THE EPPO/OLAF XIV

Compendium of National Procedures

Desktop Codes on the Procedural Law of the Member States with Annotations by National Experts

Pierre Hauck and Jan-Martin Schneider

Ireland

The EPPO/OLAF Compendium of National Procedures

Volume XIV – Ireland

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Desktop Codes on the Procedural Law of the Member States
with Annotations by National Experts,
Volumes I (Austria) – XXVII (Sweden)

Volume XIV – Ireland

Prof. Dr. Pierre Hauck LL.M. (Sussex)
University of Giessen

Dr. Jan-Martin Schneider
University of Giessen

Assisted by

Nur Sena Karakocaoğlu,
Sophie Meyer
and Alastair Alexander Laird

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Pierre Hauck
Jan-Martin Schneider

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Dr Pierre Hauck LLM (Sussex) is Professor of Criminal Law at the Justus Liebig University of Giessen, Dr Jan-Martin Schneider, Nur Sena Karakocaoğlu and Alastair Alexander Laird are research assistants there.

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Prof Dr Christoffer Wong (Sweden)

* The Lithuanian chapter was also revised by a national expert. However, due to his or her prominent professional position, this person does not wish to be named so as not to give the impression that the chapter reflects the official position of the Lithuanian state authorities. Nevertheless, we thank this person very much for this valuable contribution.

Preface and Acknowledgements

Every year, millions of euros of taxpayers' money are lost to fraud against the European Union budget. The fight against fraud has therefore been a key element in protecting the Union's financial interests for decades, and it still is. Since then, many different political and legal approaches have been taken to create a secure situation.

In essence, this financial protection by way of fighting crime is nowadays not only provided by the national judiciary, but also to a significant extent by the EU's own investigative bodies of the European Public Prosecutor's Office (EPPO) and the European Anti-Fraud Office (OLAF).

These two authorities work on the basis of their own EU regulations, each of which has in common to refer to the national legal situation with regard to the conduct of investigations. This concerns the law of the EPPO as a whole, insofar as the EPPO Regulation in Art. 30 para. 1 and para. 4 refers to nationally to be created (para. 1) or nationally existing powers (para. 4). This also applies to OLAF's right to carry out so-called external investigations, which are so important, in the event that an economic operator refuses to participate in the investigation, so that in this case it is not Union law but national law that forms the basis for the investigation (cf. Art. 3 para. 6 OLAF Regulation).

However, these references to national law are not enough; the problems of applying the law are only just beginning: Knowledge of national rules is usually reserved for those familiar with the national legal system, and at the level of the EU authorities these are very few. EU authorities, including the investigative authorities in question here, are rather characterized by the fact that they are made up of many employees from the most diverse member states. It is true that for both authorities, certain mechanisms (namely the EDPs as part of the EPPO and the AFCOS for OLAF) have been put in place to ensure that national legal competence is conveyed. But by and large, the respective national investigative procedure law remains a closed book in terms of criminal procedure or administrative law, not to mention the language barrier that threatens to become insurmountable for most people within the EU when seeking access to the law of other countries.

This publication series aims to remedy these shortcomings. It presents the law of criminal procedure and administrative investigation for all 27 Member States in English and in the language of the Member State. It thus provides easy access to the procedural rules of a foreign legal system, which are so important for EU investigative work. However, this presentation does not stop there, but explains these national rules, which are printed in bilingual form, from a competent source, namely from national experts. In this way, an explanatory work has been created that clearly ensures access to and understanding of foreign areas of law in the field of criminal procedural and administrative fraud investigations.

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Fair comments and suggestions for improving the work are always welcome at eppo.olaf@web.de.

Giessen/Germany, in November 2025
Pierre Hauck & Jan-Martin Schneider

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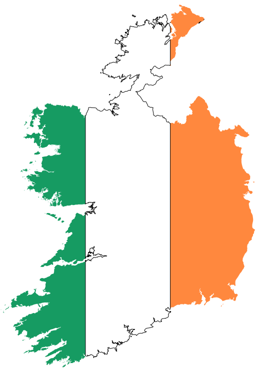

Executive Summary

This volume on Ireland forms part of the EPPO/OLAF Compendium of National Procedures and is designed as both a structured statutory collection and a short analytical study of Irish criminal procedure in PIF-matters i.e. statutory and Common law offences affecting the financial interests of the European Union. It is conceived as a quick practical and statutory and doctrinal reference tool for any practitioners, especially those of the competent Ministries, the Director of Public Prosecutions (DPP), future IE-European Delegated Prosecutors, OLAF officials, Seconded National Experts from the island, members of An Garda Síochána (including the Garda National Economic Crime Bureau), the Criminal Assets Bureau, or the Revenue Commissioners (including Customs and Indirect Taxes and VAT investigation units), officials of the Office of the Director of Corporate Enforcement, competent authorities dealing with mutual legal assistance and European Arrest Warrant requests, as well as Irish managing and paying authorities responsible for EU funds, and criminal defence practitioners engaged in investigations concerning EU fraud, corruption, VAT carousel schemes, revenue offences and other crimes affecting the financial interests of the Union.

Part A collects and systematises the relevant Irish legislation governing criminal investigations, providing a consolidated desktop reference to the statutory framework applicable to fraud, customs, tax and subsidy-related offences.

Part B outlines the structure and substantive focus of the chapter, explaining its methodological approach and the interaction between Union law and Irish domestic law.

Part C examines Scenario 1, addressing the legal framework applicable where Ireland does not participate in the European Public Prosecutor's Office and analysing how co-operation between the EPPO and Irish authorities would function in practice. Part D then presents Scenario 2, offering a comprehensive collection of both Union law and Irish law governing criminal investigations into EU fraud offences. This section identifies the competent authorities, the applicable procedural provisions, and the operational

stages of investigations, while also addressing the institutional and procedural implications that would arise were Ireland to join the EPPO.

Part E provides structured hypothetical considerations designed to test the interaction between EU and national law in complex investigative settings. It concludes with a systematic presentation of the powers of Irish criminal investigation authorities including the Criminal Assets Bureau, An Garda Síochána, and the prosecution services and sets out the essential procedural rights and safeguards applicable to suspects and defence lawyers in customs, tax and subsidy fraud cases.

Part F is a compendium for OLAF investigations in Ireland and focuses in particular on the powers of Irish authorities in support of OLAF in on-the-spot checks carried out pursuant to Regulation (Euratom, EC) No 2185/96, relevant jurisprudence, and national implementing provisions. This section maps the institutional landscape of Irish authorities acting as OLAF's national partners in external investigations and clarifies the procedural framework governing cooperation.

Each of the two main parts is preceded by an introductory section explaining the relationship between Union law and Irish national law, emphasising their complementary operation in the protection of the Union's financial interests.

As Ireland has a very long coast, the Irish Tax and Customs Office (the Revenue) has various duties to fulfil on behalf of the EU and the internal market. Irish Tax and Customs operates and controls Ireland's 3,173 kilometres of coastline, which is immense. The special Revenue's Maritime Unit controls the duties. A major concern and a PIF offence or an illegal irregularity is tobacco smuggling and oil or fuel laundering. If such an irregularity occurs or even an offence is committed, Irish authorities need to protect the EU's budget by fighting the offence or irregularity with its own authorities –despite not being part of the EPPO. Irish authorities need to cooperate with OLAF.

Experts and authors for the introduction: *Noelle Kenny* and *Claire O'Reagan* (DPP), Compilation and research of the EPPO and OLAF Parts (A–F) by Prof. Dr. *Pierre Hauck* LL.M. (Sussex), Dr. *Jan-Martin Schneider* (Dipl.-Jur. MR; RA, University of Gießen)/ *Alastair A. Laird* (RA, University of Gießen)/*Nur Sena Karakocaoğlu* (Dipl.-Jur. FFM; RA, University of Gießen) with the help of the experts.
Compilation and research of the OLAF-Part F arranged with the help of Questionnaire experts/organizations (AFCOS, OAFCN) consulted and submitted research material: Public AFCOS Report, OLAF-Reports, Online-Meetings for Updates.

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Abbreviations

ACAs	Administrative Cooperation Agreements
ACCA	The Association of Chartered Certified Accountants
AFCOS	Anti-fraud coordination service
AFSJ	Area of Freedom, Security and Justice
AMIF	Asylum, Migration and Integration Fund
AML	Anti-Money Laundering
BMVI	Instrument for Financial Assistance in
CC	Criminal Code
CCBE	Council of Bars and Law Societies of Europe
CF	Cohesion Fund
COCOLAF	Advisory Committee for the Coordination of Fraud Prevention
CPA	Institute of Certified Public Accountants in Ireland
CPC	Criminal Procedure Code
EAFRD	European agricultural fund for rural development
EAGF	European agricultural guarantee fund
EAW	European Arrest Warrant
EC	European Commission
ECA	European Court of Auditors
ECHA	European Chemicals Agency
ECHR	European Convention of Human Rights
ECtHR	European Court of Human Rights
ECJ	European Court of Justice (now CJEU)
ECJN	European Judicial Network against Cybercrime

ECON	European Parliament's Committee on Economic and Monetary Affairs
ECP	European Chief Prosecutor
EDF	European Development Fund
EDMS	Electronic Document Management System
EDO	European Data Officer
eDP	ePrivacy Directive
EDP	European Delegated Prosecutor
EEAS	European External Action Service
EEC	European Economic Community
EIO	European Investigation Order
eISB	electronic Irish Statue Book
EJN	European Judicial Network
EMFAF	European Maritime, Fisheries and Aquaculture Fund
EP	European Prosecutor
EPP	European Public Prosecutor
EPPO	European Public Prosecutor's Office
ERDF	European Regional Development Fund
ESF+	European Social Fund Plus
ESIF	European Structural and Investment Funds
ESMF	European Shared Management Funds
EUACR	EU Anti-Corruption Report
EUCFR	Charter of Fundamental Rights of the European Union
EuCLR	European Criminal Law Review
EUROJUST	European Union Agency for Criminal Justice Co-operation
EUROPOL	European Police Office

FIU	Financial Intelligence Unit (Embedded within the GNECB)
GC (aka CFI ex-2009)	General Court of the EU / formerly Court of First Instance
GNECB (formerly GBFI)	Garda National Economic Crime Bureau
IBOAs	Institutions, Bodies, Offices, and Agencies
ICAI	Institute of Chartered Accountants in Ireland
IMS	Irregularity Management System
IRP	Internal Rules of Procedure
ISF	Internal Security Fund
JITs	Joint investigation teams
MEP	Member of European Parliament
NAMA	Irish National Asset Management Agency
OAFCN (-Member)	OLAF Anti-Fraud Communicators' Network
OECD	Organisation for Economic Co-operation and Development
OLAF	European Anti-fraud office
PC-OC	Committee of Experts on the Operation of European Conventions on Co-Operation in Criminal Matters
PIF	Protection of the EU's Financial Interests
SNE	Seconded National Expert
TFEU	Treaty on the Functioning of the European Union
UCLAF	Anti-Fraud Coordination Unit [*unité de coordination de la lutte antifraude*]
VAT	Value Added Tax

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Tables & Figures

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Text passages highlighted in grey show Union law.
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'Trainee' was missing prior to Attorney at Law for Austria. And, we thank Sean Aherne to establish contacts and offer help in the beginning. For any references to mentioned EU law or manuals, internal documents etc. see for further regulations and statutes on the EPPO and OLAF their websites and e.g. the EUROPEAN PUBLIC PROSECUTOR'S OFFICE EPPO, *Legal Framework Handbook*, 2025, Luxembourg: Publications Office of the European Union, 2025. Accessed 31 March 2026.

Language and Legislation Notice:

Regarding Irish legislation, the original Gaelic (Irish) text was consulted only where strictly necessary for specific contextual or interpretive clarification. In all other instances, the English statutory wording has been utilized, adhering to the official versions provided by the Irish Statute Book and the Law Reform Commission. First Official Language: Irish (Gaeilge) is recognized as the national and first official language of Ireland. Second Official Language: English is recognized as a second official language. Legislation: Acts of the Oireachtas (the Irish Parliament) are published in both Irish and English. If there is a conflict or discrepancy between the two official versions, the text in the Irish language prevails under constitutional law. Official Names: Government bodies, titles, and institutions frequently use their Irish names by default in English contexts (e.g., Oireachtas for Parliament, Taoiseach for Prime Minister, and Garda Síochána for the police force).

A. General Collection of Material for Part E and Part F

I. Special Introduction: Ireland’s Position on EPPO

By *Noelle Kelly* and the assistance of *Claire O’Reagan* Dublin

Ireland, which is **part of the EU** since **1st January 1973**[1], initially decided not to opt 1
into the EPPO Regulation in 2017 and is currently a non-participating Member State and **remains** the one and only “**predominantly common law country** in the EU”[2]. In October 2023, the Irish Government approved the **drafting of the General Scheme of EPPO Adoption legislation** which **would allow Ireland to join EPPO**. A formal decision to join EPPO has not yet been made, due to “major challenges” discussed in academia[3], however, preparatory work which includes significant legislative work is ongoing.[4]

1. Ireland’s Common Law System and Legal Framework

Given Ireland’s position as a common law jurisdiction it may be helpful to set out briefly 2
Ireland’s legal framework for the prosecution of criminal offences.

Ireland’s legal framework is grounded in the **Irish Constitution**, legislation and judicial 3
caselaw. Fundamental rights including fair trial rights are protected by **Art. 38.1** of the constitution. The **Prosecution of Offences Act 1974** established that responsibility for the enforcement of criminal offences rests with the Director of Public Prosecutions. Decisions to prosecute serious or “**indictable offences**” rests solely with the DPP. Decisions to prosecute less serious offences or “**summary offences**” is delegated for some matters to *An Garda Siochana* or **Ireland’s police force**. Some other statutory bodies also have summary prosecutorial powers, including the Corporate Enforcement Authority. Further information in relation to Ireland’s Prosecutorial system can be found at this link Criminal Justice System - Office of the Director of Public Prosecutions.

