be treated [fairly and in a non-discriminatory](#) manner. Several EU directives [have facilitated](#) TCNs' admission and residence in an EU Member State, including for [seasonal](#) and [high-skilled](#) work, [studies and research](#) and as [family members](#) of TCNs legally residing in EU Member States. Finally, the EU has adopted common standards as regards the [facilitation of irregular entry](#), for [the return of irregular migrants](#) and a number of [readmission agreements](#) with third countries. Two EU agencies, [Frontex](#) (external border control) and the [European Asylum Support Office](#) (EASO), support national authorities in this area.

Security: the EU also established security measures ranging from those coordinating [crime prevention](#) efforts and [anti-radicalisation](#) measures, to [police](#) and [judicial](#) cooperation, comprising the harmonisation of provisions in criminal law, for instance related to [organised crime](#), [terrorism](#), [cybercrime](#), [drugs](#), [arms](#), [child abuse](#), [trafficking in human beings](#), [money laundering](#) and [fraud](#). Moreover the EU supports operational cooperation between national law enforcement authorities through the exchange of information contained in a number of [EU and national information systems](#), including the [Schengen Information System](#) (SIS), [Visa Information System](#) (VIS) and [ECRIS](#) (criminal records) as well as through the [Prüm](#) framework (DNA, fingerprints, vehicle registration data), and [PNR](#) system (passenger name records). Furthermore, EU tools facilitate [joint investigation teams](#), [cross-border evidence gathering](#), the surrender of suspects and sentenced persons through a [European Arrest Warrant](#) and the [freezing and confiscation](#) of criminal assets. A number of EU agencies support national law enforcement authorities, notably [Europol](#), [EU LISA](#) (operational management of large-scale IT systems), [CEPOL](#) (law enforcement training), [Eurojust](#), and soon the [European Public Prosecutor's Office](#) (EPPO). On the basis of a [comprehensive assessment](#) of EU security policy, the Commission concludes that EU intervention in this area has been relevant and appropriate, while stressing the need for proper implementation to ensure its effectiveness.

Back to Schengen: the Commission has [proposed](#) specific steps to return to a normally functioning Schengen area through a mix of measures in the area of migration and security. These steps included the development of Frontex into a [European Border and Coast Guard](#) (EBCG) and the ([no agreement](#) has been reached at the time of writing) reform of the [CEAS](#). In addition, the European Council and Turkey adopted a joint [statement](#) aimed at reducing irregular migration in exchange for financial assistance. Furthermore, [mandatory checks on EU citizens](#) entering or exiting the Schengen Area have been introduced, alongside the further development of the [SIS](#), the [Visa Code](#) and [VIS](#). In addition, the [European Travel Information and Authorisation System](#) (ETIAS) will determine the eligibility of all visa-exempt third-country nationals to enter the Schengen Area and the [Entry/Exit System](#) (EES) will record the time and place of entry and the length of authorised stay. Furthermore, a package of measures enhancing the [interoperability](#) between the EU border and security information systems was also agreed. Despite these developments, at the time of writing, [six Schengen states](#) maintain internal border controls. Parliament has [insisted](#) on the temporary and exceptional nature of internal border controls. However, its position and that of the Council were

[too far apart](#) to reach a compromise on a [revision](#) of the Schengen Borders Code ahead of the 2019 European elections.

Fundamental rights: beyond the right to asylum (discussed above), the EU has also developed common standards in other areas of fundamental rights. These standards include [non-discrimination](#) on the basis of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation, [data protection](#), the free movement and residence of [EU citizens](#), the rights of [victims](#) and [suspected and accused persons](#). The EU Agency for Fundamental Rights ([FRA](#)) provides assistance and expertise. There are also specialised bodies, such as the European Data Protection Supervisor ([EDPS](#)) and networks, for example the [European Network of Equality Bodies](#). Main [deliveries](#) include the reform of EU data protection standards applicable to the [public and private sector](#), and to [law enforcement](#) as well as [EU institutions and bodies](#). They aim to protect individuals' data protection rights in a world where [big data and artificial intelligence](#) allow for ever more advanced [profiling](#). A [package of procedural rights measures](#) was also adopted. These measures aim at strengthening the rights of suspects and accused persons. Nevertheless, people's fundamental rights on paper do not always correspond to the situation on the ground. For instance, according to a European Commission [survey](#), one in five people in the EU have experienced discrimination in the last 12 months and one-third of all women in the EU have experienced an act of physical or sexual [violence](#). Social progress is held back by [certain actors](#) fanning the flames of racism and xenophobia, exploiting public anxiety in the wake of the 'migration crisis' and terrorist attacks.

