



IJP PORTUGALENSE INSTITUTE
FOR LEGAL RESEARCH

The “PRESENT” Project

Enhancing the Right to be Present

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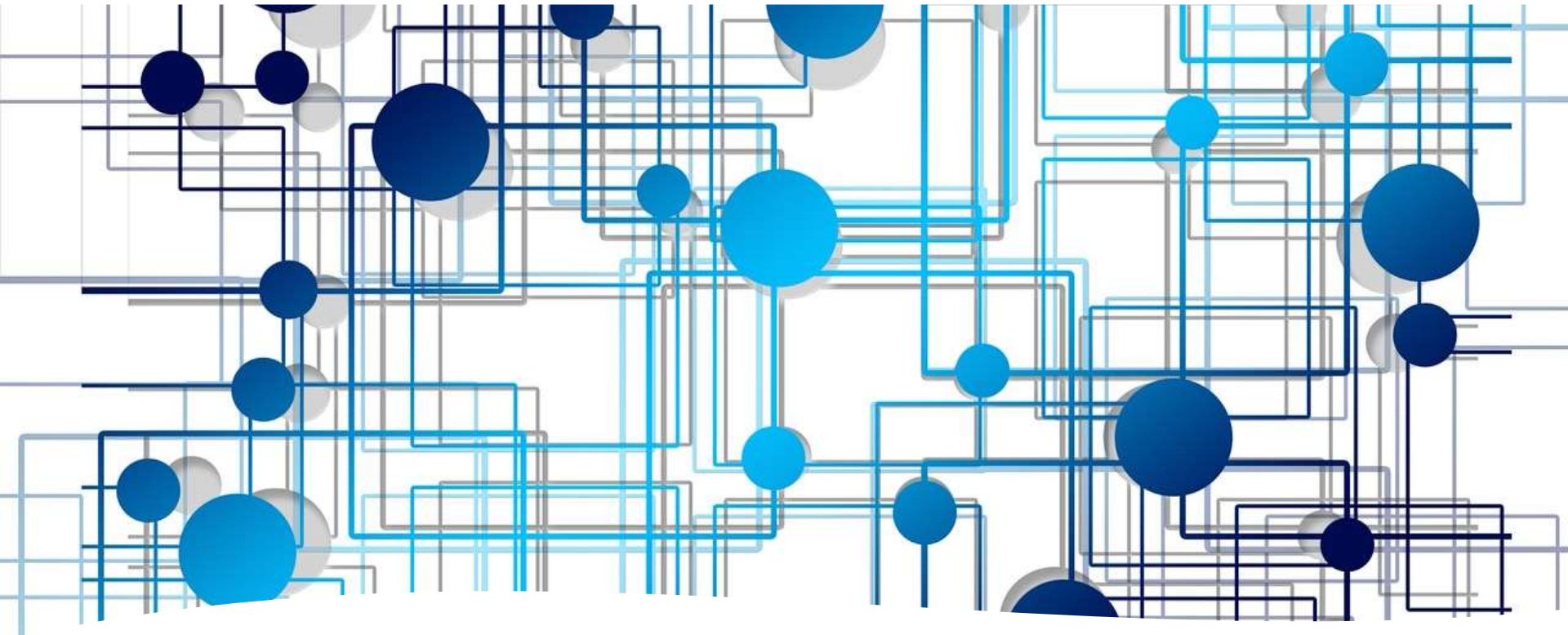
Financing

The project is implemented with the support of the JUSTICE Programme of the European Commission under Grant Agreement № 760482.



Partners

Six organisations from six countries, among which two universities, two institutes and two research centres;