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* We thank both participants for the valuable insights and the online BigBlueBotton calls to talk the relevant aspects through as well as the updates on the politics and the Irish view on EPPO in 2024 and till November 2025.

[1] See Howlin 2025, p. 12; For the recent history and last century see Bartlett 2018, pp. 379–638 and for the complete history on Ireland see Smith 2018. Ohlmeyer 2018. Kelly 2018; only useful as historical source Kimber 1995.

[2] See Conway 2025, https://pifitalia.lex.unict.it/wp-content/uploads/2025/10/Prof.-Conway.pdf, slide 3. Accessed 31 March 2026. Considering Cyprus and Malta both have heavy influences, we can count them as secondary member States still applying certain common law as common legal heritage (see in both CNP volumes of the EPPO/OLAF CNP on the Logos Publishers OA Platform). [scil. added after manuscript completion by Hauck/Schneider, 02/2026].

[3] Conway 2025, https://pifitalia.lex.unict.it/wp-content/uploads/2025/10/Prof.-Conway.pdf, slide 3. Accessed 31 March 2026. [scil. added by Hauck/Schneider]. He names “ii) Historically more recent trend to separation of powers between police, prosecution, judiciary; (iii) Admissibility of evidence much more regulated, largely due to jury tradition.”

[4] Articulated by Minister for Justice *Jim O’Callaghan* during Oireachtas questions in February 2025 Ireland’s position on EPPO February 2025.

4 There are particular facets of Ireland's **common law system**[5] that might be helpful to highlight in the context of the largely civil law system common to the majority of Member States:

5
- Investigators, Prosecutors and Judges are all independent of each other and have separate functions.
- The Irish police carry out criminal investigations – they can seek legal advice from the prosecution service but exercise all investigative powers independently.
- Coercive police powers including search and surveillance are authorised by judges.
- Decisions to prosecute serious offences rest with the Prosecution who independently assess investigative files.
- Judges oversee the criminal trial are rule on matters of law, admissibility of evidence and fundamental rights – they do not hold investigative or prosecutorial powers.
- The adversarial court process allows for all of the evidence to be tested – the adversarial trial system of itself is central to the protection of fair trial rights of an accused person. Victims are not party to criminal proceedings; however, victims' rights are protected by the Criminal Justice (Victims of Crime) Act 2017 which ensures that victims receive support, information and protection during the criminal justice process. Accessed 30 October 2025.

2. Investigation and Prosecution of PIF Offences

6 As indicated above, the prosecution of serious offences is the responsibility of the **Director of Public Prosecutions**. Such decisions are based on investigative files received from the investigative agencies responsible for the investigations of financial crime including crime which falls under the PIF Directive.

7 Garda National Economic Crime Bureau (**GNECB**) are responsible for the investigation of financial crime in Ireland. Furthermore, the Revenue Commissioners retain investigative powers similar to An *Garda Siochana* for tax related offences. Like An *Garda Siochana*, the Revenue Commissioners can prosecute minor offences, however, in all indictable (serious) offences, a file must be submitted to the ODPP for a decision to prosecute.

8 There are also a **number of further independent bodies** who are tasked with separate functions to aid the criminal enforcement framework in relation to economic crime. These include the Corporate Enforcement Authority, The Competition and Consumer Protection Commission and the Central Bank of Ireland. Reports relating to **EU subsidy**

[5] See for a short history of the law in Ireland, https://www.courts.ie/visit-and-learn/history-of-the-law-in-ireland. And Sinder 2001, pp. 231–260. For the implementation of EU law see Hogan 2019; For more see Irish History online: https://h7.cl/1fwHC. Accessed 30 October 2025; Rodger et al. 2021, pp. 311–335.

fraud can also be investigated by Government Departments including the Department of Agriculture.

The **Criminal Assets Bureau** is responsible for the identification and confiscation of assets derived from criminal activity. CAB, established by the Criminal Assets Bureau Act of 1996, holds a broad range of investigative powers and pursues assets on the basis of a civil standard of proof – "the balance of probabilities". **9**

3. Legislation to implement PIF Directive

Criminal Justice (Corruption Offences) Act 2018 and the Criminal Justice (Theft and Fraud Offences) Act 2001 are the primary pieces of legislation which gave effect to the PIF Directive. **10**

The Criminal Justice (Theft and Fraud Offences) (Amendment) Act 2021 is the legislation which gave **effect to the PIF Directive**. This Act essentially amended the primary act related to Theft and Fraud, the Criminal Justice (Theft and Offences) Act 2001 and created a new offence (Section 42) of **fraud affecting the financial interests of the union**. The new legislation also created **corporate liability**[6] **for PIF offences** and created a new offence of misappropriation by a public official. **11**

4. Legislative Change to co-operate with EPPO

While Ireland initially did not opt into the EPPO Regulation, in October 2023, the Government approved the drafting of the General Scheme of legislation to allow Ireland to join EPPO[7]. While a formal decision to join EPPO has not yet been made, signing up to EPPO has been articulated as a Government commitment in the Programme for Government 2025. Legislative amendments were introduced in November 2023 to ensure that Ireland can fully cooperate with EPPO as a non-participating Members State. These changes were introduced through the **Miscellaneous Provisions Act 2024** which amended the Criminal Justice (Mutual Assistance) Act 2008.[8] **12**

[6] See Law Reform Commission 2022.
[7] Oireachtas question 2025 – referenced by Justice Minister O'Callaghan.
[8] Minister for Justice, Home Affairs and Migration answering Question 309 of Deputy Ken O'Flynn in "EU Bodies", Dáil Éireann Debate, Thursday - 16 October 2025: "I can advise the Deputy that, in the meantime, co-operation with the EPPO as a non-participating Member State is operational and working well, and legislative changes required to facilitate Ireland's cooperation with the EPPO are fully operational as of 1 November 2023. This was effected by way of amendments to the Criminal Justice (Mutual Assistance) Act 2008, which enables Irish-EPPO cooperation by creating a legal framework for EPPO to make requests for assistance directly to the State. Since then, there has been ongoing positive engagement with the EPPO in relation to the processing of mutual legal assistance requests."

II. Foreword to the Status Quo of the EPPO and OLAF in Ireland in 2025 and the Road (still) ahead

Hauck/Schneider/Karakocaoğlu JLU, University of Gießen

13 Handbooks for magistrates, police officers and lawyers have a long standing tradition.[9] And in times of (political or legal) change of common traditions, it is even more important to know the **main structures of a (EU-) prosecutorial and judicial system**, i.e. the **EPPO or OLAF system**. Becoming part of the **EPPO zone** when taking over the EU-Council Presidency 1st of January 2026, Irish officials might remember integrating into the EPPO/OLAF zone, is probably as complicated as setting up the DPP office in former times for the Irish Government.[10]

14 Thinking back to recent history, i.e. 14 June 2024 *James Browne*, Minister of State for Law Reform, International Law and Youth Justice then represented Ireland at a meeting of EU Justice Ministers held in Luxembourg and said: "Last October [2023], Ireland's Government approved the drafting of the **General Scheme of legislation to allow Ireland to join EPPO**. As this work advances, I am pleased that, in the meantime, Ireland's **co-operation with the EPPO** as a non-participating Member State is now operational and working well."[11]

15 He referred to October 2023 when the Irish Government approved the drafting of a General Scheme for an EPPO participation.[12] The Department of Justice has since reiterated that drafting is ongoing and the proposal remains on the Government's legislative programme. Main concern was formerly that **a departure from the common law model of investigation and prosecution would be impossible**. But where there is a will, there is a way, one could summarize the process since 2020.[13] Ireland now decided to opt in to the EPPO Regulation, which raised pertinent questions. In the meantime it has adopted in 2025 the General Scheme of the Criminal Justice (International Cooperation Office) Bill 2025 establishing a new Criminal Justice International Cooperation Office.[14]

16 Until formal participation takes effect one day probably, Ireland **operates still on a co-operation**, not participation process. This was the case from 1 November 2023, Part 7B ("*Assistance in Criminal Matters between the State and EPPO*", ss. 94F–94AX) was inserted into the Criminal Justice (Mutual Assistance) Act 2008 by the Criminal Justice

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[9] Gross and Adam 1924.
[10] See on its history Howlin 2025, pp. 23 et seq; on reasons of non-participating member states and possibilities of DG Just in the Commission to convince them legally see Schmeer 2025, pp. 255, 257 et seq.
[11] See Department of Justice, Home Affairs and Migration 2024.
[12] European Court of Justice 2025.
[13] The Law Society of Ireland, https://www.lawsociety.ie/gazette/in-depth/under-the-radar/. (Accessed 30 October 2025); See Glover 2022.
[14] See https://h7.cl/1knyn. Accessed 30 October 2025.

(Miscellaneous Provisions) Act 2023, recognising the EPPO as a competent authority for mutual legal assistance. Related co-operation statutes (including the Criminal Justice (Joint Investigation Teams) Act 2004) were aligned accordingly.[15]

Practically, this gave EPPO-led cases an MLA route in and out of Ireland, while full internal operation of Articles 26–33 EPPO Regulation (investigations, measures, cross-border execution, provisional arrest/EAW) can only be implemented in Irish law by the forthcoming participation Act, which is untitled till the day of writing this introduction (10/2025).[16] **17**

III. Looking back and Note on Working with the Compendium

This compendium on Ireland[17] is a study and at the same time most helpful whenever investigations of white collar crime[18] in **Irish-EU financial relationships**[19], so-called PIF offences for **EPPO, OLAF, AFCOS** or any national authority are lying ahead but no specific country among several possible ones has already been chosen, i.e. authorities have multiple options as to the question where to investigate. In the past academics have pointed again[20] and again[21] at the strong interconnection between national criminal procedural law and supranational requisites – while concentrating more and more on the indicators and aims of the EPPO Regulation nowadays: **18**

“The **functioning of the EPPO** is permeated by **extensive use of national law and the authorities of the Member States**. Therefore, the efficiency and effectiveness of the EPPO depend both on the proper functioning of the national judicial system and the clear division of competences in relation to national prosecutors. Regarding the first argument, two questions arise. The first is that the independence of the EPPO is hampered in several national systems, such as Belgium, France, and the Netherlands, where there is a hierarchical relationship between the prosecutor and the executive power, so that that legislative reform is now required regarding PIF investigations to preserve the autonomous exercise of the European criminal function. The second question relates to the intrinsic characteristic of the EPPO Regulation, which aims to unify – for the first

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[15] See https://www.irishstatutebook.ie/eli/2023/act/24/section/49/enacted/en/html. Accessed 30 October 2025.

[16] https://www.irishlegal.com/articles/ireland-to-opt-in-to-eu-justice-measures-by-default. Accessed 30 October 2025.

[17] For information on Ireland see https://www.nyulawglobal.org/globalex/ireland1.html; for constitutional questions see Forde and Leonard 2013, passim.

[18] For a monography in this area see McGrath 2019.

[19] Ireland has experiences with financial relationships within Great Britain, see Redmond 1898. D’Alton 1903, pp. 375 et seq.

[20] Vervaele 2003, pp. 113–139; Manacorda 2003.

[21] As early as 1994 et seq. cf. Hauck 2025, Chronology I–IV in the EU Fraud laws book; furthermore Ligeti 2013; Garamvölgyi et al. 2020.

time in EU law – the preliminary phase of criminal proceedings: the phase that goes from the beginning of the official investigations to the trial."[22]

19 The EPPO is a **supranational body**, but some regard the actions of the Commission in this area as too far-fetched or too-far from what is really needed i.e. more coherence for the existing Bodies & Agencies and not the constant creation of new ones:

"The Commission's belief in and hunger for **agentification and supranationalisation** is, honestly, worrisome. In addition to AMLA, the aforementioned JCU (Joint Cyber Unit) and of course the EPPO, it has proposed yet two other centralised bodies, i.e. a new Centre on Child Sexual Abuse Material (CSAM) and a Customs Agency, all with (supranational) ambitions into the sphere of criminal justice and law enforcement."[23]

20 Even if the point of the **academic discussion** cited above has a core of truth in it – it should not go too far without democratic consent, but as seen from a positive point-of-view the supranationalisation is more effective against organized crime than national strategies alone. And the **EPPO had democratic consent** already in 2009. The way towards establishing it was stony but the majority was convinced that it was the right tool to fight financial, customs and corrupt offences. The German *Bundesverfassungsgericht* therefore outlined in its **Lisbon Ruling from 2009**:

"Finally, the Lisbon Treaty allows the powers of Eurojust, a European Union agency with legal capacity to coordinate national prosecutors in cases of serious cross-border crime (cf. Council Decision of 28 February 2002 establishing Eurojust to strengthen the fight against serious crime , OJ No. L 63/1). In the ordinary legislative procedure, Eurojust can in particular be given the task of initiating and coordinating criminal investigations (Art. 85 Para. 1 subpara. 2 letter a TFEU), with formal procedural acts being reserved for the national prosecution authorities (Art. 85 Para. 2 TFEU). Based on Eurojust, a European Public Prosecutor's Office can also be set up to combat crimes against the financial interests of the European Union by unanimous decision of the Council and after the consent of the European Parliament (Art. 86 Para. 1 Subsection 1 TFEU). In this case, ***it would be responsible for the criminal investigation and prosecution up to the indictment before the national courts*** (Art. 86 Para. 2 TFEU)."[24]

[22] Sandulli et al. 2021; furthermore Ligeti 2020, pp. 33–53.
[23] Vermeulen 2022.
[24] BVerfG [German Federal Constitutional Court], Urteil vom 30.06.2009 - 2 BvR 182/09 = openJur 2010, 3085: "Finally, the Treaty of Lisbon makes it possible to extend the powers of Eurojust, a European Union agency with legal personality responsible for coordinating national public prosecutors in cases of serious cross-border crime (see Council Decision of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime, OJ No. L 63/1). Eurojust may, in particular, be assigned the task of initiating and coordinating criminal investigations (Article 85(1)(2)(a) TFEU) in accordance with the ordinary legislative procedure, with formal procedural acts remaining the preserve of national prosecuting authorities (Article 85(2) TFEU). On the basis of Eurojust, a European Public Prosecutor's Office may also be established by unanimous decision of the Council and after obtaining the consent of the European Parliament to combat crimes affecting the financial interests of the

In the meantime, the **EPPO has obtained its first judgments** (see e.g. Cases → German CNP-Volume). This shows that the investigation framework of the EPPO is basically working. Now it's about improving them as best as possible and getting everything. Every investigation begins with reading the law and every action on national soil that interferes with the suspect's rights must be conducted according to the principle of *nulla poena sine lege* and *nulla inquisitio sine lege*. **21**

This is the purpose of this volume, which is structured as follows for the reader and judicial staff. **22**

IV. Collection of Important Case Law Concerning Ireland

The first section of this volume on Ireland enables **quick references** to Part E on the EPPO and Part F on OLAF useful for **any liaison officer of OLAF**, seconded national expert, case analyst, EDP, OLAF Units, **AFCOS staff** or OAFCN members and collects cases[25], institutions, and sources of Irish law in relation to the two EU institutions, that are analysed and cited frequently within the volume. **23**

1. Judicial Decisions Concerning the EPPO Regulation

The aim of this section is to present and analyse case law concerning criminal investigations within the scope of the PIF acquis in Ireland, as well as judicial decisions relevant to the cooperation between the European Public Prosecutor's Office (EPPO) and the Irish authorities. **24**

Table 1: Potential EPPO-related Jurisprudence

Potential relevance	Judgement, ECLI etc.	Content
Art. 22–27	*DPP v Daniel Munteanu* [2022] IECA 62 (Court of Appeal, 8 March 2022).	Dismissed appeal, Count of participating in a criminal organisation contrary to s. 72(1)(a)(ii) and s. 72(2) of the Criminal Justice Act 2006, as substituted by s. 6 of the Criminal Justice (Amendment) Act 2009, sixteen counts of possession of a false instrument(or a material designed or adapted to create

European Union (Art. 86(1) subparagraph 1 TFEU). In this case, it would be responsible for criminal investigations and prosecutions, including bringing charges before national courts (Article 86(2) TFEU)."

