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AFRADE Project - Final Project's Report

Guidelines on detection and reporting of suspected frauds
in agricultural shared management subsidies

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1. Introduction

The existing European legal framework¹ sets general rules for detection and reporting irregularities and suspected frauds concerning CAP funds². However, it lacks uniformity in risk indicator assessment³. This jeopardizes the achievement of a smooth cooperation between national and supranational investigative bodies⁴. More specifically, the absence of common standards significantly hinders the effective investigation of cross-border agricultural fraud - fraudulent schemes involving multiple Member States. On the other hand, it prevents the development of cooperative mechanisms among national authorities that could enhance the timeliness of domestic responses through the exchange of information on suspicious or unreliable entities.

The AFRADE project was launched with the aim of addressing these issues and proposing guiding principles for the development of a common policy framework in the field of fraud detection and reporting. To achieve these purposes, the project promoted a comparative study involving 5 selected Member States (Italy, Bulgaria, Poland, Romania, and Slovakia) that are particularly relevant due to their frequent exposure to investigations and their significant engagement in CAP funding requests.

This final report entails the conclusive research outcomes of the project. It relies on data provided by national legal experts to identify legal and operational elements that may serve

¹ The most relevant one is Regulation (EU) 2021/2116 of the European Parliament and of the Council of 2 December 2021 on the financing, management and monitoring of the common agricultural policy and repealing Regulation (EU) No 1306/2013, OJ L 435, 6.12.2021, 187.

² The European Agricultural Guarantee Fund (EAGF) and the European Fund for Rural Development (EAFRD) were instituted by Council Regulation (EC) 1290/2005 on the financing of the common agricultural policy, OJ L 209, 11.8.2005, 1; the current legal framework for EAGF and EAFRD consists of: (1) Regulation (EU) 2021/2115 of the European Parliament and of the Council of 2 December 2021 establishing rules on support for strategic plans to be drawn up by Member States under the common agricultural policy (CAP Strategic Plans) and financed by the European Agricultural Guarantee Fund (EAGF) and by the European Agricultural Fund for Rural Development (EAFRD) and repealing Regulations (EU) No 1305/2013 and (EU) No 1307/2013, OJ L 435, 6.12.2021, 1 and (2) Regulation (EU) 2021/2116 of the European Parliament and of the Council of 2 December 2021 on the financing, management and monitoring of the common agricultural policy and repealing Regulation (EU) No 1306/2013, OJ L 435, 6.12.2021, 187.

³ See European Court of Auditors, “The Commission’s response to fraud in the Common Agricultural Policy – Time to dig deeper”, Special Report 14/22 of 4 July 2022; see also: European Court of Auditors, “Fighting EU-Fraud: Action Needed”, Special Report 01/2019; European Commission, “34th Annual Report on the Protection of the European Union’s financial interests and the fight against fraud – 2022”, COM(2023) 464 final.

⁴ In particular, the Anti-Fraud Coordination Services (AFCOS), regulated in Art. 12a which was inserted into OLAF Regulation 883/2013 by Art. 1(13) of Regulation (EU, Euratom) 2020/2223, OJ L 437, 28.12.2020, 49.



as a foundation for designing a harmonised approach capable of facilitating cross-border cooperation in the ways outlined above. After providing an overview of the key structural weaknesses identified in each country, it identifies existing points of strengths to be further developed. Building on them, it offers a set of policy proposals to overcome the identified shortcomings.

2. Key critical issues

2.1. Specific critical issues arisen from the national reports divided per country.

We illustrate some core issues derived by the national legal reports whose contents are already explained in the previous pages (reference is therefore made to the individual reports for further details).

Bulgaria

The Bulgarian national report points to a decline in the number of fraud cases being investigated, largely due to difficulties in detecting such offences. A major shortcoming lies in the absence of a comprehensive legislative framework designed to protect the country's financial system against crimes involving EU funds. Agricultural fraud, in particular, remains insufficiently addressed under current legislation. This gap suggests a need to revise the Bulgarian Criminal Code to explicitly include agricultural fraud as a criminal offence, along with adjustments to sector-specific laws to clarify the distinction between criminal conduct and administrative violations. Aligning the Bulgarian legal system with the objectives of the PIF Directive is also seen as a priority. Moreover, the establishment of a traceability register for agricultural products and the integration of synthetic data into monitoring systems - possibly supported by artificial intelligence - could significantly enhance the detection and management of fraud risks.

