



Law

## Feedback from: GMVV & Co. GmbH Think Tank

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**Submitted by**

Michele Sciarba

**User type**

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**Organisation**

GMVV &amp; Co. GmbH Think Tank

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Germany

**Initiative**2023 EU Justice Scoreboard ([/info/law/better-regulation/have-your-say/initiatives/13617-2023-EU-Justice-Scoreboard\\_en](/info/law/better-regulation/have-your-say/initiatives/13617-2023-EU-Justice-Scoreboard_en))

EU-Consultation GMVV & Co. GmbH Think Tank: 2023 EU Justice Scoreboard Call for Evidence The present initiative 2023 EU Justice Scoreboard for the efficient design of judicial systems and the strengthening of the rule of law within the EU requires, above all, a strengthening of the protection of fundamental rights pursuant to Art. 47 of the Charter of Fundamental Rights (CFR). Considering EU anti-money laundering legislation, especially since the 4th Anti-Money Laundering Directive (AMLD) came into force, an extensive catch-all approach of this legislation has de facto put money laundering, terrorist financing and tax evasion on the same level in the fight against crime. Combined with the increasing transfer of sovereign tasks to private actors and the inclusion of private databases such as World-Check in combatting money laundering, citizens are often left without an effective legal remedy. The guarantee of effective legal protection, which is guaranteed by Union law, is repeatedly suspended. Today, the EU promotes an on-going unbridled and unrestricted transfer of personal data to third-party countries by virtue of the AML framework, placing every citizen under a general criminal suspicion and carrying out investigations under this policy without grounds for reasonable suspicion, which is incompatible with the rights described in the ECHR and the Charter of Fundamental Rights. The amendment of the 4th AMLD that extends the powers of the FIUs should have been accompanied by a detailed review of the rights to privacy and data protection that citizens enjoy by virtue of the ECHR and the Charter. Ever since the Schrems I ruling, the question of how constitutional guarantees from third countries should look like when exchanging data to conform with legally guaranteed protections and fundamental rights for EU citizens is a pressing issue. There have to be legal, administrative and compliance-related practices in third countries that give individuals the right to a judicial remedy in the event of a violation of data privacy rights by the third country authorities. Art. 47 of the Charter should be a benchmark. Considering the multitude of data exchange agreements between FIUs and third countries that lack democratic forms of government or have underdeveloped constitutional structures, the question is how the EU can ensure the legal guarantees under the Charter in practice. The exchange of data within the Egmont Group, the largest FIU cooperation network worldwide with over 150 members, is not only opaque but largely free of democratic controls. Since the Egmont Group includes not only countries like Germany, the UK, and Switzerland, but states like Saudi Arabia, Uzbekistan, and Sudan, it is completely unclear which guarantees the latter could give that complied with the Charter. The cooperation between various EU law enforcement agencies, including the European Public Prosecutor Office (EPPO), Eurojust and Europol, has shown over the past two years, particularly in the EncroChat, Anom and Sky cases, that while there have been achievements in fighting crime, these achievements have lacked democratic control and constant monitoring to ensure compliance with fundamental rights. Wiretaps

and surveillance were often conducted without judicial warrants. The raw data obtained was not provided to the courts or to the lawyers involved in the proceedings to guarantee the principles of a fair trial. This action by the EU law enforcement agencies is thus beyond democratic scrutiny.

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