[25] Be aware that Ireland relies on common law but has a necessary coexistence with constitutional interpretations, ECtHR law and EU law, see for an analysis post-Brexit Heffernan L 2020 and we assume that precedents from Malta and Cyprus, where the EPPO already acts since 1.6.2021 might be useful for Irish courts as well as these two EU MS have a legal tradition, which is quite similar in some areas.

		one)contrary to s. 29 of the Criminal Justice (Theft and Fraud Offences) Act 2001, and eleven counts of theft contrary to s.4 of the Criminal Justice (Theft and Fraud Offences) Act 2001.
Art. 27	*DPP v Simon Gold* [2021] IECA 160 (Court of Appeal, 2 June 2021).	Dismissed appeal against conviction; of counts involving money laundering, deception, having custody or control of a false instrument and using a false instrument.
Art. 22–25	*Citywest Logistical Ltd (formerly known as Cassidy Wines Ltd) v The Revenue* Commissioners [2018] IEHC 18 (High Court, 12 January 2018).	The High Court had to decide whether the companies were legally liable for Irish excise duties because French and Spanish authorities had not endorsed the required AAD (Accompanying Administrative Document) on alcohol shipments sent from Ireland.
Art. 22–25	*Creaven v Criminal Assets Bureau* [2004] IESC 92 (Supreme Court, 29 October 2004).	VAT fraud carousel, warrants, invalid, district court judge changed jurisdictions and issued several warrants, which were not in his jurisdiction.
Art. 22–25	*[Appellant] v Revenue Commissioners* [2019] IEHC 524 (High Court, 16 July 2019).	"The specific question is: "Whether, upon the facts proved or admitted, [as described at para. 4, with the documents listed at para. 7 and exhibited in the case stated], I was correct in law to determine that clamping release fees are not subject to VAT in accordance with [s. 3 of the Value-Added Tax Consolidation Act 2010 ("the 2010 Act") and Article 2 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax O.J. L347/1 11.12.2006 ("the 2006 Directive")]'."
Art. 31–32	*Minister for Justice and Equality v I.S.* [2015] IEHC 36 (High Court, 12 January 2015).	European arrest warrant dated the 17th January, 2011, Republic of Poland (hereinafter "Poland") seeks surrender, offence contrary to articles 286(1),

		270(1) and 297(1) of the Polish Penal Code, in conjunction with article 11(2) of the Polish Penal Code, involving "fraud, forgery of documents and defrauding credit", EU interests, E.2.E: "deception in the amount of PLN 76,760 which converts to approximately €19,000". s.16(1) of the Act of 2003, directing the surrender of the respondent to such person as is duly authorised by the issuing state to receive him, strong public interest in the respondent's extradition; Art. 8 ECHR.
	Minister for Justice and Equality v K.L. [2013] IEHC (Record Nos. 2011 No. 48 Ext; 2011 No. 49 Ext; 2012 No. 111 Ext; High Court, 31 July 2013).	EAW, Poland, fraud to the detriment of the EU; first and second warrants are offences of moderate seriousness in the Court's view, Warsaw District Court Mokotow; e Court accepts that she has six children, a number of whom are still minors; "alternative care arrangements can and will be put in place"; e Court has concluded that neither the private interests of the respondent, nor those of the children concerned, nor those of the whole family considered cumulatively, are sufficient to outweigh the strong public interest in this particular respondent's extradition.
Art. 31–33	*Minister for Justice & Equality v Zylka* [2020] IEHC 357 (High Court, 17 July 2020).	EAW, Poland; offence of Art. 276 of the Penal Code.
Art. 31–33	*Minister for Justice and Equality v Schoppik* [2018] IEHC 584 (High Court, 8 October 2018).	EAW, Czech authorities, alleged tax evasion, loan fraud, VAT fraud.

Art. 31–33 **Art. 31–33**	*Devlin v Minister for Justice* [2008] IEHC 12 (High Court, 24 January 2008). *Minister for Justice and Equality v Vasile-Alin Jelecutean* [2021] IEHC 375 (High Court, 19 May 2021).	EAW, Northern Ireland, medical conditions. EAW, Germany, fraud; Grand Criminal Chamber of the Regional Court of Augsburg, unlawfully traffic in stolen vehicles, criminal gang.
ECJ **Art. 325 TFEU; Art. 30–33 EPPO Regulation**	Court of Justice of the European Union, *MA* (Case C-202/24) Judgment of 29 July 2024, EU:C:2024:649.	While the EPPO was not involved in this case, the decision has broader implications for the protection of the EU's financial interests: The ruling clarifies the conditions under which EU Member States can execute arrest warrants issued by the UK, emphasizing the need to protect fundamental rights. This ensures that cooperation in criminal matters, including those related to financial crimes affecting the EU's interests, is conducted with due regard for individual rights. The CJEU examined whether the surrender would breach fundamental rights, specifically the principle that offences and penalties must be defined by law, as enshrined in Article 49 para 1 of the Charter of Fundamental Rights of the European Union. The Court concluded that the executing judicial authority must assess whether the legal changes in the requesting state (the UK) would lead to a serious risk of a breach of fundamental rights of the person concerned. If such a risk is established, the surrender should not proceed.
	DPP v Campbell [2014] IECA 15 (Court of Appeal,	Irish Court of Appeal addressed the undue leniency of a suspended sentence for tax offenses, ultimately imposing an immediate custodial sentence. The court emphasized that in

		cases of serious, deliberate tax evasion, general deterrence outweighs personal circumstances and rehabilitation. While based on the Taxes Consolidation Act 1997, the ruling is considered relevant for interpreting new EU fraud offenses due to its discussion of a taxpayer's "trustee" role for the state concerning VAT, the prioritization of deterrence, and the significance of cooperation with investigations, establishing a benchmark for severe penalties in large-scale tax fraud cases.
	DPP v. McAuley (2015) [2016] IECA 173	The respondent, Ms. McAuley, was a credit controller who stole a total of €132,355.20 from her employer, Nordzucker Ireland Ltd, between July 2013 and February 2014. She pleaded guilty to three counts of theft, contrary to Section 4 of the Criminal Justice (Theft and Fraud Offences) Act 2001. The trial judge imposed three concurrent two-year suspended sentences, conditioned on full restitution being made over a ten-year period. The DPP appealed, arguing that the judge failed to give adequate weight to the substantial amount stolen and the breach of trust involved, and that a non-custodial sentence was an error in principle for such a serious offense. The Court of Appeal had to determine if the original sentence was unduly lenient.
Art. 30 EPPO Regulation	*Yavor Poptoshev v DPP* [2025] IESC 47 is a landmark Irish Supreme Court decision on digital search	In January 2024, Gardaí obtained a District Court warrant under **s 48** of the **Criminal Justice (Theft and Fraud Offences) Act 2001** to search Mr Poptoshev's home and seize computers for evidence of major fraud.

	powers during serious theft and fraud investigations.[26]	When asked to provide the passcodes under **s 48(5)(b)(i)**, he refused and was charged under **s 49(1)(c)** for non-compliance. The Supreme Court held that compelling a suspect to disclose a password **does engage** the privilege against self-incrimination, but the statute is constitutional because the **act of disclosure cannot be used as evidence** against the suspect only the **pre-existing data** on the device may be relied upon. The Court emphasised that this power is tightly confined to **judicially authorised warrants**, serious offences, and proportionality as required by **Quirke**. The appeal was dismissed and the validity of ss 48–49 confirmed and former case law cited[27].
PIF Acquis offences related Decisions		
Art. 22–25, Art. 3	*DPP (At the Suit of the Revenue Commissioners) v Fitz-*	Tax fraud; mandatory penalties and judicial review .
2017/1371	*gerald* TCA 1997 s 1078 [2020] IEHC 476	
Art. 27	*Director of Public Prosecutions v O'Mahoney* & Anor TCA 1997 s 1078	Statutory limitation period for tax fraud.
Art. 22–25	*Attorney General v Oldridge* Common law fraud equivalent [2000] IESC 29	Fraud equivalence and coverage
Art. 33	*Criminal Assets Bureau v McCormack* (Approved)	Asset forfeiture case examining evidence of unlawful proceeds

[26] The Director of Public Prosecutions, the Commissioner of An Garda Síochána, Ireland, and the Attorney General On appeal from: [2024] IEHC 721 Judgment delivered on 24 November 2025 [2025] IESC 47, see https://ww2.courts.ie/acc/alfresco/5c15b69f-bc73-488c-ad6f-1a29f57a89cc/2025_IESC_47%20Summary.pdf/pdf/1#view=fitH.

[27] See *Entick v Carrington* (1765) 95 ER 807 (KB); *People (DPP) v Quirke* [2023] IESC 5, [2023] 1 ILRM 225; *Heaney v Ireland* [1996] 1 IR 580, [1997] 1 ILRM 117; *Re National Irish Bank Ltd (No 1)* [1999] 3 IR 145, [1999] 1 ILRM 321; *DPP v Gormley* [2014] IESC 17, [2014] 2 IR 591; most influential *Saunders v United Kingdom* (1997) 23 EHRR 313; *Funke v France* (1993) 16 EHRR 297; *JB v Switzerland* (2001) 36 EHRR 34; *Quinn v Ireland* (2001) 33 EHRR 264; *Ferreira v Levin and Others* 1996 (1) BCLR 1 (CC) (South Africa); *R v Kearns* [2001] 1 WLR 2815 (CA); *R v S(F)* [2009] 1 All ER 716 (CA).

	Proceeds of Crime Act [2020] IEHC 361	
Art. 3 PIF Directive	*Joe Flood v Newpark Holdings* TCA 1997 s 1078 Reported (District)	Tax fraud via false invoices
Art. 5–9 PIF Directive	*The People (at the Suit of the Director of Public Prosecutions) v Ryan Fitzpatrick* Criminal Justice (Corruption Offences) Act 2018, s 5(1) [2025] IECA 20, CA (I)	Corruption (acceptance of advantage for misuse of Garda information); sentenced to 3 yrs 9 months' imprisonment.
Art. 5 PIF Directive	*Director of Public Prosecutions v Forsey* Pre-2018 corruption statute (interpreted "corruptly") [2018] IESC 55	Issues of corrupt intent relevant to modern interpretation.
Art. 33 EPPO Regulation	District Court of Amsterdam Date: 23 November 2023 ECLI: NL:RBAMS:2023: 7468	Issuance of an EAW by the EPPO: The court held that Article 33 of the EPPO Regulation grants a direct and autonomous power to delegated prosecutors to issue EAWs. Furthermore, the independence of the EPPO is sufficiently guaranteed under EU law, removing any requirement for additional national judicial authorization.
Art. 31 EPPO Regulation	Amtsgericht Frankfurt am Main (Germany) Date: 08 February 2024 Case **No.:** 931 Gs 1371/23 Source: Ligeti 2026, p. 179)	Access to Case Files in Cross-Border EPPO Investigations: The court ruled that access to the case file is governed exclusively by the national law of the handling (federating) EDP. The assisting EDP lacks the authority to grant access independently; consequently, the refusal to provide access was deemed lawful.

For more **EPPO/OLAF-related (national/European) jurisprudence** cf. the other volumes of the **CNP volumes** e.g. for special jurisprudence since 1.6.2021 on actions of the EPPO in a respective Member State or recent OLAF-related judgements concerning the interpretation of the OLAF Regulation or legal questions on evidence collected by

OLAF in national judicial proceedings. For **typical EPPO case scenarios** or investigations, e.g. in Czech Republic see as well the academic literature Petr and Jakubowski 2024, pp. 295–306 on a case from the art (funding) area including a museum.