Partners



LAW AND INTERNET
FOUNDATION
RESEARCH CENTER FOR LAW AND
INFORMATION TECHNOLOGIES

Law and Internet Foundation,
Coordinator of the project

Vienna Center
for Societal
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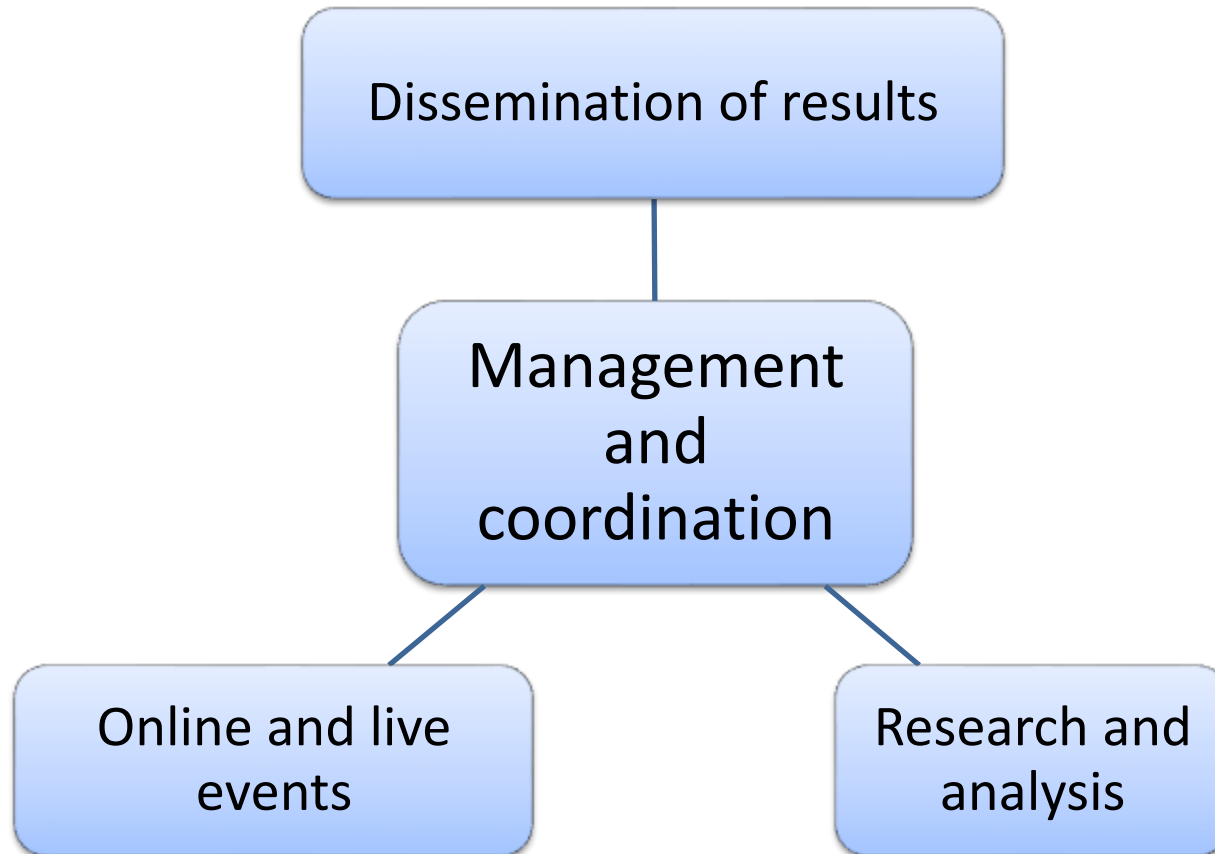


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Goal of the project

- The PRESENT project addresses the direct need of training and receiving insight on the necessary changes in the legislation of European Union Member States (MS) in order to transpose Directive (EU) 2016/343.
- The PRESENT partnership unites 6 partners from 6 countries (Bulgaria, Austria, Romania, Slovakia, Cyprus and Portugal);
- Under the coordination of Law and Internet Foundation, the PRESENT project provides training to legal practitioners, prosecutors, and judges, who will then contribute to the enhancement of the right to be present, as delineated in the Directive in each country.
- The PRESENT project aims at providing a comprehensive comparative analysis for all partner countries' legislation in respect to the *right to be present in trial* in criminal proceedings.

Structure and organization



Activities

Research

- Comparative analysis, based on data collection and evaluation of legislation
- Best practices
- Paper, based on the project's results

Events

- National seminars in the partner countriesКръгли маси
- Webinars
- Final conference

Dissemination

- Online platform of the PRESENT project
- Social media
- Articles

National Seminars

The national seminars are organised in each participating country in order to gather lawyers, judges, prosecutors and academics and present to them the project's results.



Webinars

The webinars will contain interactive presentations on the project's results and will give floor for discussions and questions