Italy

In Italy, one of the main concerns is the difficulty in clearly classifying criminal conduct due to overlapping offences, which undermines both legal certainty and the predictability of



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sanctions. This ambiguity weakens the deterrent effect of criminal penalties and reveals a general inadequacy in addressing complex fraudulent schemes. The report highlights the need to strengthen administrative enforcement tools and to simplify regulations governing access to EU agricultural funds (CAP), aiming for greater transparency. Streamlining the legal framework for disbursements and controls is likewise recommended. Finally, risk assessments within corporate compliance programs would benefit from a more structured and legally grounded methodology.

Romania

The Romanian report emphasizes the importance of increasing cross-border cooperation among officials tasked with detecting fraud involving EU funds. It advocates for a continual updating of the EU-wide catalogue of fraud mechanisms and calls for greater transparency in the disclosure of identified fraudulent practices. Public awareness campaigns are also suggested as a way to improve the understanding and reporting of fraud schemes, thereby enhancing prevention efforts.

Poland

Poland's national report reveals significant limitations in the scope of criminalization under its domestic law, which fails to fully reflect the definition of fraud provided in the PIF Directive. Notably, the misapplication of EU funds for purposes other than those originally intended is not adequately covered. The report also notes a political reluctance on the part of Polish authorities to engage with the European Public Prosecutor's Office (EPPO). Interestingly, no specific criminal patterns involving EU agricultural funds have been identified in the Polish context, which may reflect the relatively minor scale of irregularities within this sector.

Slovakia

The Slovakian legal system faces several problematic issues, concerning detection of fraudulent schemes (e.g. cases involving leased land without the owner's consent, or fictitious activities in remote rural areas especially concerning Rural Development funds), construction of legal offences, collection of evidence, use of databases - whose cooperation is only partial



and not fully automated - as well as procedural obstacles that hinder an efficient cooperation among national authorities (Paying Agencies and AFCOS) and OLAF.

In particular, the most urgent critical issues illustrated in the report are summarised in the following core points: *a)* different levels of defining and assessing fraud and irregularities; *b)* uneven implementation of the IMS system; *c)* differences in the technical level of databases and IT systems; *d)* different institutional capacity of AFCOS units.

More in detail, the report showed that among the major issues to be addressed there is a limited ability of national authorities to effectively investigate cross-border fraudulent schemes, through evidence, documents (e.g. foreign records), and witnesses, since interoperability among investigative authorities is weak and communication between national AFCOS very poor. Among the possible causes the report mentioned the insufficient verification of data by the Paying Agency and the lack of integrated databases, which permit fraudulent schemes to bypass formal checks.

The Slovak report also specified that challenges are particularly strong in cooperation with neighbouring countries (e.g., Hungary, Poland, Austria), in cases involving cross-border land ownership, business affiliations, or artificially structured purchases of agri-equipment to exploit support schemes.

Concerning legal offences, and similarly to the other examined legal systems, legal definitions are not always sufficiently clear, particularly in shaping the distinction between administrative irregularities and criminally relevant fraud.

Collecting evidence is also demanding and often problematic in the Slovak context, especially when it comes to the proof of intent (in relation to fraud): first, law enforcement authorities in Slovakia often lack specialisation in agricultural fraud, so that there is no homogeneous methodology for evaluating evidence and limited integration between criminal procedures and the administrative processes of the Paying Agency (PPA).

Second, many offences are often interconnected (e.g. subsidy fraud is often combined with bid rigging or damaging EU financial interests) and they are linked to contexts or activities lacking of transparency. The typical perpetrators are legal entities, business operators, or



public officials who have access to the decision-making processes regarding support allocation.