Gaps, barriers and their impacts

This brings us to the gaps and barriers identified in the various reports. In particular, they point to a lack of consistent monitoring and enforcement of EU values and norms, as well as outstanding gaps in the EU's framework in certain areas. These deficiencies have a significant impact at individual level, notably in terms of preventing the effective exercise of fundamental rights by EU citizens and third country nationals alike. For example, negative impacts cumulate along the asylum journey and throughout the lives of victims of discrimination and hate crimes. These deficiencies also have a negative effect on budgetary spending, growth and tax revenue, which is estimated at at least €180 billion annually, with the lack of enforcement of EU values still to be assessed in more detail. These gaps, barriers and their impacts are described in more detail below.

Values and rights in theory and practice: the [European added value assessment](#) (EAVA) produced by EPRS to accompany a [legislative own initiative](#) report on an EU mechanism on democracy, the rule of law and fundamental rights (DRF), concluded that there is a gap between the proclamation of EU values and rights and Member States' actual compliance. The root causes of this lack of compliance are to be found in weaknesses in the existing EU legal and policy framework on DRF, including the [rule of law framework](#) developed by the European Commission and the Council's [rule of law dialogues](#). These weaknesses relate firstly to ongoing discussions on the scope of EU competence to enforce EU values and rights, including a discussion on their exact meaning; secondly, to the (consequent) division of monitoring responsibilities between the EU and its Member States as well as between EU bodies; and thirdly, to the lack of effectiveness of existing enforcement mechanisms. Lower fundamental rights standards have a negative impact on [mutual trust](#) between Member States, which is based on the presumption that these standards are enforced by an independent judiciary and that the material conditions are in place that allow for the effective exercise of fundamental rights (e.g. adequate reception conditions for asylum seekers and detention conditions for suspected and sentenced persons). Also, respect for the rule of law presents a necessary condition for economic transactions, and its application creates a sense of predictability for economic agents. Control of corruption, institutional checks on government, protection of property rights and mitigation of violence are all closely correlated with economic performance. Furthermore the EAVA points to a number of EU measures and actions that have violated fundamental rights, for instance as regards [data retention](#), undermining the credibility of the EU to act internally and externally, and leading to costs of compensating victims and repairing legislation.

Cost of non-Schengen: EPRS has produced two studies on the cost of non-Schengen, addressing the negative impact of the reintroduction of internal border controls on the [single market](#) and in the [area of justice and home affairs](#). The estimated cost of complete reintroduction of border controls between the Schengen states for the single market (delays for individuals and businesses) is estimated at around €100 to €230 billion over 10 years. Costs in the area of justice and home affairs (infrastructure and officers) could range between €0.05 billion and €20 billion in one-off costs, and €2 billion and €4 billion in annual operating costs. As regards the offences investigated by this cost of non-Europe report, it is argued that the abolition of border controls in the light of Schengen has not led to higher crime rates. It is important to note that the abolition of border controls has been accompanied by measures to facilitate cross-border police and judicial cooperation, resulting for instance in an increase in illicit drug seizures. Therefore, the societal benefits of this cooperation could be reversed by a return to permanent border controls between Schengen states.

Border control and visa policy: a forthcoming study by EPRS argues that the problems experienced in the area of border control may be traced back to the lack of an overall [integrated border management](#) strategy, centralised [command and control](#) over resources needed at external borders and the absence of a [permanent, robust and effective Union response regarding search and rescue](#) operations at sea. At the same time, cumbersome visa requirements have deterred travel to the EU and the Union has so far not succeeded in forging a common approach to long-term Schengen visas. The study also argues that the implementation and enforcement of international and EU fundamental rights standards among Member States is inconsistent. Migrants suffer at the hands of smugglers, or [lose their lives](#). The lack of cooperation in external border management has resulted in emergency costs for Member States and the EU. Gaps in border management policies may also have an indirect economic impact on costs of organised crime, especially trafficking in human beings. In visa policy, application conditions and sub-optimal application processes result in [missed economic opportunities](#), as well as missed opportunities in relation to cultural and scientific exchange. The study estimates the costs of the status quo at approximately €27.5 billion per year.