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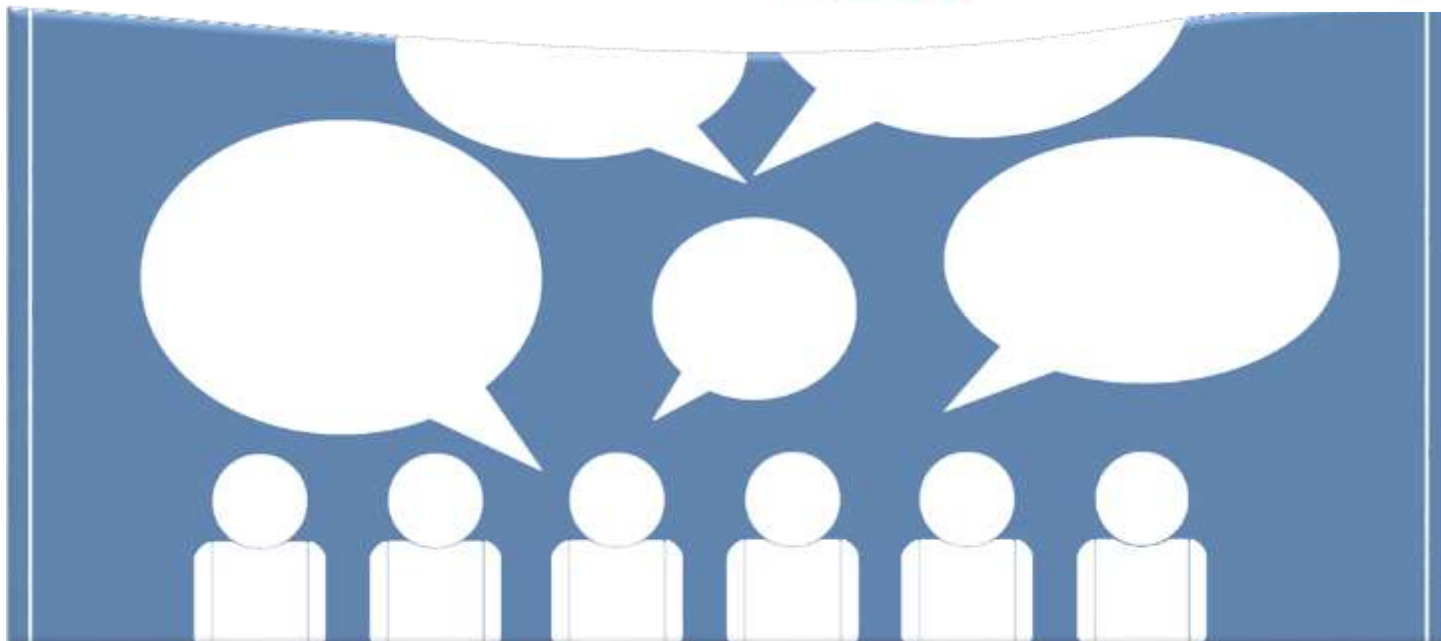


Round tables

The round tables will permit for decision and law makers, members of the civil society and human rights institutes to discuss the effectiveness of the safeguards and remedies for protection of the right to be present and the need for legislative amendments.



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Directive 2016/343

- The Directive establishes concrete rights of the accused in order to enhance the protection of the right to be present in the criminal proceedings and to guarantee the compliance with the presumption of innocence.

The PRESENT Project is focused on the right of the accused to be present in the criminal proceedings in 6 countries – Austria, Bulgaria, Cyprus, Portugal, Romania, Slovakia

Rights under Directive 2016/343



Explicit conditions, under which the Member States are permitted to conduct proceedings in the absence of the accused



Informing the person of the possibility to challenge the decision and of the right to a new trial or to another legal remedy