Furthermore, there is no systematic coordination in the information exchange between Slovakia and other Member States: indeed, this exchange frequently depends on the individual initiative of specific staff members, with the consequence that delays, duplication, and communication failures often occur, reducing the effectiveness of case handling. The report effectively divides the main obstacles to effective communication into several categories: *a)* legal differences (related to legal definitions of offences, differing levels of criminal liability, procedural deadlines, and access to evidence); *b)* technical barriers (e.g. lack of interconnection between information systems across countries, incompatible formats, and database non-interoperability); *c)* limited institutional capacity (specifically due to a limited number of specialists for cross-border cases, insufficient language proficiency, and the overload of staff within AFCOS and the paying agency); *d)* inefficient communication channels due to absence of direct, operational channels between partners in different countries (e.g., between two AFCOS units) for resolving urgent cases without delays.

In sum, the Slovakian report stressed the necessity to focus on these possible solutions' strategies: *i.* strengthening the legal framework and legal certainty; *ii.* improving interoperability and technical tools; *iii.* Investing in professional specialisation and human resources; *iv.* Shaping concrete strategies for a more efficient cross-border cooperation; *v.* ensuring prevention and transparency as well as public oversight; *vi.* Prioritise anti-fraud efforts in national financial and strategic plannings.

2.2. General hindering aspects

The analysis of the national reports reveals the presence of some overall common problematic issues hindering horizontal cooperation, which can be summarized as follows.

Lacking of clarity of the offences as well as of administrative irregularities across EU Member States



The first issue concerns the negative effect of the inconsistency and lacking of clarity of the definitions of the offences as well as of administrative irregularities across EU Member States⁵ on the harmonization of detecting and reporting frauds strategies. When criminal offences and administrative irregularities differ in structure, they therefore determine different red flags. Consequently, Paying Agencies and AFCOS could relate some red flags to specific criminal offences that in some other countries could be considered as mere irregularities or even irrelevant facts.

Difficulties in collecting evidence in relation to specific agricultural funds

The second core point is that variety of funding interventions and CAP strategies significantly character each Member State's agricultural strategical policy: indeed, each Member State recurs to specific funds more frequently than others, depending on the national agricultural policy and land availability. This could bring to different fraudulent schemes and different fraud rates that directly hit detection and reporting activities. Indeed, especially when it comes to sustainability requirements related to direct payments, or to declarations of land linked to rural development, each country faces different specific critical situations that directly impact on the national criminal prevention strategy and investigative efficiency.

Different exposure of administrative bodies to illegal behaviours

Thirdly, it must be taken into account that there is a different exposure of administrative bodies to other illegal behaviours, such as corruption or conflict of interests, due to a lack of transparency in the administrative structure.

Many of the fraudulent schemes that affect EU agricultural funds are linked to other offences perpetrated by public officials who have access to the decision-making processes regarding support allocation, in connections with private companies or other legal entities. As registered in the countries involved in the legal study. There are also frequent links between applicant, supplier, and evaluators the public procedure, creating opportunities for organized and

⁵ For the critical issues that arise from the lack of harmonization at the legislative level, with special regard to criminal law, see A. De Lia, "Frode nelle sovvenzioni pubbliche: una prospettiva comparata", (2022) *AmbienteDiritto.it*, p. 1.



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systematic misuse of funds. The different level of transparency in each country makes it more difficult to detect fraudulent schemes and to apply effective information exchange processes.

Deficiencies in IT Tools implementation and information-exchange strategies

Finally, it is crucial to acknowledge that not every Member State adopted adequate IT Tools for collecting data and improving information exchange strategies also at the internal level, in particular, not every Member State makes the same use of the IMS.

Some problems in the use of internal databases also have been registered: their partial integration and their not full automation significantly limit their functioning.

Furthermore, it has been noticed that information-exchange, both internal and external, can be practically hindered because of the lacking of specialization of the competent authorities (e.g. lacking of investigative units specifically trained in the agricultural frauds' field).

3. Proposals

3.1. The need of a methodological shift: from legislative harmonization to the implementation of a uniform alert mechanism based on common red flags and keywords.

In response to those existing critical aspects we suggest to shift the focus from legal harmonisation to a more practical, case-by-case strategy in order to develop more effective ways of combating agri-frauds. Legal discipline will always differ from one country to another, as each Member State is free to choose how to deal with the criminalisation obligations imposed on it to protect the EU's financial interests. Furthermore, legal discipline will always fail linguistic clarity and bring to problematic issues related to legal construction.