2. Judicial Decisions Concerning the OLAF Regulation and Irish Law

Table 2: Judicial Decisions concerning the OLAF Regulation and OLAF's Actions

Relates to Art.	**Judgement, ECLI, etc.**	**Content**
Art. 1, 2	Court of Justice of the EU, *Camós Grau v Commission* Case *T-309/03* (6 April 2006).	OLAF must act impartial, conflict of interest. Any incident can be challenged via an action for annulment and claim for damages.
Art. 1–4	Court of Justice of the EU, *Dalli v Commission*, Case C-615/19 P, EU:C:2021:133 (25 February 2021).	Allegedly illegal conduct of the European Commission and the European Anti-Fraud Office (OLAF), Procedural rules governing the OLAF investigation; Opening of an investigation; Right to be heard.
Art. 8, 11	General Court, T-193/04 *Tillack v Commission EU:T: 2006: 292* (4 October 2006); and *Commission* v *Violetti and Others*, T-26 1/09 P, EU:T:2010: 215.	Both concerning forwarding of information via a decision to the national authorities. This does not constitute an act adversely affecting an official, as it does not bring a distinct change in the legal position of the person concerned by the information in question.
Art. 4	Court of Justice of the EU, *European Commission v Fernando De Esteban Alonso*, Case C-591/19 P, EU:C:2021:468 (10 June 2021).	Appeal; Civil service; Internal investigation by the European Anti-fraud Office (OLAF); Forwarding of information by OLAF to the national judicial authorities; Filing of a complaint by the European Commission; Concepts of an official who is 'referred to by name' and 'implicated'; Failure to inform the interested party; Commission's right to file a complaint with the national judicial authorities before the conclusion of OLAF's investigation; Action for damages.

Art. 7	Court of Justice of the EU, *Vialto Consulting Kft v European Commission*, Case C-650/19 P, EU:C: 2021:879 (21 December 2022).	Appeal, Investigation by OLAF, On-the-spot checks, Regulation No 2185/96, Article 7, Access to computer data, Digital forensic operation, Principle of legitimate expectations, Right to be heard, Non-material damage Article 7(1) of Regulation (EC) No 2185/96, Principle of sound administration, Legitimate expectations, Proportionality, Right to be heard; National public procurement, Devolved management, Decision of a national authority, Investigations by OLAF, Non-material damage, Sufficiently serious breach of a rule of law conferring rights on individuals.
Art. 10	Court of Justice of the EU, *International Management Group v European Commission,* Case T-110/15 EU:T: 2016:322 (26 May 2016).	Access to documents, Regulation (EC) No 1049/2001, Documents relating to an OLAF investigation, Access refused, Exception concerning the protection of the purpose of inspections, investigations and audits, Obligation to carry out a specific and individual examination, Category of documents.
Art, 3, 10	Court of the Justice of the EU, '*Sistem ecologica' production, trade and services d.o.o. Sr bac,* Case T-81/21 (19 October 2022).	Claimants contest national measures or seek damages under Articles 263/268 TFEU and Regulations 883/2013, 515/97, OLAF investigated biodiesel-duty fraud; outcome was that reports aren't challengeable.
Art. 3, 7	Judgment of the Civil Service Tribunal, *Giraudy v Commissio*, Case F-23/05 (2 May 2007).	Required for the interpretation of the Regulation No 1073/1999, which rules on confidentiality in Art. 8 para 2.
Art. 3, 4, 8, and 4 para 3 TEU	Court of the Justice of the EU, *Imm. J. J. Zwartveld and Others*, Case *C*-2/88 (6 December 1990).	Judicial authorities in the Member States and EU IBOAs must cooperate together due to the good faith criteria *vice versa*, e.g. assisting in giving evidence in national courts.

V. Irish Institutions

1. The National Prosecution Services Ireland (ODPP)

Table 3: National Prosecution Offices Competent to Investigate EU Fraud & Corruption Offences in Ireland

National General Prosecution Office

Regional prosecution offices

Source: Gardai Website.

2. Organisation of the Criminal Justice and Investigative Agencies in Ireland (GNECB, Revenue Commissioners (Customs / VAT), CAB)

25 *Table 4: Organisation of the Criminal Justice System in Ireland*

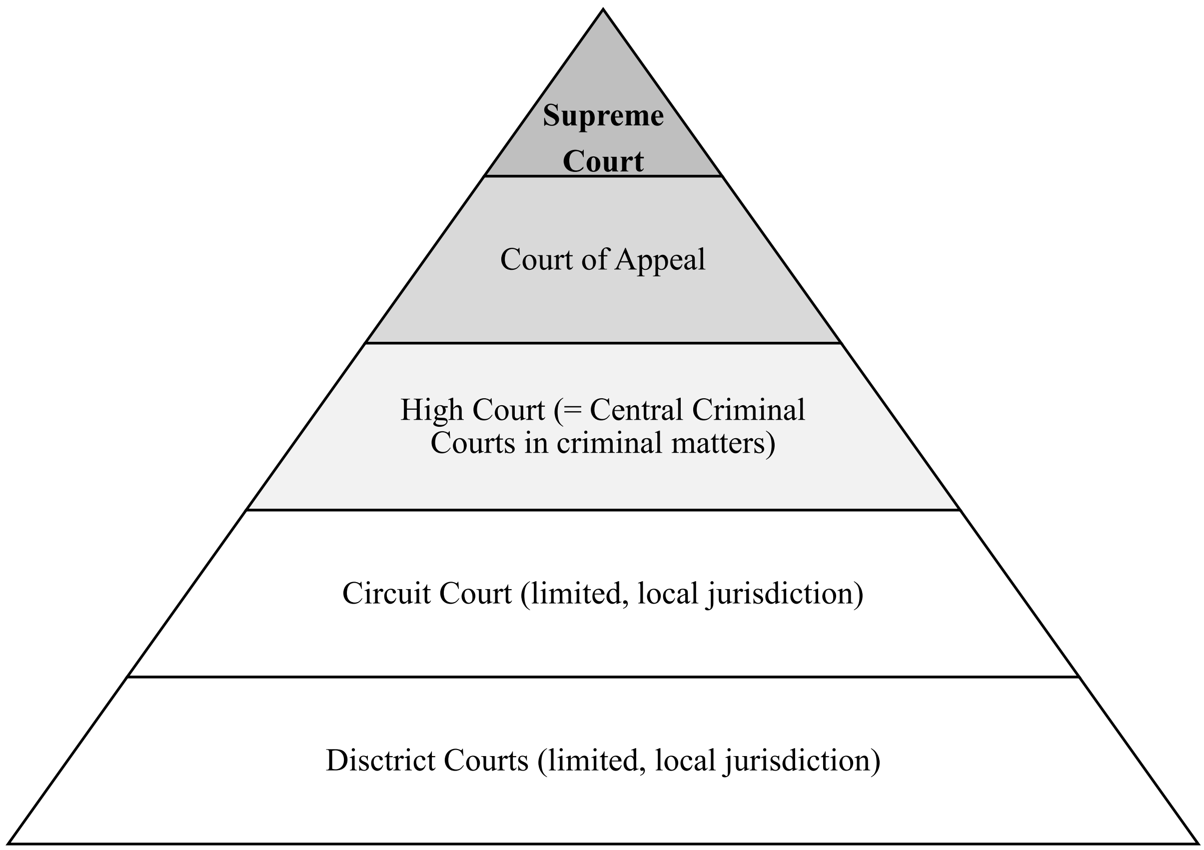
Original Name	Translation
An Garda Síochána Garda National Economic Crime Bureau (GNECB; formerly GBFI)	Irish Police (Ireland's National Police Service)
Cáin agus Custaim na hÉireann	Irish Tax and Customs[28]
Oifig an Stiúthóra Ionchúiseamh Poiblí	Office of the Director of Public Prosecutions[29]
An Oifig Um Chlárú Cuideachtaí	Companies Registration Office[30] Institute of Certified Public Accountants in Ireland (CPA)
	The Association of Chartered Certified Accountants (ACCA) Institute of Chartered Accountants in Ireland (ICAI)

[28] See https://www.revenue.ie/en/customs/index.aspx. Accessed 30 October 2025.
[29] See https://www.dppireland.ie/. Accessed 30 October 2025.
[30] See https://www.cro.ie/en-ie/Auditor-Search. Accessed 30 October 2025.

	Financial Intelligence Unit (FIU)[31], which is embedded within the Garda National Economic Crime Bureau (GNECB; formerly GBFI)
Contact Poinit for EPPO as long as status of non-participating member	Ministy Of Justice, Central Authority for Mutual Assistance[32]

3. Irish Court System

Figure 1: The Irish Court System **26**



The grey fields highlight the **superior courts**.[33]

[31] See https://fiu-ireland.ie/Home. Accessed 30 October 2025.

[32] Minister for Justice, Home Affairs and Migration answering Question 309 of Deputy Ken O'Flynn in "EU Bodies", Dáil Éireann Debate, Thursday - 16 October 2025: "While it would not be appropriate to provide details of individual EPPO cases, I can say that the Central Authority has received in excess of 50 requests from EPPO since 2021, 24 of which have been closed."

[33] Irish Council for Civil Liberties 2021, p. 11; see Holmes 2022¸see Daly 2019a: "I will observe that Irish public law is highly centralised, with control of legal interpretation firmly vested in the judicial branch and, more particularly, in the High Court (with, of course, onward appeals to the Court of Appeal, the Court of Criminal Appeal and the Supreme Court)."

VI. Sources of Law (Acts, Statutory Instruments and Other Publications)

27 The following pages present a list of the applicable sources of law, which relate to PIF Investigations and in Part. F. provisions, which relate to OLAF's powers on Irish territory if acting via OLAF's partners e.g. under the applicability of Art. 3 OLAF Regulation.

28 The Attorney General, *Rossa Fanning*, who is the legal adviser to the Government and is therefore the chief law officer of the Irish State is responsible for Irish legislation and the Web portal, which the Irish Government offers for the access to Irish legislation: the **Irish Statute Book**.[34]

1. General Irish Statues from the Area of Criminal Law

29 The **PIF Directive** (EU) 2017/1371 **stipulates the PIF offences** and the **EPPO Regulation** (EU) 2017/1939 provides the basis for **common powers of EDPs** and investigation measures to tackle the PIF crimes. The Criminal Justice (Theft and Fraud Offences) Act 2001 as amended 2021 and the CJA (ML/TF) Act 2010 apply as special (transposition) statutes and will be explored below. The Criminal Justice (Corruption Offences) Act 2018 and the Tax Consolidation Act 1997 as well as the Customs Act 2015 must be taken into account as further transposition for a full picture of the Irish legal setting governing the fraud laws to protect the EU's financial interests on the island.

a) PIF-Investigation Related Laws (2001 Act as amended 2021; CJA 2018; CJA 2010; Criminal Justice Act 2019; Criminal Procedure Act 2010)

30 In the following we list more specific statutory instruments from the same area:

31
- Act No. 3/2023 - Criminal Justice (Mutual Recognition of Custodial Sentences) Act 2023
- S.I. No. 22/2023 - European Union (Money Laundering and Terrorist Financing) (Use of Financial and Other Information) Regulations 2023 in relation to Directive (EU) 2019/1153
- Criminal Justice Act 1984 (Treatment of Persons in Custody in Garda Siochana Stations) (Amendment) Regulations 2023.
- European Arrest Warrant Act 2003 Revised Updated to 3 May 2023[35]
- S.I. No. 38/2022 - European Union (Criminal Justice (Mutual Assistance) Act 2008) (Amendment) Regulations 2022
- S.I. No. 549/2022 - European Union (Right to Information in Criminal Proceedings) Regulations 2022

[34] See https://www.irishstatutebook.ie/. Accessed 30 October 2025. Nowadays the electronic Irish Statute Book (eISB) provides up-to-date legislation and access to old laws etc.
[35] See https://revisedacts.lawreform.ie/eli/2003/act/45/revised/en/html. Accessed 30 October 2025.

- S.I. No. 470/2019 - European Union (Freezing and Confiscation of Instrumentalities and Proceeds of Crime) Regulations 2019
- Data Protection Act 2018

Special Cooperation with the U.K. since the Brexit opinion: **32**

- TITLE VIII MUTUAL ASSISTANCE, Article 633 et seq. of the European Union (Criminal Justice (Mutual Assistance) Act 2008) (Amendment) Regulations 2022[36]

Very early Acts from the time of the European Communities apply partly today, too: **33**

- S.I. No. 565/2013 - European Communities Act 1972 (Interpretation and Translation in Criminal Proceedings) Regulations, 2013.
- S.I. No. 509/2011 - European Union (International Criminal Tribunal for the former Yugoslavia (ICTY)) (Financial Sanctions) Regulations 2011.
- S.I. No. 73/1980 - European Communities (Agriculture and Customs) (Mutual Assistance As Regards The Recovery of Claims) Regulations, 1980.
- S.I. No. 334/1978 - European Communities (Mutual Assistance in The Field of Direct Taxation) Regulations, 1978.
- S.I. No. 406/1980 - European Communities (Value-Added) (Mutual Assistance As Regards The Recovery of Claims) Regulations, 1980.
- S.I. No. 407/1980 - European Communities (Mutual Assistance in The Field of Value-Added Tax) Regulations, 1980.
- CRIMINAL JUSTICE (MUTUAL ASSISTANCE) ACT 2008 REVISED, Updated to 20 May 2025.

b) Most Relevant National Laws Concerning OLAF Investigations

- European Communities Act 1972 Revised Updated to 26 August 2020[37] **34**
- Companies Act 2014
- S.I. No. 462/2002 - European Communities (Mutual Assistance For The Recovery of Claims Relating To Certain Levies, Duties, Taxes and Other Measures) Regulations 2002
- Criminal Justice (Theft and Fraud Offences) Act, 2001

[36] See https://www.irishstatutebook.ie/eli/2022/si/38/made/en/print. Accessed 30 October 2025.
[37] See https://revisedacts.lawreform.ie/eli/1972/act/27/revised/en/html. Accessed 30 October 2025.

2. Special National Laws in Relation to the EPPO or OLAF

35 There is no *lex specialis* to the actions of the EPPO in Ireland, yet (for the typical Bill Draft Discussions see below "The 2020 PIF Directive Bill"). Irish Authorities have not agreed on a Working Arrangement with Ireland as of 2023. But the EPPO stated in a conference of the Jean Monet Chair ("steppo.law" Website) that it is **currently in a process with the Irish Government to conclude a relationship** etc.

36 There is as well no special statue, which regulates the cooperation of Irish authorities with OLAF. Instead (see → Part F) **different laws, which we explore below (might) apply**, such as the Taxes Consolidation Act, the Customs Act, the Data Protection Act etc.