Asylum policy: the EPRS study on the [cost of non-Europe in asylum policy](#) identifies significant structural weaknesses and shortcomings in the design and implementation of the CEAS. Furthermore, the EU lacks a framework that would allow legal entry in the EU for the purpose of applying for international protection. Moreover, current EU legislation does not lead to sustainable sharing of responsibility for asylum applicants across the EU, reception conditions remain inadequate in a number of Member States and services aimed at facilitating refugees' social and economic integration are too limited. Non-compliance with fundamental rights is a concern throughout all stages of the asylum process. At the individual level, the gaps in EU asylum policy put asylum-seekers under threat of violation of fundamental rights at different stages of the 'asylum journey'. At the pre-arrival phase, the lack of safe legal pathways to arrive in the EU to lodge an asylum application forces asylum-seekers to follow dangerous routes. As already referred to in the section above, this has resulted in a high number of deaths. The lack of legal pathways and the current limitations to EU external action moreover undermine access to the right to asylum and the prohibition of torture and inhumane treatment, since removals may occur towards countries where migrants' fundamental rights are not respected. At the arrival and application stages, the right to asylum itself can be undermined because of the lack of sustainable sharing of responsibility for asylum applicants and lack of convergence in asylum procedures and reception conditions. In the post-application stage, while international and EU law confer civil, economic and social rights on beneficiaries of international protection, there are barriers to implementing these in practice because of pitfalls in integration policies and cases of discrimination. Possible wrongful decisions, moreover, may undermine the right to asylum and the principle of *non-refoulement*. The cost of the status quo is estimated at approximately €48.3 billion per year. This figure includes costs incurred due to irregular migration, lack of accountability in external action, inefficiencies in asylum procedures, poor living conditions and health, and reduced employment prospects that lead to lower generation of tax revenue.

Legal migration: the EPRS study on [legal migration](#) identifies a number of obstacles third country nationals (TCN) face, including as regards equal treatment, entry and re-entry conditions, work authorisation, residence status, intra-EU mobility, social security coordination, family reunification and the recognition of qualifications. These result from the lack of enforcement of international and EU human rights and labour standards, as well as the sectoral approach taken in the EU legal framework, not covering all TCNs and partly leaving parallel national schemes in place. The study finds that beyond giving rise to discrimination in comparison to EU citizens, the obstacles faced by TCNs result in income losses at individual level and lost tax revenue at societal (aggregate EU) level totalling €29 billion per year. The greatest impacts are due to unequal treatment with regard to access to employment, employment conditions including remuneration, and the barriers imposed on family migrants. At societal level, these deficiencies also undermine the EU's ability to attract workers. The positive impacts of migration on destination economies are especially found in the areas of demographic development, labour markets, and innovation and growth. It is, however, very difficult to estimate a monetised benefit of the EU attracting further TCNs. This is due to the [many factors](#) one has to take into account, especially when making longer-term predictions.