Fraud patterns, however, tend to display recurrent elements in each examined country.



Namely, as reports and studies⁶ have shown, there are some common recurrent criminal patterns related to CAP shared-management funds, normally involving falsification or alteration of the conditions requested for disbursement of agricultural funds (e.g., false declarations regarding the farmers' land or the farmers' personal circumstances). For example, it is frequent that applicants for direct payments request aid for plots of land they are not entitled to, due to false agreements, or that they artificially create conditions for receiving aid and financial support⁷. On the other hand, in the field of indirect payments, such as rural development funds, applicants frequently submit false invoices or falsely declare equipment as new, even though it is not. This can involve manipulated information and misrepresentations regarding compliance with the financing conditions.⁸ Furthermore, it frequently happens that violations and falsifications involve eligibility criteria for receiving advance payments, submitting aid requests, or accessing support schemes. Furthermore, beneficiaries may breach procurement rules, seek reimbursement for inflated costs or non-existent transactions, or even request reimbursement for costs already covered elsewhere. Notably, this last type of fraud is common in cross-border corporate crime, often carried out by organised criminal groups that establish shell companies at the same address, each with its own bank account tied to the same financial institution.

Consequently, we maintain that a key point in the development of an effective protection of the EU's financial interest's strategy requires the adoption of an inductive methodology to analyse the risks of CAP fraud⁹. Since fraud involving CAP funds often follows consistent schemes, frequently involving both individuals and corporations, a structured set of indicators - both key factors and keywords - should be developed to map each component of

⁶ See, for example, A. Jurma and A. A. Constantinescu, "Typologies of EU Fraud. Study by the National Anticorruption Directorate, Romania" (2021) *eucrim*, 191; 35th Annual Report on the Protection of the European Union's financial interests and the Fight against fraud 2023, pp. 23 ff.

⁷ During the period 2019-2023, fraudulent irregularities often involved falsification of the aid request or of documentary proof. For market measures and rural development, violations concerning the implementation of the action were also significant, thus confirming patterns and risks already highlighted in previous reports, PIF report 2023, p. 23.

⁸ OLAF, "The OLAF report 2020", p. 20; A. Jurma and A. A. Constantinescu, *cit.* n. 30, 192-193.

⁹ Though not linked to CAP subsidies, some interesting studies apply inductive methodology in order to cope with fraudulent strategies: see S. Ramos, J. A. Perez-Lopez, R. Abreu, and S. Nunes, *Impact of fraud in Europe: Causes and effects*, (2024) *Helyion*, 1.



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a typical fraudulent scheme. For instance, a common pattern involves the reimbursement of costs already subsidized elsewhere, often executed by organized groups through shell companies sharing the same address and bank account. Consequently, alignment of beneficiary addresses and bank details should be considered critical red flags and translated in common codes in order to be automatically transferred from national databases to the IMS.

Each study found that the rules and criteria for fulfilling IMS (Irregularity Management System) registration requirements are neither codified nor uniformly established at the national level.

The IMS system provides for online access and the electronic completion of specific reporting forms, organized into logical sections of information. These forms include various fields where users can select or enter relevant data for the report (for example: Fund identification, type of irregularity, amounts, ongoing criminal, administrative or recovery procedures, sanctions, and comments). Moreover, IMS users are organized into groups according to their specific competencies related to irregularities.

However, the specific information to be submitted through the IMS varies from one country to another. In particular, regarding how the irregularity or fraud was committed, each country is free to rely on specific red flags, which are likely similar to those used in other countries but may be defined differently. Irregularities may be identified through the use of various red flags, which in some countries are also recognized as indicators of fraud. While indicators may naturally be interpreted differently – so that they can detect irregularities, as well as suspected frauds –, they should at minimum be consistent among national authorities engaged in cross-checks, given that agricultural fraud frequently exhibits recurring patterns.

Notwithstanding that variations in fund allocation—driven by differences in agricultural policies and land use—tend to differ significantly from one country to another, and that this circumstance could practically determine slight differences among national legal systems in the use of indicators, they could at least be codified in lists to be shared among national authorities involved in the monitoring activities in order to allow them to rely on the same parameter.