3. Use of Forms

37 For future EPPO/PIF investigations in Ireland, the following could **apply in practice**: In a PIF investigation, the EPPO would (like any prosecutor) make encounter **national investigative and procedural instruments and forms used for them**, specifically those **District Court forms** that (i) initiate proceedings (Summons/Information), (ii) secure coercive measures (Warrant/Detention/Bail/Remand), (iii) facilitate evidence collection and international legal assistance (Witness/Mutual Assistance/EAW), and (iv) enable the transfer to higher courts (Certificate to High Court).[38] (Note: Ireland is

[38] https://ww2.courts.ie/content/forms-criminal-proceedings.
1) Initiation of Proceedings / Basis for Prosecution (typical for PIF fraud, EU funds, VAT, etc.)
No: 15.1 Summons (Vorladung/Ladung)
No: 15.2 Summons – Courts (No. 3) Act 1986 s.1
No: 15.3 Information (Strafanzeige/Antrag auf Erlass einer Ladung)
No: 17.1 Charge Sheet (Anklageschrift/Beschuldigtenblatt)
These are the standard "starting forms" used when a (even complex) fraud or tax crime case is procedurally set up at the District Court level.
2) Securing Presence / Coercive Measures (frequent in financial crime proceedings)
No: 16.1 Warrant to Arrest (Haftbefehl zur Festnahme)
No: 19.1 / 19.2 Committal Warrant (Remand) (Einlieferungsbefehl/Untersuchungshaft)
No: 19.4 Remand Warrant to Garda Síochána Station (Haftbefehl zur Überstellung an eine Polizeidienststelle)
No: 18.1–18.4 Bail Recognisance (including Appeal / Sending forward / Execution of endorsed warrant) (Kaution/Sicherheitsleistung)
No: 18.7 Warrant to Produce Accused (Vorfuhrungsbefehl)
No: 20.1–20.7 Bail Act Forms (Information/Warrant/Committal regarding bail)
In EPPO/PIF cases (especially regarding risk of flight, collusion, or asset-related issues), these are the most relevant tools in practice.
3) Witnesses & Evidence Collection (typical for document-heavy cases)
No: 21.1 Witness Summons (Zeugenladung)
No: 21.2–21.7 (Compelling appearance / Committal for refusal to testify / Production of documents) (Erzwingung des Erscheinens / Haft bei Zeugnisverweigerung / Vorlage von Dokumenten)
Crucial in economic and tax crime cases, as evidence collection often relies on documents, accounting records, and third-party witnesses.
4) International Cooperation / Cross-border Elements
No: 21.8 Notice of application – Criminal Justice (Mutual Assistance) Act 2008 (s.62–67; s.73; s.77) (Antrag auf Rechtshilfe)
No: 21.9 Certificate under s.58, Criminal Justice (Mutual Assistance) Act 2008 (Bescheinigung über Rechtshilfe)

currently not a participating member state of the EPPO but might become one soon; see below Part C and D for the developments and E for the national provisions).

B. Structure of the Compendium

The compendium has the aim to offer **insights into the start of proceedings** as many investigations will be decided from this stage, if they eventually proceed to a trial stage is open, which depends on if they will end already soon.

I. General Remarks

1. The Special Position of Ireland (Protocols N 21 and 22 Annexed to the TFEU)

[Excerpt] 38

PROTOCOL (No 21)

ON THE POSITION OF THE UNITED KINGDOM AND IRELAND IN RESPECT OF THE AREA OF FREEDOM, SECURITY AND JUSTICE
THE HIGH CONTRACTING PARTIES,
DESIRING to settle certain questions relating to the United Kingdom and Ireland,
HAVING REGARD to the Protocol on the application of certain aspects of Article 26 of the Treaty on the Functioning of the European Union to the United Kingdom and to Ireland,
HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union:

[…]

Article 6a

The United Kingdom and Ireland shall not be bound by the rules laid down on the basis of Article 16 of the Treaty on the Functioning of the European Union which relate to the

No: 16.2 Information for issue of a European Arrest Warrant – EAW Act 2003 s.33 (Antrag auf Erlass eines Europäischen Haftbefehls)
No: 16.3 European Arrest Warrant (1) (Europäischer Haftbefehl)
These are the "EPPO-related" forms used as soon as evidence, persons, or assets involve cross-border elements.
5) Transfer / Referral to Higher Courts
No: 14.1 Certificate to the High Court – Criminal Procedure Act 1967 s.4J(2) (Überleitungsbescheinigung an den High Court)
Relevant when a procedural referral or transfer to the High Court context is required.
6) Service / "Set aside" / Case Management (supportive but practically important)
No: 10.1–10.3 Statutory declarations re service (registered/ordinary/personal) (Eidesstattliche Versicherung über die Zustellung)
No: 10.5–10.7 Proceedings set aside (Courts Act 1991 s.22) (Aufhebung/Einstellung des Verfahrens)
No: 2.1 Notice of Adjournment of Court (Mitteilung über die Vertagung)
Not "EPPO-specific" *per se*, but frequently relevant in complex fraud/VAT proceedings (regarding service of process, schedule management, and motions).

processing of personal data by the Member States when carrying out activities which fall within the scope of Chapter 4 or Chapter 5 of Title V of Part Three of that Treaty where the United Kingdom and Ireland are not bound by the rules governing the forms of judicial cooperation in criminal matters or police cooperation which require compliance with the provisions laid down on the basis of Article 16.

39 Ireland is thus not bound by the rules on criminal justice cooperation. Nevertheless cooperation against transnational crime is important and needs other options.

2. Current Position in the Anti-Fraud Architecture of the Union: Ireland, a country fighting PIF-Aquis-offences by itself with its criminal justice system?

40 As said, above we repeat, that Ireland is thus not yet (02/2026) part of the EPPO. But even if Protocols 21 and 22 to the TFEU restrict Ireland's possibilities to engage within the EU's criminal justice sector, Irish criminal prosecution still, like it did in the past, fights fraud to the detriment of the Union completely on its own i.e. by virtue of the Irish Criminal Procedure rules and with its own institutions in the **governmental anti-fraud sector** bound by the requisite of Art. 325 TFEU.[39]

41 In the past Ireland has shown **few cases of EU fraud**. The OLAF Report 2021 gives an overview of the latest statistics.[40]

42 As long as Sweden, a Nordic country with more than 5 million inhabitants, did not take part in the EPPO at first, it investigated EU frauds with its own criminal bodies and without a supranational authority, too. But now as the **tasks of the Irish prosecution offices, Gardai and Revenue Commissioners are in question** because if Ireland joins the EPPO, it will (need to) enable at least two EDPs, which are formally delegated to the EPPO and act as national experts in Ireland but this is still the problem; at the moment EDPs could not interfere with investigations as *An Garda Síochána* as police authority has such a strong position as **primary and exclusive investigation authority** within the established, long-heritage possessing **common law legal thinking of criminal justice organisation**.[41] The "*Oireachtas*" is competent to decide on these matters, i.e. think of a non-standard prosecution process system for EPPO within the Irish system.[42]

[39] See only the *Taricco* saga cases CJEU, Case C-42/17, *Criminal proceedings against M.A.S., M.B.*, 26 January 2018.
[40] OLAF 2022a, pp. 48–51.
[41] See Conway 2025, https://pifitalia.lex.unict.it/wp-content/uploads/2025/10/Prof.-Conway.pdf, slide 7; An Garda Síochána investigate crime independently, gathering evidence and interviewing suspects without direct interference from the prosecutor. While they act independently in investigations, they submit files for serious crimes to the Director of Public Prosecutions (DPP) to decide on charges. https://www.garda.ie/en/services/reporting/appearing-in-court-and-the-court-process.html; see on the history of An Garda Síochána Conway 2013.
[42] See Conway 2025, https://pifitalia.lex.unict.it/wp-content/uploads/2025/10/Prof.-Conway.pdf, slide 7 et seq. summarizing these non-standard procedures.

II. A Look back: Two Scenarios as of July 2023

For this reason the current compendium takes a **primary focus on OLAF** (below → Part F) but **analyses the area of EPPO driven by national procedural rules on investigations**, which will presumably stay largely the same if the opt-in process is done as well (below → Part D and E). This part therefore describes and portrays the applicable law and can hence although **be used by current investigators in the area of PIF investigation laws** (from the Economic Crime Authority). Case Law and the sources of law above can be read if special information for a specific area is needed.

The following analysis presents the most important Union Law Text information, which would be relevant for potential Irish EDPs even within grey parts. The normal text relates to the standard investigation on the basis of Irish national law. **43**

C. Status Quo Cooperation with EPPO since 2021

The next part address the question, what the *status quo* looks like if Ireland stays out of the **EPPO mechanism**, but investigates criminal EU fraud investigations on its own e.g. after a recommendation to do so by the European Anti-Fraud Office OLAF, which can only conduct administrative investigations but recommend according to Art. 11 OLAF Regulation in its Final Report to assess the conduct investigated by OLAF further in the national area. **44**

I. The Special Position of Ireland (Towards the EPPO Mechanism)

Ireland has like formerly Sweden and Poland, and today still Hungary and formerly Malta and the Netherlands (in the last decade 2018 both played the yellow card procedure) a special position towards the EPPO and Title V of the TFEU. **45**

II. Necessary Co-operation – But How? (Part 7B CJA (Mutual Assistance) Act 2008 as inserted by CJA (Misc. Prov.) Act 2023; Eurojust Decision; Europol Regulation; EAW Acts)

Cooperation within the EU's criminal justice sector and within the AFSJ is necessary.[43] Cooperation is **not only a "buzz-word"** of the Union's Anti-Fraud Architecture but the most essential tool available to fight major, transnational EU frauds. Therefore it shall be explored shortly, how the **EPPO and OLAF** can already **in the present reality** (Scenario 1) **cooperate with the Irish justice**, customs, tax, structural funds, audit and Payment authorities. **46**

[43] See Baker 2016, pp. 291–321 speaking of confidence.

III. Cooperation with Irish Justice Authorities

1. Practical Impact of EPPO Investigations under Art. 105 EPPO Regulation for Irish Authorities

47 Since **1.6.2021**, the **start of the operational actions** of the EPPO, Ireland has not concluded a Working Arrangement (e.g. like Hungary) or a special provision within its national criminal procedural laws (like e.g. Poland did, see the Polish CNP Volume XXI and Art. 615a of the Polish Criminal Procedure Code, now Poland is part of the EPPO zone and Hungary will become a member in 2027). The only way that remains since 1.6.2021 for the **EPPO and the Legal Service** is it to propose **cooperation via the established EU Coordination Bodies**, like Eurojust and if information shall be obtained, Europol.

2. Irish Participation in Eurojust

48 Ireland interacts with EU Member States' Judicial and Police authorities. It is part of the **Eurojust Mechanism** and has installed a Member at Eurojust. The I**rish Desk at Eurojust**, can according to the Eurojust Website: "be contacted via the c**hannels defined at national level**".[44] This information is quite unspecific, but due to internal relevance only – lawyers won't need contact to Eurojust Members normally – it seems to be a restriction, which has no impact on the rights of an accused. Ireland can **offer information or request information** and as the Eurojust mandates encompasses the collection and the transfer of information in relation to EU frauds (frauds detrimental to the Union's budget) Ireland is at least an informal partner to the EPPO already today.[45] This informal relationship is even fostered by the **Working Arrangement, which the EPPO and Eurojust concluded**.[46]

49 A note from 2022, handled by the EPPO involved Ireland and its authorities.

Statement on Participation in 2022

"Given that whenever the EPPO is carrying out a criminal investigation of a cross-border nature, it is unable to obtain evidence located in Ireland, the EPPO's ability to counter criminality affecting the Union budget is systematically hindered. The EPPO currently has **6 ongoing investigations involving Ireland**."[47]

[44] See S.I. No. 637/2019 - European Union (Eurojust) Regulations 2019; on Eurojust see López 2023, pp. 387–412.

[45] See Eurojust Annual Report 2021, 10.4. on PIF crimes: In 2021, there were 252 PIF-related cases, including 124 new cases and 128 ongoing from previous years. During the same period, 7 Joint Investigation Teams were active (3 new and 4 ongoing), alongside 16 case-specific coordination meetings and 3 coordinated action days.

[46] See https://www.eurojust.europa.eu/document/working-arrangement-between-eurojust-and-eppo. Accessed 30 October 2025.

[47] See https://h7.cl/1fwJa. Accessed 30 October 2025.

Nota bene: To set-up a JIT, a Joint-Investigation Team Irish authorities as well as the EPPO Legal Secretaries and EDPs can rely on a template: "https://www.eurojust.europa.eu/sites/default/files/assets/celex-32022y0128-01-en-txt.pdf". Accessed 30 October 2025. **Checklist to set up multilateral JIT's:** https://www.eurojust.europa.eu/sites/default/files/assets/checklist-for-multilateral-joint-investigation-teams-en.pdf. Accessed 30 October 2025.

It should as well be taken into account that Ireland as a **Member to Eurojust**, is as well part of the OLAF mechanism (see Part E below within this Volume Chapter) and as Eurojust cooperates with OLAF[48], Ireland is potentially already a **partner of the Union's Anti-Frau Architecture**. **50**

3. Irish Cooperation with Europol

Ireland interacts with Europol. Interestingly the cases, in which Ireland contacts Europol or *vice versa* are cases that are equal to EU VAT fraud cases or huge customs fraud cases etc. Europol presents its **Irish Partners on its Website** – mainly it interacts due to scope of its competence[49] with the law enforcement bodies: **51**

- "Customs (Revenue) Service[50]
- Irish National Police (*An Garda Síochána*)[51]
- Irish Ministries (each in case of a structural funds program of the Union."[52]

See EPPO and Europol, *Working Arrangement establishing cooperative relations* (2021) in EPPO Legal Framework Handbook 2025, p. 616.