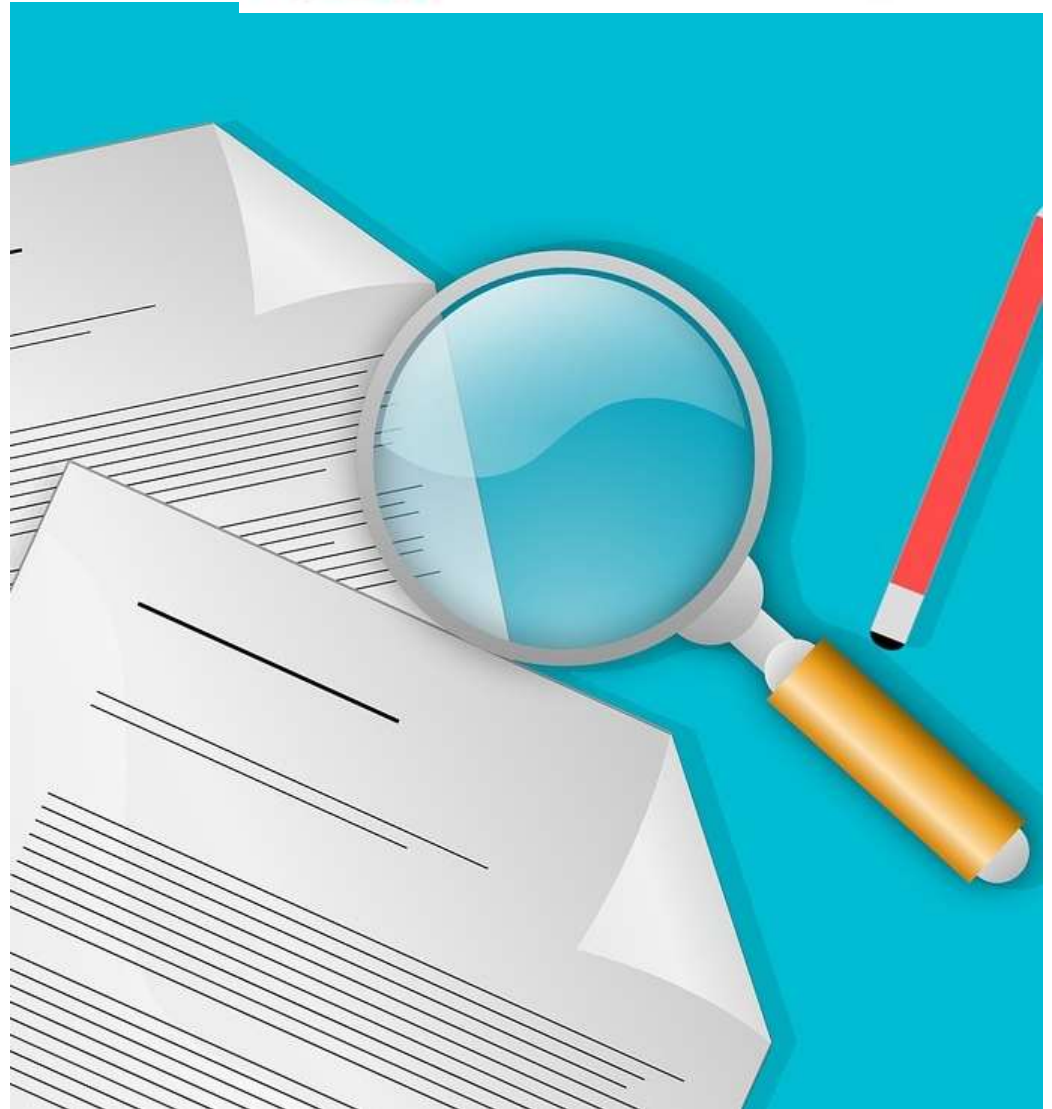


Right to a new trial or to another legal remedy; effective participation in the proceedings and to exercise the rights of the defence.

Key conclusions on the application of the Directive



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Key findings

- The Directive is applied to a great extent in all participating countries.
- Portugal is the only country where the national legislation fails to comply with the directive's minimum standards;
- None of the participating countries introduced cardinal changes in their legislation after the entry into force of the Directive.



Summoning

- Most participating countries have detailed procedures for summoning and delivering documents;
- In Portugal the summoning is performed via regular mail and there are no means for determining whether the summoned has received it.
- The Bulgarian practice to perform diligent search ensures a wider protection of the right to be present;
- From the examined countries, only the Austrian legislation contains explicit provisions for waiving the right to be present;



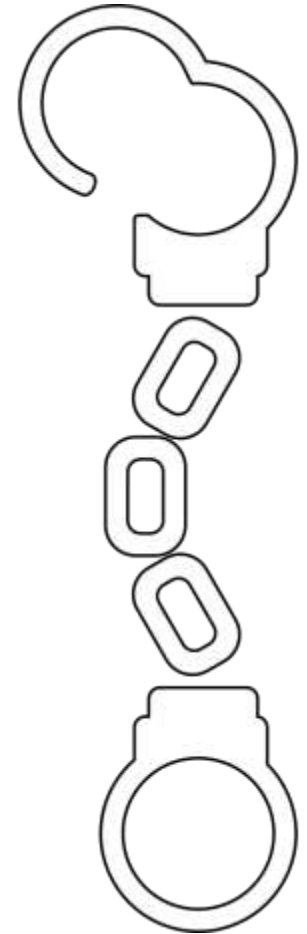
Trials in the absence of the accused

- With the exception of Portugal and Cyprus the remaining 4 MS comply with the minimum standards set forth in the Directive regarding the conditions under which a trial *in absentia* can be conducted;
- In all examined countries the Court makes an assessment whether the trial may be conducted without the participation of the accused.



Legal remedies, right to a new trial

- In all participating countries the convicted has the right to a new trial under certain conditions;
- Overall, the examined countries do not have explicit provisions in their legislation to fulfil the requirements of the Directive stating that the convicted is to be informed upon his apprehension of all legal remedies and the possibilities for a re-trial.





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Thank you for your attention!



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