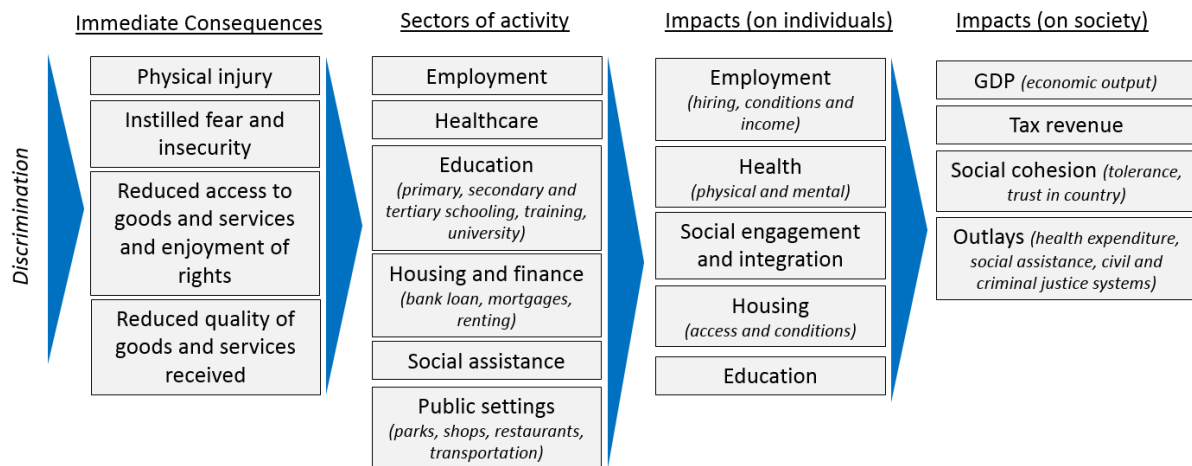
Organised crime, cyber-crime and corruption: the study by EPRS on [covering organised crime and corruption](#) finds that the lack of enforcement of international and EU norms poses one of the main barriers. In addition, EU criminal policy preparation is still very much in the hands of the Member States' representatives. The enhanced role of the European Parliament has so far not translated into its practical and effective involvement in policy preparation. Furthermore, a number of gaps in the current legal framework can be identified, including as regards definitions, sanctions, and procedural rights. The study moreover points to a lack of information-sharing through various EU and national information systems, and awareness and use made of judicial cooperation tools and the (analytical) support and coordination possibilities provided by EU agencies. Finally, [Council of Europe](#) and [EU](#) monitoring reports point to an urgent need to improve the efficiency and quality of justice. The study estimates that corruption costs the European economy between €218 and €282 billion annually. These figures are based on a scenario that divides Member States into four different groups with similar institutional characteristics and levels of corruption. The scenario analyses how much countries lose relatively in economic terms by failing to reach the level of the best performer within the corresponding peer group. Illicit markets have been estimated to represent a value of around [€110 billion annually](#). With the development of modern technologies, organised crime groups (OCG) have expanded their activities to cyber-crime, which is estimated to reach an additional value of around [€100 billion](#) annually. Organised crime and corruption also entail significant social and political costs. Corruption is associated with more unequal societies, higher levels of organised crime, weaker rule of law, reduced voter turnout in national parliamentary elections, and lower trust in the EU institutions.

Fight against terrorism: beyond the points made as regards EU action in the area of organised crime, the study by EPRS on [the fight against terrorism](#) discusses specific deficiencies related to the evidence base for counter-radicalisation programmes; the scope of action related to the disruption of terrorist financing; and information-sharing among national authorities. The study highlights the need for more and better impact assessments and evaluations of EU measures taken in this area, notably as regards their effectiveness, efficiency and fundamental rights compliance. Besides the impact on victims and their families, terrorism has a negative effect on the wellbeing of the population as a whole, affecting people's life satisfaction, happiness, health, and trust within communities and in political institutions. The study argues that between 2004 and 2016, terrorism has cost the EU about €185 billion in lost GDP and around €5.6 billion in lost lives, injuries and damages to infrastructure. Terrorism also harms trade, foreign direct investment, tourism (where the consequences are immediate, but often short-lived) and transport. Inversely, the defence sector has benefited from increased investments. Moreover, in recent years, the EU counterterrorism budget has risen significantly. Finally, certain measures and practices, under the guise of the fight against terrorism, have had a disproportionate impact on suspects and wider groups within society: not only violating fundamental rights, but also counterproductive. Examples include the [rendition](#),

[unlawful detention and torture of terrorism suspects](#) in secret locations and anti-radicalisation programmes [conflating the Muslim faith with violent extremism](#).

Equality and the fight against racism and xenophobia: the ERPS study on [equality and the fight against racism and xenophobia](#) finds that international standards aimed at further combatting violence against [women](#) and supporting [people with disabilities](#) have not yet been fully incorporated. In EU legislation, individuals who are discriminated against on the basis of their religion and belief, sexual orientation, disability and age are only protected [within employment](#). Sexual orientation and gender identity are also not explicitly covered by [EU legislation defining hate crimes](#). Furthermore, there is a lack of correct implementation of EU legislation and a need for training, data collection and awareness raising. The study details the impact of these shortcomings in terms of denial of individual rights and material and immaterial damage, including educational achievement, health status, earnings, housing conditions and pension entitlements.