4. Co-operation in Criminal Matters under the EAW Frameworks

The **European Arrest Warrant Act 2003** (Revised Updated to 3 May 2023)[53] contains rules on the situation, in which the European Arrest Warrant is received in State, i.e. in Ireland. **52**

As an European Arrest warrant might be issued according to Article 2, para 2 for offences like **53**

- corruption

[48] See Working Arrangement, 29 March 2023, https://h7.cl/1fwJm. Accessed 30 October 2025.
[49] Europol is designed to operate in partnership with law enforcement agencies, government departments and the private sector.
[50] Contact Details tarclass@revenue.ie, customsmutualassistance@revenue.ie, customsinternational@revenue.ie., ecustoms@revenue.ie.
[51] See https://www.garda.ie/en/. Accessed 30 October 2025.
[52] See Europol, Relationship Ireland, https://www.europol.europa.eu/partners-collaboration/member-states/ireland. Accessed 30 October 2025. It offers contact details with more details and stays up-to-date after the publication of the compendium. So please take a look here on your own.
[53] See https://revisedacts.lawreform.ie/eli/2003/act/45/revised/en/html. Accessed 30 October 2025.

- **fraud**, including that affecting the financial interests of the European Communities within the meaning of the Convention of 26 July 1995 on the protection of the European Communities' financial interests
- laundering of the proceeds of crime[54].

it is an important tool for cooperation in criminal matters.

54 Article 10 para 6 asks Ireland to act like follows: "If the authority which receives a European arrest warrant is not competent to act upon it; it shall automatically **forward the European arrest warrant to the competent authority** in its Member State and shall inform the issuing judicial authority accordingly." This is important for the EDPs of the EPPO in participating Member States, which try to act under the common legal regimes of the Member State.

5. Co-operation in Administrative Tax Matters

55 On an international, a national but although EU level, Ireland fosters the **fight against tax evasion**[55], a part of the so-called "**Revenue offences**"[56], frauds etc.[57] the main body in Ireland, which can be asked for cooperation is the **Irish Revenue and Customs** as well as Tax Agency, which helps under international law. A major provision, that wax compared by a group of researchers for the EU Commission in 2020 outlined that "[t]he notion of tax offences is characterised by a series of conducts that have been strictly identified by the law (e.g. incomplete or incorrect information relating to taxation, and incorrect invoices).This is articulated in **Section 1078 of TCA**."[58] We will have a look on this offence[59] below in the presentation of the PIF implementation and potential offences, which could fall in the remit of the EPPO.

6. Designation of Gardaí or Prosecutors as Official Cooperation Partner?

56 Irish institutions have not designated a special body for the cooperation with the EPPO as of 2023. In other areas the Irish Government has designated **special cooperation partners** (see e.g. S.I. No. 270/2023 - European Union (Online Dissemination of Terrorist Content) (Designation of the Commissioner of the Garda Siochana as a Competent authority) Regulations 2023).

7. Projects of the European Council (2023–2025)

57 All of the coordination measures explored and described in a short manner above, are not the ideal solution and *de facto* not more than cooperation. They do not replace the

[54] See https://www.lawreform.ie/_fileupload/Reports/rProceedsofCrime.pdf. Accessed 30 October 2025.
[55] PROTAX 2020b, pp 436–461.
[56] PROTAX 2020b, pp 436 (437); see as well in Taxes Consolidation Act 1997 CHAPTER 4, Revenue offences.
[57] See https://h7.cl/1fwJE. Accessed 30 October 2025.
[58] PROTAX 2020b, pp 436 (438).
[59] PROTAX 2020b, pp 436 (440 with a presentation of the wording and further analysis).

EPPO system of the **single office concept**, which enables EDPs to conduct investigations across borders in a way, which is existed never before across the block and is an effective means to combat the most powerful threat to the Union: organized crime and cross-border VAT frauds. For the moment **new legislation concepts are tested** to overcome the current unsatisfactory situation for the EPPO:

If Ireland decides not to join the EPPO in the next years till 2026, it might be involved **58**
instead in an initiative of the European Council:

In the future it is possible, as said by the European Committee On Crime Problems (CDPC) and the Committee of Experts on the Operation of European Conventions on Co-Operation in Criminal Matters (PC-OC) that Ireland will be invited with other states to a new legal instrument, which ensures the cooperation of EPPO with non-participating member states (09/2022).[60] The PC-OC will deliver till 31.12.2023 a "Draft Protocol to the European Convention on Mutual Assistance in Criminal Matters (ETS 30) on the relations with the European Public Prosecutor's Office"[61].

It was not clear, at the time of initial writing, whether this solution will be adopted one **59**
day. It requires political unity amongst the members of the EU Council and the Irish Government must opt in. For publication, we did a further research on this matter and discovered that the Council of Europe has only finalized a new "**Third Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters (ETS 30)**"[62], designed to modernize judicial cooperation, which was adopted by the Committee of Ministers on June 4, 2025. While the Protocol covers broader, modern advancements, it is designed to address the evolving landscape of judicial cooperation, which may include the role of the EPPO as the whole **European Convention on Mutual Assistance in Criminal Matters of 20 April 1959** and its two additional Protocols of 17 March 1978 and 8 November 2001 enable the EDP in charge "of the investigations [to] make use of his/her powers as a national prosecutor to **request legal assistance in criminal matters from authorities of non-EU countries**, if accepted, on the basis of international agreements concluded by his/her Member State or applicable national law".[63]

[60] See https://rm.coe.int/list-of-decisions-of-the-32nd-pc-ocmod-meeting/1680a84a92. Accessed 30 October 2025.

[61] See https://rm.coe.int/pc-oc-en/1680a64f4a. Accessed 30 October 2025. But in PC-OC/(2023)06E it was said that: "In summary, unless comprehensively revised, the draft agreement raises more questions than it solves. It may also be questioned why the Council of Europe should engage in this process which concerns primarily the European Union. Alternatively, it would be for the Union itself to prepare and conclude, where necessary, additional agreements with third states. Such agreements could also regulate the applicability of other Council of Europe conventions (e.g. the Budapest Cybercrime or the Money Laundering Conventions) to the cooperation between the EPPO and third states."

[62] Council of Europe, Explanatory Report to the Third Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters (CETS No 227, adopted 19 September 2025, Valletta). https://rm.coe.int/48801f9d33. Accessed 31 March 2026.

[63] See https://www.eppo.europa.eu/en/about/international-cooperation. Accessed 31 March 2026.

60 Requests for **mutual legal assistance and other judicial cooperation requests** shall be sent to the **Central Office of the EPPO in Luxembourg** by email to *eppo-international-cooperation@eppo.europa.eu* or to our postal address.[64]

8. The 2020 PIF Directive Bill

61 In the Irish Parliament the **discussions regarding the fight against fraud** detrimental to the EU included comments from the former Irish Ministers that help to **better understand the position of Ireland** and the political debates and arguments:

62 Back then, Minister of State at the Department of Justice (Deputy James Browne) **introduced the Bill** in the **Criminal Justice (Theft and Fraud Offences) (Amendment) Bill 2020**: Order for Second Stage to complete the transposition of the PIF Directive, emphasizing that protecting the EU's financial interests is a shared responsibility of all member states. He highlighted that while Ireland opted out of the EPPO due to common law and **constitutional concerns**, the State remains **fully committed to prosecuting fraud** through national agencies.[65] Senator Robbie Gallagher (Fianna Fáil) expressed strong support for the Bill, noting the significant **financial impact of fraud** (estimated **up to €500 million annually**) which could otherwise benefit EU citizens. He raised questions regarding the delay in transposition in other member states and the potential impact of Brexit on future cooperation with the UK.[66]

63 Senator Barry Ward (Fine Gael) welcomed the legislation as a **necessary update** to the 2001 Act to address modern challenges like cybercrime and suggested that the Oireachtas should consider consolidating all theft and fraud laws. Furthermore, he proposed that the State should consider **mandatory minimum sentences for high-level fraud** to send a clear deterrent signal.[67]

64 Senator *Ivana Bacik* (Labour Party) supported the Bill but **questioned why it was overdue** and why the 2018 Act did not cover all necessary provisions. She strongly **disagreed with the proposal** for mandatory minimum sentences, arguing they lack an evidence base for effectiveness, and called for a **broader codification of criminal law**.[68]

65 Senator *Niall Ó Donnghaile* (Sinn Féin) said that while supporting the Bill’s aim to tackle **white-collar crime and “carousel” fraud**, he pointed out the **irony of the Gov-**

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[64] See https://www.eppo.europa.eu/en/about/international-cooperation.
[65] Minister of State at the Department of Justice (Deputy James Browne), Seanad Deb 5 November 2020, vol 272, no 3, col 238. Seanad Éireann 26th Seanad, Official Report, Vol. 272 No. 3 Last updated: 10 Jul 2025, 03:43 https://www.oireachtas.ie/en/debates/debate/seanad/2020-11-05/.
[66] Senator Robbie Gallagher, Seanad Deb 5 November 2020, vol 272, no 3, col 244.
[67] Senator Barry Ward, Seanad Deb 5 November 2020, vol 272, no 3, col 245.
[68] Senator Ivana Bacik, Seanad Deb 5 November 2020, vol 272, no 3, col 249.

ernment protecting EU financial interests while simultaneously engaging in legal disputes over Apple's tax affairs. He emphasized that criminal enterprises have historically exploited Irish banks for serious fraud offenses.[69]

Acting Chairman (Senator *Victor Boyhan*) presided over the session, facilitating the transition between speakers and ensuring the procedural flow of the Second Stage of the Bill.[70] **66**

These comments from this session in 2020 still offer a glimpse to the different positions and nuances in the discussion or Ireland becoming part and protecting the PIF Acquis area. **67**

[69] Senator Niall Ó Donnghaile, Seanad Deb 5 November 2020, vol 272, no 3, col 253.
[70] Acting Chairman (Senator Victor Boyhan), Seanad Deb 5 November 2020, vol 272, no 3, col 248.

D. Irish Involvement in the EPPO zone and Opt-in: How will investigations be conducted, prosecutions concluded or deferred?

If Ireland joins the EPPO mechanism, the enhanced cooperation, which is open to other 68
non-participant EU Member States any moment since 2017, the EPPO Regulation would apply directly, Art. 288 TFEU and influence the **applicability of Irish national** (criminal and **criminal procedural law[71]**), which is not – at the moment of writing – completely prepared for the application of the EPPO Regulation. Despite this **influence of the Regulation itself**, it is very important to take into account that *de facto* the Regulation refers more than frequently to the **application of national law**, thus Irish criminal, criminal procedural, tax and customs related legislation. The European Delegated Prosecutors, which Ireland would need to appoint, **would be required to act on behalf of the EPPO Headquarters by applying this national law**, which they "know from their national prosecution job".

The following analysis shall **pinpoint the reader** at the applicable national law for the 69
case that Ireland becomes an EPPO mechanism Member in the 2020s.

Nota bene: The EPPO Regulation does not (yet directly) apply in Ireland but will probably be enforceable Union law on its territory if Ireland arranges the adoption of the EPPO Regulation as planned in 2025.
Till the moment of the **opt-in decision** and the publication in the OJ Ireland is a **non-participating country** to the EPPO. The considerations made in the following are therefore exploring and focusing on both situations. This includes Irish *national* investigations if Ireland has jurisdiction over a PIF offence. Next, for cases for which the EPPO could exercise its jurisdiction as well. And this concerns cases, in which different countries are involved – either participating and non-participating or a citizen of one of those countries, who commits an offence in a non-participating country. These kind of problems exist equally with other non-participating countries, e.g. Hungary. Denmark does not fall into the scope of these countries as it is not only a non-participating country but as well a country that has opted out of the whole Area of Freedom, Security and Justice.

The **Irish legislator** has **not yet or only partially fostered academic studies** and con- 70
cepts, which addressed the question how Ireland could join the EPPO in the past years since at least 2018.[72]

[71] See Forde and Leonard 2013, pp. 439–514 on the Irish Criminal Procedure in general.
[72] Instead of all see the PIF Directive Bill Analysis or Revenue Reports and Law Commission Reports as well as Law Commission Revisions of the Criminal Justice Act 2001, which all did not really delve academically into the matters. But see O'Neil 2020 with a quite broad excerpt on Irish developments dealing with the *PIF-Acquis*.

I. Legislative and Institutional Setup for EDPs in Ireland?

71 Since 2026 it is clear that Ireland could join the EPPO zone (maybe already in the summer of 2026).[73]

72 Ireland transposed the **PIF-Directive 2017/1371** not by creating ***sui generis* offences** but by relying on **pre-existing general offences**[74] of deception, theft, and corruption[75], supplemented by the powerful inchoate offence of conspiracy to defraud[76], which in practice may be the preferred prosecutorial tool in complex EU fraud cases.[77] In *R v Jones* (1832) 110 ER 485 it was defined the classic **common law definition of conspiracy** as an agreement to do an unlawful act or a lawful act by unlawful means, forming the doctrinal foundation, which could be even used to charge conspiracy to defraud the Union's financial interests.

73 An **important factor of Ireland joining the EPPO** zone will be – this is what we guess as in the Irish court databases no cases on Part 6, s. 42 et seq. Theft and Fraud Offences) Act 2001 as amended 2021 can be found – that EDPs from other countries such as Germany, Italy and France or Lithuania, where major EPPO cases have been brought to court and already decided by Criminal Appeal Courts will be that they have access to Irish data, can **request information or evidence gathering on Irish territory** via Art. 31, 32 EPPO Regulation, which has become much more enforceable and foreseeable as seen from legal dogmatics due to the decision of the ECJ in the **biodiesel-Austrian-German EPPO-case C-281/22** decided on 21 December 2023.[78]

74 It might still be the case or is the hope of many that if Irish EDPs then start to investigate that **they uncover unseen or largely unreported or unmentioned**[79] (e.g. for reasons of no offences detectable[80]) **PIF *Acquis*,** *e.g.* funding, customs evasion or tax evasion offences, which would then suggest that Ireland has not been fully capable of uncovering them with their own authorities in the past, which is highly unlikely, but still not impossible as the EPPO, as we now know due to new EPPO Annual Reports EDPs will "leave no stone unturned". Still, that one cannot find any main precedents on these statutory

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[73] Márton Balázs, 'By 2026, Hungary and Denmark, which has an opt-out, might be the only member states that haven't joined the EPPO' (Telex, 28. January 2025) https://telex.hu/english/2025/01/28/by-2026-hungary-and-denmark-which-has-an-opt-out-might-be-the-only-member-states-that-havent-joined-the-eppo. Accessed 31 January 2026.

