The Charter of Fundamental Rights of the EU applies to Member States only when they are implementing EU law, in line with its Article 51(1).

There are no EU rules relating to material detention conditions. These matters fall under the responsibility of Member States, who have agreed to respect the existing Council of Europe standards, such as Recommendation Rec(2006)2 on the European Prison Rules.

In such cases, it is for Member States, including their judicial authorities, to ensure that fundamental rights are effectively respected and protected, in accordance with their national legislation and international human rights obligations.

At the Justice and Home Affairs Council of 7 October 2021, Justice Ministers underlined the high sensitivity of the topic, which is at heart of national criminal justice systems. They stressed the importance of the work of the Council of Europe in this area. As regards further initiatives, in general, Ministers supported recommendations or guidelines, exchange of good practices and additional judicial trainings aiming to improve detention conditions and enhance the use of alternative measures.

As a result of these discussions, the Commission will assess how to advance towards convergence on pre-trial detention and detention conditions between Member States as part of improving cross-border cooperation in criminal matters.