Figure 2 – Impacts of discrimination



Source: W van Ballegooij with J Moxom, Equality and the Fight against Racism and Xenophobia: Cost of Non-Europe Report, EPRS, March 2018, Chapter 2.

At societal level, tax revenue, overall economic performance and social cohesion are affected by these shortcomings. Based on the identified gaps and barriers, a conceptual framework for the impacts of discrimination has been defined (Figure 2 above). This latter presents four possible impact channels, which were subsequently monetised into i) lost earnings for individuals, and ii) lost GDP for society as a whole. A large proportion of the quantifiable damage is due to violence against women. The study estimates the overall social and individual cost of violence against women to be around €230 billion per year, including a direct GDP loss of some €30 billion and, the cost of increased use of the criminal and civil justice systems of €34 billion. For certain grounds (such as race and ethnicity, religion, sexual orientation and age), robust quantification of the impacts proved to be difficult to establish, due to a lack of systematic data. Nevertheless, discrimination based on these grounds exists, and qualitatively and quantitatively affects people's daily lives.

Data protection: recent scandals (including [blanket mass surveillance by intelligence services](#) and [abuse of Facebook data for electoral campaigning](#)) have highlighted the importance of the right of individuals to determine – in principle – the disclosure and use of their personal data ([informational self-determination](#)) as a means to uphold EU values, including [fundamental rights](#) and [democracy](#). According to a European Commission [survey](#), on average, 61 % of Europeans are concerned about their online activities being recorded to provide tailored advertising. Two-thirds of Europeans are also concerned that their data will be used to target them with political messages online, which could interfere with and manipulate European elections. The cost of non-Europe in the area of data protection needs to be further explored, particularly in light of the [challenges](#) that new technologies and the law enforcement response present, including as regards the [collection of electronic](#)

[evidence](#) and the [removal of illegal online content](#). The Commission is due to present a report evaluating the application of the GDPR in May 2020. Furthermore, the [OECD](#) is currently conducting a project aimed at collecting a core set of administrative and technical data to improve the comparability of data breach notification reporting and assess potential statistical uses of that data.

Procedural rights and detention conditions: finally, an EPRS study on the [cost of non-Europe in the area of procedural rights and detention conditions](#) concludes that, notwithstanding significant action and cooperation at EU level, the rights and detention conditions of those suspected of committing a crime and serving a sentence in the Member States continue to fail to live up to international and EU standards. Judicial cooperation within the EU is not yet fully adapted to this reality, as evidenced by recent Court of Justice of the European Union [case law](#). EU legislation on suspects' rights is limited to setting common minimum standards. Even so, there are already [indications](#) of shortcomings in implementation. Moreover, certain areas have [not been comprehensively addressed](#), such as pre-trial detention, contributing to prison overcrowding in a number of EU Member States. The study highlights the gaps and barriers in EU action and cooperation that may contribute to individuals suffering rights violations at all stages of criminal proceedings. This could lead to increased legal costs, detrimental effects on employment, education, private and family life, as well as impacts on the individual's mental and psychological health. Detention may also expose individuals, especially those in vulnerable groups, to maltreatment and violence. Overcrowded prisons have a detrimental effect on the physical and mental health of prisoners. They also undermine their rehabilitation prospects, including attempts to prevent radicalisation. The study estimates that, based on the average cost per detainee, cost of facilities and compensation paid to individuals, as well as costs related to average income and property loss, pre-trial detention has an economic cost of approximately €1.6 billion per year for EU Member States. Furthermore, in 2014, the [European Parliament called for the revision of the European Arrest Warrant](#). The accompanying [EAVA](#) estimated that the enforcement costs of non-executed European Arrest Warrants was around €215 million for the period between 2005 and 2009, meaning approximately €43 million per year.