[74] See Hurley and Keyes 2020.

[75] Hauck 2025b, Commentary on PIF Directive, Art. 1, IE, mn. 1 et seq. and overview; and see European Commission: Directorate-General for Migration and Home Affairs, Handbook of good practices in the fight against corruption, Publications Office of the European Union, 2023, https://data.europa.eu/doi/10.2837/575157.

[76] Law Reform Commission, Report on Inchoate Offences (LRC 99-2010)

[77] See The Bar of Ireland (2024) on these matters.

[78] See critical Pfister 2024.

[79] Roman, Popescu and Achim 2022, pp. 179–195.

[80] European Court of Auditors, Tackling fraud in EU cohesion spending: managing authorities need to strengthen detection, response and coordination (Special Report No 06/2019), Figure 3: "Finland and Luxembourg reported no fraudulent irregularities, while Ireland and Sweden reported some irregularities with a low financial value."

laws may have other reasons, such as they are **not classical common law offences** and Irish Prosecution is a bit to **unfamiliar of applying them**. But we are even unsure about such a conclusion as we compare below the typical German, continental decision of assessing criminal conduct of statutory law regimes like in Germany (*Tatbestand-sprüfung*) and the Irish way-of **criminal legal thinking** influenced from common law practices and **statutory interpretation theories**[81] and the establishment of Bars and Solicitors and Barristers opposing the Prosecutions presentation of facts. The reasons, why the EU PIF *Acquis* offences are somewhat low in Ireland **are complex and largely unclear** as they result from various theories and thoughts and may even be based on the assumption that **not every data is available and transparent** (e.g. online in statistics). Another reason, which is highly likely that Ireland has a good functioning management system of EU funds and money and regulates irregularities on another legal territory, that is below criminal law, so that **many offences do not reach the stadium of criminal liability** ("Non-fraudulent irregularities"[82]) or are fined, sums paid back, so a matter of fact for Revenue Commissioners, Customs officials and other staff operating in the administrative branch.

But let us now come back first to the **transposition** of the PIF *Acquis* law: The main concern of the EU Commission and the evaluation group drafting the transposition report for the PIF Directive in 2021 was that some Member States would not have integrated or transposed the PIF Directive correctly[83], which already was part of discussions *de lege ferenda* for corruption offences[84]. **75**

Table 5: Conditions for PIF-Acquis Offences **76**

In a summary overview the following can be stated:

PIF Directive	**Ireland offence**	***Mens rea***	**Inchoate option**
Art 3 Fraud	s 6 Deception 2001	Dishonesty + intent	Conspiracy
Art 4(3) Embezzlement	s 4 Theft 2001	Dishonesty + intent	Conspiracy
Art 4(2) Corruption	2018 Act	Corrupt intent	Conspiracy

[81] On such theories see Corcoran 2005, pp. 8–30.
[82] See the overviews and figures by Roman, Popescu and Achim 2022, pp. 179–195.
[83] Wahl 2019, referencing when it began; see Commission, O'Neil 2020 pp. 177–200 quite optimistic with the status quo; but then see Report on the implementation of Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law COM (2021) 536 final; and see finally Busch 2021, pp. 182–187 on the (from his point-of-view ideal?) implementation in Germany (for critique see Hauck 2025b, Art. 1 PIF Directive); last but not least see Van Ballegooij 2021 pp. 177–181 on the transposition in general.
[84] Zoli 2023, pp. 279–281 on new plans of the EU Commission.

PIF Directive	Ireland offence	*Mens rea*	Inchoate option
Art 5 Participation	Common law + 2006 Act	Intent	Conspiracy / attempt

Source: Own Compilation.

77 Compared to the **German way-of criminal legal thinking** of PIF *Acquis* offences, we can highlight the differences as follows:

78 *Table 6: German and Irish Criminal Liability for PIF Offences*

PIF Directive	Conduct	German thinking (*Tatbestandsaufbau*, statutory offences)	What Ireland criminalises
Art 3	Fraud affecting EU financial interests	*Täuschung → Irrtum → Vermögensschaden* §§ 263 StGB, 1, 2, 3 EUFinSchStG	Deception / dishonest appropriation
Art 4(3)	Embezzlement	*Missbrauchstatbestand/ Treuebruch / Veruntreuung*, § 266	Misappropriation by person entrusted
Art 4(2)	Corruption	*Vorteilsannahme / Bestechlichkeit*, §§ 331, 332, 333, 334–335	Corruption offences
Art 5	Incitement, aiding, attempt	*Teilnahme / Versuch*, §§ 22, 23, 24, 25, 25, 26, 27	Already covered in Irish law

Source: Own Compilation.

79 The **legal and institutional foundations** enabling the operation of EDPs in Ireland would arise from a combination of EU law particularly Articles 13–20 of the EPPO Regulation and the domestic legislative and administrative framework governing the prosecution of offences and the conduct of criminal investigations.

80 **Articles 13–20** of the **EPPO Regulation** set the structural and functional parameters for EDPs, including their appointment, powers, independence, supervision, and dismissal. Under these provisions: **EDPs** act as integrated components ("**double had**") of the EPPO while simultaneously exercising their functions within the national legal order. They possess **at least the same investigative and prosecutorial powers** as national prosecutors (see below → Art. 30 EPPO Regulation). They must be able to **direct national law-enforcement authorities**, initiate and conduct investigations, and bring prosecutions before competent national courts. Supervisory authority lies with the European Prosecutor responsible for Ireland and the Permanent Chamber.[85] Ireland's prosecution system is grounded in the Prosecution of Offences Act 1974, which established the Director of Public Prosecutions (DPP) as the central prosecuting authority.[86]

The **integration of EDPs** into this system requires that their EPPO led functions be operationally compatible with the DPP's constitutional and statutory independence. EDPs therefore prosecute EPPO cases in the name of the EPPO[87], but within the procedural framework administered by the DPP, relying on national courts and investigative authorities. **81**

The **Garda Síochána Act 2005**, as amended, forms the institutional basis for law-enforcement cooperation.[88] For EPPO purposes, it could determine the organisation and powers of the Garda Síochána as the primary investigative authority; internal governance structures relevant to cooperation with EDPs; obligations of information sharing, accountability, and oversight. **82**

Under **Article 17 EPPO Regulation**, EDPs must be able to instruct the Garda Síochána to undertake investigative measures, provided they fall within the scope of Irish criminal procedure. The Act therefore functions as the primary gateway for operational cooperation between EDPs and national police bodies. **83**

The **substantive offences** central to the EPPO's mandate particularly fraud affecting the EU's financial interests are primarily governed by the Criminal Justice (Theft and Fraud Offences) Act 2001, substantially updated in 2021 to align Irish law with the **PIF Directive (EU) 2017/1371**. **84**

The **Guidelines for Prosecutors** (5th edition) issued by the DPP provide binding standards for prosecutorial decision-making. For EDPs, these guidelines are crucial in: ensuring consistency between EPPO prosecutions and national prosecutorial practice; defining evidentiary thresholds, public-interest tests, and policy considerations; regulating interactions between prosecutors and investigative authorities. Although EDPs act under EU authority, they must comply with these national prosecutorial standards when conducting proceedings before Irish courts. **85**

Part 7B of the **Criminal Justice (Miscellaneous Provisions) Act 2023** introduces important updates relevant to EPPO investigations, including expanded availability of investigative tools for economic and financial crime; modernised procedures for evidence **86**

[85] Csonka 2017, pp 125–135, 129.
[86] Office of the Director of Public Prosecutions 2021, p. 1, 7.
[87] They are an "integral part" of the EPPO, see ECJ, C-292/23, ECLI:EU:C:2025:255, 8 April 2025, mn. 3 citing Recital 32 of the Regulation.
[88] Forde and Leonard 2013, 6.14.

gathering; provisions facilitating cooperation with EU bodies and mutual-recognition instruments.

II. Allocation, Direction and Supervision of Investigations

87 Under Article 26 EPPO Regulation, criminal conduct falling within the EPPO's competence principally offences under the Criminal Justice (Theft and Fraud Offences) Act 2001, especially § 48 on fraud relating to EU funds (aligned with the PIF Directive) would have to be reported without delay to the EPPO.[89]

88 If Ireland participates in the EPPO, the *Garda Síochána*, as the national investigative authority, would be under a statutory obligation (by analogy to Art. 24 EPPO Reg.) to **transmit** such **information** to the competent EDPs. Section 8 of the Garda Síochána Act 2005, which establishes cooperation duties and governance structures within the police force, would serve as the national legal basis for information provision and inter-authority cooperation.

89 Once allocated, the EDP would assume **exclusive competence** to direct the investigation within the Irish legal system, as mandated by Article 28(1) EPPO Regulation. In practice, this would mean: issuing binding directions to the Garda Síochána for the taking of investigative steps (e.g. searches, seizures, interviews[90], surveillance), provided they fall within the scope of Irish law; initiating investigative measures under Irish procedural rules, especially those found in the Criminal Procedure Act 2010, the Criminal Justice Act 2011 (Part 2 on investigative measures and information disclosure), and sector-specific provisions addressing fraud and corruption; making prosecutorial decisions according to the **Guidelines for Prosecutors** (**5th Ed., §§ 5.1–5.4**), which would continue to apply in EPPO cases for all discretionary and evidentiary assessments brought before Irish courts.[91]

90 This supervisory relationship would be superimposed on the Irish prosecutorial environment governed by the **Prosecution of Offences Act 1974**, which normally assigns prosecutorial decision-making to the DPP. In the EPPO-context, however, competence would shift from the national hierarchy to the EPPO's central level, with the DPP's role limited to interactions required under national procedural law.

91 And for Ireland, this would mean that decisions which, under national law, would ordinarily lie with the DPP (e.g. charge approval, trial management decisions) would instead be subject to the Permanent Chamber of the EPPO.

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[89] OLAF SWD(2020) 159 final.
[90] For silent suspects see Daly et al. 2021, pp. 56 et seq.
[91] On the Irish criminal process see O'Malley 2009.

On operational allocation and evocation policy under Arts 26–27 EPPO Regulation, see EPPO, *Operational Guidelines on Investigation, Evocation Policy and Referral of Cases* (2021/2022/2024) in *EPPO Legal Framework Handbook 2025* 169.

III. Cross-Border Investigations and Measures

If Ireland were a participating Member State of the EPPO, cross-border investigations would operate within the dual framework established by Articles 31–32 of the EPPO Regulation and the existing Irish legislation governing international cooperation in criminal matters. Under this hybrid model, EDPs would be empowered to request or execute investigative measures across the EU and to use the full suite of mutual-assistance instruments already embedded in Irish law.[92] **92**

The next important factor of **effective criminal prosecution of EU frauds** in Ireland is the availability of investigative instruments and measures. In the digital era it becomes more and more important that Irish authorities can effectively gather **digital evidence**. It was already decided that lawful searches and seizures of digital material by investigative bodies is possible, but there are limits and the procedures must be followed closely by investigators or EDPs.[93] **93**

The **Supreme Court of Ireland** ruled that while the search warrant for the appellant's home was lawful, the **seizure of computer devices** was unlawful.[94] The Court determined that searching digital spaces requires specific authorization, as digital devices are not mere physical items, establishing a major precedent for privacy right. Investigations aiming at proving a PIF offences or tax evasion[95], will need to gather evidence, which is nowadays mostly stored online or digitally. **94**

So any defence lawyer will cite and use this decision if there are signs that the proper handling of digital evidence could be challenged due to facts. For Irish investigators it is thus clear that it is important how they should seize corporate data. **95**

An EDP in Ireland may request another EDP in a different Member State to undertake investigative measures directly, without recourse to **traditional mutual legal assistance** channels.[96] Measures **requested by an EDP** in another Member State would be executed in Ireland according to Irish procedural law and subject to Irish safeguards. The **96**

[92] See https://tinyurl.com/mrnx99vs. Accessed 30 October 2025. Criminal Justice International Cooperation Office (CJICO), known as the Office of Director of Criminal Justice International Cooperation, is an upcoming statutory body in Ireland designed to streamline cross-border digital and judicial cooperation.
[93] See *CRH plc v Competition and Consumer Protection Commission* [2018] 1 IR 521 (SC).
[94] *People (DPP) v Quirke* (No 1) [2023] 1 ILRM 225 (SC).
[95] Denk 2025, mn. 3.078 et seq. on the definition and common standards of these offences; see PROTAX 2020b, pp. 461 et seq. listing many offences "Tax crimes and corruption offences across EU Member States" and see Hauck 2025b, Art. 3 PIF Directive.
[96] See in general on the old frameworks summarizing them Salomon 2013.

Permanent Chamber retains supervisory authority over cross-border operations, ensuring consistency and proportionality.

97 The **Criminal Justice (Mutual Assistance) Act 2008**, particularly as amended in 2023 (Part 7B), forms Ireland's central statutory framework for international evidence gathering, i.e. **EPPO can make requests** under it and if Ireland were an EPPO participant:

98 Requests between EDPs would presumably bypass the 2008 Act's **traditional MLA channels**, but where the EPPO needs the involvement of a non-participating state (either a third country or a non-EPPO EU Member State), the 2008 Act would continue to govern: taking of evidence, service of documents, search and seizure across borders, production orders, and freezing and confiscation measures. Part 7B (2023) strengthens investigative powers for financial crime and would be fully available to EDPs when executing cross-border investigations involving assets, bank records, or digital evidence. EDPs in Ireland would be able to issue or execute European Arrest Warrants (EAWs), acting as both the issuing and executing judicial authority for EPPO cases.

99 The **European Arrest Warrant Acts** 2003–2014 provide the national procedural basis for: arrest, interim custody, surrender hearings, and transfer of evidence from the requested State. Irish courts would retain jurisdiction to review surrender conditions and procedural safeguards in line with the Charter of Fundamental Rights and national constitutional requirements.