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Furthermore, public officials should be more adequately trained in the specific area of agricultural fraud, given its peculiar phenomenology. Without a common list of indicators, the reporting practice can, at times, be highly heterogeneous if not even discretionary.

Our research considered all these critical factors, mainly derived by interviews with the professionals involved in the monitoring and in the use of IMS, and came to the conclusion that harmonization should regard alert codes and red flags, specifically related to each fund and to the most frequent fraudulent patterns linked to each specific fund, through a codification of a common list of key-words that could substantially mitigate the above described discrepancies.

To make an example, in several national reports aid under the Rural Development Fund was identified as particularly problematic, largely due to the requirement to comply with sustainability criteria. As a result, verification processes should include targeted questions to assess compliance with these criteria—especially regarding the adoption of risk prevention tools across various sectors, with a particular focus on environmental measures (e.g., protocols, or agreements for "green production" in order to comply with the ESG standards).

Among potential risk indicators, specifically related to companies, the list could include information such as "lack of ESG Reporting System", or "lack of a Centralized ESG Oversight", and "lack of Digital Platforms", directed to disseminate ESG information (like adopted strategies and sustainability standards to be promoted) and facilitate real-time communication with stakeholders (etc.).

Furthermore, key-words or codes could be created in order to identify already existent red flags, such as: 1. False declarations (untruthful statements regarding agricultural land, crops, or livestock); 2. Falsified data in subsidy applications (e.g., quantities, quality, land usage); 3. False or manipulated identity (through use of fake or altered identity documents); 4. Inactive beneficiaries (subjects listed as beneficiaries who do not carry out actual agricultural activities); 5. Double funding (the same project or expenditure funded simultaneously by multiple programs or funds); 6. Inflated agricultural area (overestimation of cultivated or



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grazed land to obtain higher subsidies); 7. Mismatch between declarations and field checks; 8. Discrepancies between declared data and objective verifications (e.g., satellite imagery, inspections); 9. Unauthorized or undeclared subcontracting (outsourcing work or supplies to third parties without authorization or declaration); 9. Suspicious contract modifications (repeated changes to funded projects without adequate justification); 9. Incomplete or missing documentation (lack of invoices, receipts, or supporting evidence for declared expenses). 10. Anomalous financial flows (transactions inconsistent with agricultural activity or funded projects); 11. Misuse of funds (use of subsidies for non-eligible expenses or activities unrelated to agriculture); 12. Unusual concentration of beneficiaries (high number of applications from the same area or family group without clear justification); 13. Evasive or obstructive behavior during controls (refusal or unjustified delay in allowing inspections by authorities); 14. Frequent changes in ownership or address (subjects frequently changing property ownership or legal address to evade controls). 15. Inconsistent data across different sources (discrepancies between declared data, public registries, and administrative databases).

The comparative study underscores that the most fraud-sensitive funding areas include young farmers (with a +24% EU premium), environmental and climate-related goals (+13% within rural development), eco-schemes (25% of total direct payments), and small farms (10% of total direct payments). These categories could be prioritized as particularly urgent and included in the experimental design of a common alert mechanism, aimed at enabling consistent identification and monitoring.

3.2. Improvement of IT-Tools and national databases

This shift in the methodological question requires a significant improvement of the information exchange activity and, more generally, in the use of IT tools.

The early detection of fraud depends to a large extent on the quality of the information exchange systems adopted at the national and supranational levels as well as on the timeliness with which information-exchange is implemented. Depending on the Member State, digital strategies have already proven effective domestically, especially in the case of direct payments:



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as illustrated in each national report, almost every paying agency uses IT tools to quickly check applications for CAP funding. In addition, the use of such tools enables agencies to exchange data easily with other administrations and public entities, allowing for smooth cross-checking. At the cross-border level, however, much remains to be done.

A starting point might be to increase the use of ARACHNE, a risk scoring and data mining/enrichment tool developed by the European Commission¹⁰: this tool is used, indeed, for risk assessment and prevention, since it analyses data (such as, beneficiaries, projects and contracts) in order to identify risk indicators. It flags projects or entities that present a higher likelihood of irregularities or fraud, and helps authorities to target checks or audits before payments are made. Once the irregularity or suspected fraud has been identified, it can be reported in the IMS system.