Further EU action may generate substantial benefits

Against this background, it is argued that further EU action in four main areas: 1. monitoring and enforcement; 2. creating safe legal pathways for migrants and asylum seekers to enter the EU; 3. instilling a European law enforcement culture; and 4. completing the Union's fundamental rights framework, would allow individuals to fully enjoy their fundamental rights and make EU societies more secure, open, fair and prosperous, thereby meeting the aims of the AFSJ. This should also foster trust in the EU on the basis of its ability to deliver on its aims.

1. EU mechanism to monitor and enforce democracy, the rule of law and fundamental rights

To overcome current weaknesses, the European Parliament [calls](#) for the establishment of a comprehensive Union pact for democracy, the rule of law and fundamental rights (DRF), integrating, aligning and complementing existing mechanisms. The pact will have two core elements: an annual European report on the state of DRF in the Member States, drawn up by the European Commission in consultation with a panel of independent experts; and an EU policy cycle for DRF, involving EU institutions and national parliaments, including a DRF policy cycle within the institutions of the Union. The EPRS [EAVA](#) concludes that a proportionate EU intervention could be guaranteed through the proposed methodology for the annual European report, which would not be unduly burdensome or costly in terms of data collection and reporting requests made to Member States. The EAVA estimates the operational costs of the annual European report at €4 million per year, based on the experience of the Council of Europe's [Venice Commission](#). The cooperation envisaged with the Council of Europe and other bodies would, however, enable some important economies of scale to be achieved. Further synergies could be attained by the fact that the DRF European report

is meant to replace existing EU monitoring mechanisms, including the cooperation and verification mechanism ([CVM](#)) for Bulgaria and Romania.

Parliament also calls for a DRF policy cycle within EU institutions, notably calling for fundamental rights to be included as part of the impact assessments for all Commission legislative proposals, in accordance with the interinstitutional agreement on [better law-making](#). In this regard, the EAVA points to the need for a comprehensive legislative policy cycle, in which the effects of envisaged EU legislation on fundamental rights are forecast and evaluated. As discussed, a comprehensive policy cycle and further interinstitutional cooperation is not only necessary to ensure fundamental rights compliance, but also the added value of EU action in the AFSJ as such. In this context, more effective use could be made of the [instruments already available](#) to the EU institutions during the upcoming legislature. The EAVA estimates that this policy cycle would be likely to result in more (in-depth) ex-ante and ex-post evaluations and consultations. Despite the related costs, this would provide a better method to prevent EU measures and actions from violating fundamental rights.

Although, initially, the European Commission [mostly rejected](#) the requests of the European Parliament, doubting their technical and legal feasibility, it recently adopted a [communication](#) signalling the start of a short reflection period, with EU institutions and other stakeholders considering how to better monitor and enforce the rule of law in the Union, including through awareness raising, capacity-building and tailored responses in specific policy areas, such as the fight against fraud. The Commission is due to come up with concrete proposals in June 2019.

2. Creating safe legal pathways for migrants and asylum seekers to enter the EU

In its 2016 [resolution](#) on the situation in the Mediterranean and the need for a holistic EU approach to migration, the European Parliament proposed a number of measures in the area of asylum, migration and border control, including the creation of safe legal pathways for migrants and asylum seekers to enter the EU. However, agreement in the Council on proposed reforms of the [CEAS](#) and the [Blue Card Directive](#) for highly-skilled migrants remains elusive.

The study on the [cost of non-Europe in asylum policy](#) identifies seven policy options, including the introduction of EU legislation on humanitarian visas, in addition to an [EU resettlement framework](#). The European Parliament has also [called for](#) such legislation in a legislative own initiative resolution. The accompanying [EAVA](#) argues that the EU and its Member States' failure to offer regular entry pathways to those seeking international protection undermines the achievement of their Treaty and fundamental rights obligations. This situation also has severe individual impacts in terms of mortality and damage to health, as well as negative budgetary and economic impacts. It concludes that EU legislation on humanitarian visas could close this effectiveness and fundamental rights protection gap by offering safe entry pathways, reducing irregular migration, and resulting in increased management, coordination and efficiency in the asylum process, as well as promoting fair cost sharing. The Commission has since [rejected](#) Parliament's proposal, claiming that the CEAS 'applies to applications for international protection made in the territory of the Member States and does not cover requests for diplomatic or territorial asylum submitted to representations of the Member States'. It has been [argued](#) that this position is problematic however, in view of the extraterritorial protection-related obligations under the Charter of Fundamental Rights. Furthermore, resettlement caters only for those who are already declared refugees, without providing a mean of access to those in need of international protection whose status is yet to be established. Other policy options investigated by the EAVA concern the further expansion of the EASO mandate; improving the monitoring and implementation of the CEAS; taking individual preferences into account when identifying the Member State responsible for examining an asylum application; fostering access to employment and integration; ensuring human rights and financial accountability in external funding and returns to third countries; and EU accession to the ECHR. These measures are expected to ensure better compliance with EU norms and values, increased

efficiency in the asylum process, faster socio-economic integration of beneficiaries of international protection, and reinforced protection in countries of return.

The study on the [cost of non-Europe in the area of legal migration](#) investigates the options of a gradual extension of the current sectoral directives and the adoption a binding [EU immigration code](#). Should the adoption of a binding instrument not be politically feasible, a non-binding immigration code could function as a prelude to such an instrument. A binding immigration code would imply abandoning the sectoral approach and adopting a directive covering all TCNs, regardless of their skills status. The code would, however, need to live up to the ambition of eliminating inconsistencies and unjustified variations, as well as raising rights standards, to have a high positive impact on issues such as intra-EU labour mobility, the recognition of qualifications, family reunification and equal treatment overall. An important condition for that would be a change in the narrative around legal migration – away from the currently dominant security perspective – towards one that (also) highlights the economic, social, educational and cultural opportunities for the European Union and focuses on promoting the attractiveness of the EU for legal and labour migration. It could be assumed that enabling legal and safe pathways to Europe would reduce irregular migration and allow Member States to shift their attention away from border and crime control towards social and economic policies. Based on this most far-reaching policy option, some €22 billion in individual and economic benefits could be achieved each year.

3. Instilling a European law enforcement culture

A common theme arising from the cost of non-Europe reports in the fight against [organised crime](#), [corruption](#) and [terrorism](#) is that, following a period of intense legislative activity, the focus should shift towards instilling a [European law enforcement culture](#) with full respect for [fundamental rights](#). This should lead to a situation in which national authorities share relevant information, [judicial cooperation tools](#) are used properly, and seeking the support of [EU agencies](#) becomes a natural thing to do. To achieve this aim, significant resources would need to be allocated at [EU](#) and national level, to enhance technical capacities, and support training and exchanges between law enforcement authorities and with EU agencies. The studies furthermore estimate that an EU criminal policy cycle, building on the [EU policy cycle for organised and serious international crime](#) and involving the European Parliament and national parliaments more comprehensively could result in better prioritisation and accountability for the allocation of resources. Elements of the EU criminal policy cycle could be laid down in an [interinstitutional agreement](#). Beyond these policy options, the studies discuss EU accession to the [Group of States against Corruption](#) (GRECO), to improve the monitoring of EU institutions; further approximation of definitions and sanctions, including as regards [organised crime](#); measures providing protection to [whistleblowers](#); and strengthening judicial cooperation on the basis of the principle of mutual recognition, including as regards the [freezing and confiscation](#) of criminal proceeds.

The study on the fight against [terrorism](#) places particular emphasis on monitoring the effectiveness and fundamental rights compliance of counter-radicalisation programmes. It discusses ways to deprive terrorists of funding by further refining the framework for countering terrorism financing. Another (long-term) option to be [considered](#) could be to grant the European Public Prosecutor's Office (EPPO) competence in the area of cross-border terrorist crimes. Beyond resulting in a more relevant, coherent, effective and efficient action in the fight against organised crime, corruption and terrorism, the measures proposed could reduce the material and immaterial impacts of crime and ensure protection of fundamental rights when impacted by law enforcement measures. Net benefits of adopting the policy options discussed in this section would be at least €82 billion per year.