Although the IMS System also plays a key role in risk assessment, it should be reminded that this former tool is specifically designed for reporting activities, while ARACHNE analyses data and potential risks.

Its universal use – most of all, if based on a homogeneous list of risk indicators, as illustrated before – could prove decisive for the EU-wide effective prevention and early detection of fraud. Indeed, when several countries are involved, it is crucial to rely on a uniform data mining tool to identify red flags when processing data from more than one EU Member State.¹¹

At the time being, many Member States already use ARACHNE.¹² However, it is still perceived as the least effective detection tool, especially when compared to other approaches, such as on-the-spot checks and audits, internal fraud reporting mechanisms, and fraud risk assessments of applicants and/or beneficiaries. This perception is largely corroborated by the

¹⁰ This IT tool is available to MS free of charge – and on a voluntary basis – in the areas covered by structural funds, such as the ESF and the ERDF, see further: https://employment-social-affairs.ec.europa.eu/policies-and-activities/funding/european-social-fund-plus-esf/what-arachne_en?prefLang=el

¹¹ J. Malan, I. Bosch Chen, M. Guasp Teschendorff, and E. Nacer, *Identifying Patterns of Fraud with EU Funds under Shared Management – Similarities and Differences between Member States*, Study requested by the CONT Committee, January 2022, pp. 41-45.

¹² In the 2014-2020 multiannual financial framework (MFF) programming period, 20 Member States already used ARACHNE and, in the current programming period, two more countries have started using the tool. The majority of managing authorities use ARACHNE in conjunction with other domestic IT tools. This is the case, for example, for the Italian platform PIAF-IT; see further <<https://www.affarieuropei.gov.it/it/attivita/lotta-alle-frodi-allue/piaf-it/>>.



fact that managing authorities face difficulties in collecting data (excessive administrative burden, also related to the multiplication of IT systems), accuracy issues (high number of false positives), and legal barriers (for instance, national data protection laws).¹³ In addition, data interoperability among ARACHNE, the Irregularity Management System (IMS), and EDES (Early Detection and Exclusion System)¹⁴ as well as OLAF's and other national databases should be further developed.

To properly address these points, the introduction of a distinct EU regulation in this field seems necessary. Only a broader application of ARACHNE and a consistent increase in the available data can ensure the system's proper functioning, in turn reducing the shortcomings in the accuracy of the results. This would require a specific legal duty to make the use of ARACHNE compulsory¹⁵ and clear, binding rules on data interoperability among EU and national databases.

Moreover, such a regulation should also provide for the extension of the use of EDES to the area of shared management funds, as this would greatly contribute to the early exclusion of unreliable entities from accessing EU funds.¹⁶

Blacklisting mechanisms should be also implemented to identify recurrent non-compliant actors relying on information and data collected through the use of ARACHNE. This tool could be effectively linked to other prevention strategies directed to account irregularities or suspected frauds to specific subjects.

A more homogeneous use of the ARACHNE tool could indeed facilitate the identification of companies operating in different countries under false names or identities. The detection of such actors simultaneously active across multiple countries—when properly reported and

¹³ See A. Nugent and A. Schwarcz, *Instruments and Tools at EU Level and Developed at Member State Level to Prevent and Tackle Fraud – ARACHNE*, Briefing requested by the CONT committee, October 2022, pp. 2-3.

¹⁴ For EDES, see European Commission, "Early Detection and Exclusion System (EDES)" <https://commission.europa.eu/strategy-and-policy/eu-budget/how-it-works/annual-lifecycle/implementation/anti-fraud-measures/edes_en>.

¹⁵ The EU Commission is clearly heading in this direction: see the 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), para. 29.

¹⁶ Indeed, this could make it possible to have a database of cases of fraud with details on the individuals involved and company names. See further: Nugent and Schwarcz, *cit.* (n. 39), pp. 3-4.



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analyzed through IT tools—could reveal their connection to the same criminal organization or even indicate they are the same entity.

Finally, well-defined rules would also be essential to ensuring full compliance with criminal procedural guarantees and with principles governing the use of artificial intelligence.¹⁷

¹⁷ As set out in the new European legal framework on the matter: Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act), OJ L, 2024/1689, 12.7.2024.