4. Completing the Union's fundamental rights framework

As discussed, beyond the lack of enforcement in the area of fundamental rights there is also a protection gap. The study on the [cost of non-Europe in the area of equality and the fight against racism and xenophobia](#) discusses EU accession to the Council of Europe Convention on preventing

and combating violence against women and domestic violence ('Istanbul Convention'). The study estimates that if this were to reduce violence by 10 %, the direct economic costs alone could be reduced by €23 billion per year. Furthermore, although discussions continue on a 2008 [proposal for a Council directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation](#) ('horizontal' anti-discrimination directive), Council has as yet been [unable to reach agreement](#). The study estimates that the adoption of this directive could reduce discrimination resulting in better educational and health outcomes. Assuming that EU action would result in a 5 %, improvement in these impact channels, a GDP increase of €55 million is to be expected. Another policy option in this area would be to amend the [Framework Decision on Racism and Xenophobia](#) to extend protection to victims of discrimination based on grounds such as sexual orientation or gender identity. Assuming that this would result in a 50 % reduction in physical assault, according to the study, an increase in GDP of €48 million could be gained. A further approximate €400 million in benefits could be achieved if improved implementation and enforcement led to a 5 % reduction in existing levels of discrimination.

Regarding data protection, the [General Data Protection Regulation](#) (GDPR) was [expected](#) to save around €2.3 billion per year. It should be noted however that the GDPR as adopted differed significantly from the Commission proposal. The pending proposal for a regulation on the protection of privacy and personal data in electronic communications ([e-Privacy](#)) could decrease compliance costs and administrative burdens for business and public administrations, define rules on cookies more clearly, and address the fragmentation of laws across Europe. The Commission [impact assessment](#) accompanying this proposal suggests savings of up to €1 billion per year.

Finally, the study on the [cost of non-Europe in the area of procedural rights and detention conditions](#) assesses the potential adoption of a directive on the substantive criteria and procedural requirements related to pre-trial detention (PTD). Depending on the scenario, current costs in this area could be reduced through EU intervention by either €162 million per year (reduction of average length of time spent in detention, and level of individuals in PTD at any given point in time compared to the EU average), or €707 million per year (number of individuals held in PTD, reduced in each Member State by the average proportion of people on trial who are acquitted in a given country). Moreover, reviewing the [Framework Decision on the European Arrest Warrant](#) in line with the European Parliament's [demands](#) could lead to additional efficiency gains of at least €43 million a year. Beyond the cost savings, further action and cooperation at EU level would lead to better compliance with EU values and rights, increase mutual trust between judicial authorities based on respect for fundamental rights.

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ANNEX: Proposals for Union acts put forward and to be considered during the 2019-2024 term

Table 2 – Proposals for Union acts put forward via the LIBE committee to date

Proposal for Union act	Rapporteur	European added value assessment	Commission response
Review of the European Arrest Warrant	Sarah Ludford (ALDE, UK)	Revising the European Arrest Warrant	SP(2014) 447
Establishment of an EU mechanism on democracy, the rule of law and fundamental rights	Sophia in 't Veld (ALDE, NL)	An EU mechanism on democracy, the rule of law and fundamental rights	SP(2017) 16 COM(2019) 163
Humanitarian visas	Juan Fernando López Aguilar (S&D, ES)	Humanitarian visas	SP(2019) 149

Table 3 – Further proposals for Union acts to be considered by the 2019-2024 LIBE committee

Proposal for Union act	Cost of non-Europe Report	Commission position
Amending the Framework Decision on Racism and Xenophobia to extend the protection granted to victims currently not covered	Equality and the fight against Racism and Xenophobia	SP(2018) 292
Directive on the substantive criteria and procedural requirements related to pre-trial detention	Procedural rights and detention conditions	SP(2017) 778
Directive covering the conditions and rights of all third country workers in the EU (Immigration Code)	Legal Migration	SWD(2019) 1055
A permanent, robust and effective Union response regarding search and rescue operations at sea	Border control and visa policy (forthcoming) Asylum policy	SP(2018) 515
Adopting an interinstitutional agreement on an EU criminal policy cycle	Organised Crime and Corruption Fight against Terrorism	SP(2017) 54
Amending the Framework decision on Organised Crime to further approximate its definitions and sanctions	Organised Crime and Corruption	SP(2017) 54
Amending the Regulation on the European Public Prosecutor's Office to give it competence in the area of cross-border terrorist crimes	Fight against Terrorism	COM(2018) 641