100 EPPO competence extends to serious customs-related fraud, including smuggling schemes and **evasion of duties** that harm the EU's financial interests.[97] In Ireland, such matters are principally overseen by the **Revenue Commissioners**, operating under the Customs Act 2015, and cooperating internationally under Regulation (EC) No 515/97 on mutual assistance in customs and agricultural matters.[98] If Ireland participated in the EPPO, EDPs would probably need to be able to **direct Revenue officers** to undertake investigative actions falling within national law, including customs inspections, seizures, and documentary audits. Cooperation with other Member States' customs authorities would occur either directly between EDPs (under the EPPO Regulation) or through established channels under Regulation 515/97 where appropriate. The combination of EPPO mechanisms and Irish customs legislation would significantly enhance the capacity to investigate complex transnational tariff-evasion schemes.

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[97] Art. 1, 3, 5 PIF Directive.
[98] See https://tinyurl.com/2d9rtbz4, pp. 41, 103. Accessed 30 October 2025.

IV. Judicial Review and Admissibility

If Ireland were a participating Member State of the EPPO, the judicial review of investigative measures and the **admissibility of evidence** gathered by EDPs would be governed by a combined framework consisting of Article 42 EPPO Regulation, the Constitution of Ireland, and Ireland's statutory rules on evidence, surveillance, and data protection. This hybrid regime would ensure that EPPO investigations respect both Union-level safeguards and national constitutional requirements. **101**

Article 42 requires that **judicial review of EPPO** procedural acts be carried out by national courts, unless the contested act is attributed exclusively to the central EPPO level. In the Irish hypothetical context: Irish courts would review investigative acts of EDPs (e.g. search orders, production orders, surveillance authorisations), review decisions to bring charges, and adjudicate challenges concerning procedural irregularities and admissibility.[99] **102**

Under Articles 34–38 of the Constitution all criminal prosecutions must occur before a **court established by law**; procedural fairness, proportionality, and respect for personal rights are constitutionally guaranteed; any restriction of constitutional rights (e.g. privacy, inviolability of the dwelling) must comply with due process and be "in accordance with law." Thus, if Ireland participated in the EPPO, Irish courts would retain a central role as the guardians of constitutional standards[100], including: review of whether EDPs acted *ultra vires*; scrutiny of the legality of investigative measures; exclusion of evidence obtained in breach of constitutional protections. **103**

The **Evidence Act 1992** provides the "statutory backbone" for evidentiary admissibility. Under Irish doctrine, evidence is admissible if it is relevant, it is legally obtained, and its admission would not compromise the fairness of the trial.[101] **104**

The **Criminal Justice (Surveillance) Act 2009** regulates covert surveillance measures (tracking, monitoring, recording). Under the Act authorisations must be granted by prescribed authorities; surveillance must be necessary, proportionate, and time-limited; improperly authorised surveillance risks exclusion at trial. If EDPs directed the Garda Síochána to carry out surveillance, they would need to follow the strict procedural requirements of the 2009 Act. Irish courts would assess whether a valid authorisation existed, whether the measure respected proportionality, and whether surveillance fell squarely within the statutory definitions. **105**

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[99] Ligeti 2024, pp. 63 et seq. explaining, why the Commission adopted an original approach to limit the ECJ from judging on EPPO cases and leaving decision on criminal justice matters to the criminal courts of the Member States, p. 67: "very broad margin", p. 68 still there are lacunae as some decisions do not produce effects via-a-vis and national law foresees no review possibility. The possibilities to hold EPPO accountable must be addressed in a revision.
[100] See Barrett 2023; Krommendijk 2020, pp. 825–849.
[101] Daly 2019b.

106 Improperly authorised surveillance could be excluded under the longstanding Irish rule that evidence obtained in deliberate or conscious breach of rights must be excluded (*People (DPP) v. Kenny*[102]), as modified by the more flexible balancing approach in later jurisprudence.

107 Irish courts would also **exercise judicial review** over coercive measures ordered or executed by EDPs, including: search and seizure orders; production orders; freezing and confiscation orders; cross-border investigative measures under Art. 31–32 EPPO Regulation.

108 Ireland's **exclusionary rule** remains one of the most protective in Europe and the Irish Government saw a major challenge in allowing evidence from foreign EU courts.[103] Leading cases (e.g. *People* (*DPP*) *v. Kenny*, and its later refinement in People (*DPP*) *v. JC*) hold that **evidence** obtained in **deliberate or reckless violation of constitutional rights must be excluded**[104]; other unlawfully obtained evidence may be admitted if its admission does not compromise trial fairness.

109 Applied to EPPO investigations, this would mean that evidence obtained by EDPs in breach of Irish constitutional rights would be liable to exclusion[105]; evidence obtained lawfully under another Member State's procedural law could still be excluded if its acquisition would have constituted a grave breach under Irish constitutional standards; courts would scrutinise both EPPO conduct and Garda execution of investigative measures.

V. Trial Venue, Language, Evidence and Rights of Defence

110 Articles 35 and 36 of the EPPO Regulation establish the **procedural regime for the trial phase** in EPPO cases, determining the competent venue, applicable procedural rules, and the rights afforded to suspects and accused persons.[106] If Ireland were a participating Member State, EPPO prosecutions would be **brought before the competent Irish courts**, operating within the **constitutional and statutory architecture** of Irish criminal procedure. National rules on language, admissibility of evidence, bail, and defence rights would apply alongside EU-derived guarantees.

111 Trials for **EPPO offences** such as serious fraud, corruption, or misappropriation of EU funds would be conducted before the Circuit Criminal Court or the Central Criminal

[102] *The People (DPP) v Kenny [*1990] 2 IR 110 but see O'Mahony 2015 on an *overturning* decision *DPP vs. J* [2015] I.E.S.C. 31. See Choileáin and Bazarchina Bar Review July 2015, pp. 83–84.
[103] Griffin 2016, p. 9: "Ireland has traditionally operated a very strict exclusionary rule of evidence in relation to improperly obtained evidence; will recent changes in evidence law in Ireland, bring the Irish law more into line with other EU Member States?"; Conway 2025.
[104] O'Mahony 2015.
[105] O'Connell 2017, pp. 66 et seq.
[106] See https://eppo-lex.eu/article-35/. Already the thoughts on the EPPO model rules from 2013 were good in this regard, see https://tinyurl.com/2d9rtbz4. Accessed 30 October 2025.

Court, depending on the gravity and statutory classification of the offence.[107] The Criminal Procedure Act 2010 (Part 3) would govern case management, disclosure obligations, and preparatory hearings. Where offences occurred across several Member States, the EPPO's central level (Permanent Chamber) would determine the venue[108], but the conduct of the trial would follow Irish procedural law once Ireland is selected as the forum.

Ireland's **bilingual legal regime**, governed principally by the Official Languages Act 2003[109], guarantees the right to use Irish or English before national courts. EPPO cases in Ireland would therefore proceed: in English or Irish, as elected by the accused; with interpretation and translation services provided where necessary, in accordance with the accused's rights under EU Directive 2010/64/EU (transposition via S.I. 2014 No. 137[110]). **112**

The **rights of defence** under Article 36 EPPO Regulation apply in full before national courts. In Ireland, these rights are reinforced by: Directive 2012/13/EU (transposed by S.I. 2014 No. 138[111]) – right to information, access to case materials, and communication of charges. Directive 2013/48/EU (transposed by S.I. 2014 No. 140[112]) – rights of access to a lawyer, confidential communication, and consular assistance. Criminal Justice Act 1984 § 4 holds detailed rules on detention, questioning, legal advice, and the treatment of suspects in Garda custody.[113] **113**

The combined effect is that defendants in EPPO prosecutions benefit from both EU-chartered procedural guarantees and Ireland's constitutional requirements, including access to legal representation, privilege against self-incrimination, and a fair-trial right under Articles 34–38 of the Constitution. **114**

EPPO prosecutions would probably follow the **Irish constitutional and statutory bail system**. Bail decisions are governed by the Bail Act 1997, which allows refusal of bail to prevent serious offences, ensure attendance at trial, and protect public order.[114] **115**

[107] Law Reform Commission 2016, pp. 141 et seq.
[108] Maschl-Clausen 2021, pp. 55–56.
[109] See https://www.irishstatutebook.ie/eli/2003/act/32/enacted/en/html. Accessed 30 October 2025.
[110] Council of Bars and Law Societies of Europe 2015, p. 106.
[111] Ryan 2023 but ECtHR case law applies as well, e.g. ECtHR, *Kauczor v Poland* (no. 45219/06), 3 February 2009. *Kauczor* is frequently cited in Irish EAW litigation concerning prison conditions, prolonged remand, and proportionality of detention, especially in cases involving Eastern European issuing states.
[112] See European Union Agency for Fundamental Rights 2016.
[113] See https://www.irishstatutebook.ie/eli/1984/act/22/section/4/enacted/en/html. https://tinyurl.com/76886zpm. Accessed 30 October 2025.
[114] Irish Penal Reform Trust 2024.

116 For EPPO matters involving **large-scale PIF-related fraud** or cross-border criminality, courts may consider the **risk of flight**, particularly where the accused maintains ties in multiple Member States.[115]

117 EDPs would need to able to apply for pre-trial detention or bail restrictions in accordance with Irish law, subject to judicial oversight.

118 Although **cross-border cooperation** is governed primarily by Articles 31–32 EPPO Regulation, the trial phase integrates cross-border evidence through domestic rules on admissibility and through the principle of mutual admissibility of evidence under Article 37 EPPO Regulation. Irish courts may rely on: foreign forensic reports[116], witness statements taken by other EDPs[117], digital and financial records obtained abroad provided their admission does not undermine fair-trial rights.[118] The Criminal Procedure Act 2010, Part 3, governs how such material is disclosed, challenged, and introduced at trial.

VI. Interim Results to the Current Status

119 All in all, the assessment of the Irish Government was partly right, but not very innovative and thinking EPPO straight forward, as the risk to constitutional rights protections (especially exclusion of unlawfully obtained evidence) and loss of control over criminal justice processes (supranational authority) and mismatch between legal systems, i.e. common law vs civil law was particularly emphasised without presenting initial solutions. The option will lay in the idea to create a unique non-standard EPPO procedure for the prosecution of PIF Acquis offences in the Irish national system.

[115] Mela and Tomkin 2024, pp. 9, 59.
[116] See https://tinyurl.com/wp2cak7n. Competent is the Forensic Science Ireland, pp. 6, 13. Accessed 30 October 2025.
[117] Collins 2024.
[118] Stoykova 2023, p. 9.

E. National Fraud Investigations Relating to EU Frauds

The Acts of the Member States on the execution of the EPPO normally contain provisions that **may affect all Sections 26–33** of the EPPO Regulation but as Ireland is not part of the enhanced cooperation and has opted-out according to the Protocols 21 and 22 annexed to the TFEU, it has not adopted any law in relation to the EPPO. The following analysis of provisions related to criminal procedure and the investigation of PIF offences in Ireland is therefore hypothetical. If Ireland is part of the EPPO zone in 2026 the Investigator's and Prosecution's Workflow will be determined from the Arts 26–33 EPPO Regulation. **120**

I. Criminal Investigations According to National Law (Measures)

The criminal investigations in Ireland, which are based on **an "adversarial criminal justice model** [-system] and **a common law legal system**"[119] must aim at gathering evidence on fraud offences detrimental to the EU.[120] These investigations in Ireland are still based primarily on national prosecution actions because Ireland does not want a supranational body to investigate according to the political situation (see above → The Special Position of Ireland (Protocols N 21 and 22 Annexed to the TFEU). This situation might change one day if Ireland enters the enhanced cooperation and becomes a Member of the EPPO. **121**

The following chapter nevertheless explores first of all the **Irish investigation framework** and secondly (still some hypothetical) considerations with regard to such an EPPO future. By offering at the same time an introduction into Irish national criminal procedure law, the reader can find the relevant information on the applicable Irish law. **122**

1. National Criminal Justice and Prosecution Framework

a) Constitutional and Legislative Basis of Prosecution (Art. 30 *Bunreacht na hÉireann*; Prosecution of Offences Act 1974)

Article 30 The attorney general
1 there shall be an attorney general who shall be the adviser of the government in matters of law and legal opinion, and shall exercise and perform all such powers, functions and duties as are conferred or imposed on him by this constitution or by law.
2 the attorney general shall be appointed by the president on the nomination of the taoiseach.
3 all crimes and offences prosecuted in any court constituted under article 34 of this constitution other than a court of summary jurisdiction shall be prosecuted in the name

[119] See Irish Council for Civil Liberties 2021, p. 10.
[120] See Irish Council for Civil Liberties 2021, p. 12: "An Garda Síochána are the body who are responsible for gathering evidence in relation to criminal matters."

of the people and at the suit of the attorney general or some other person authorised in accordance with law to act for that purpose.
4 the attorney general shall not be a member of the government.
5 1° the attorney general may at any time resign from office by placing his resignation in the hands of the taoiseach for submission to the president.
2° the taoiseach may, for reasons which to him seem sufficient, request the resignation of the attorney general.
3° in the event of failure to comply with the request, the appointment of the attorney general shall be terminated by the president if the taoiseach so advises.
4° the attorney general shall retire from office upon the resignation of the taoiseach, but may continue to carry on his duties until the successor to the taoiseach shall have been appointed.
6 subject to the foregoing provisions of this article, the office of attorney general, including the remuneration to be paid to the holder of the office, shall be regulated by law.

b) Office of the Director of Public Prosecutions (ODPP): Independence, Functions and Relationship with the Garda Síochána

123 For a Seconded National Expert (SNE) at the EPPO, understanding the Office of the Director of Public Prosecutions (ODPP) is vital. The ODPP operates with statutory independence, directing prosecutions for serious offenses while An Garda Síochána conducts investigations.[121] This relationship relies on the ODPP's Guidelines for Prosecutors (2022) to ensure cases meet evidential standards. Furthermore. It is often emphasized that this cooperation is essential for tackling complex fraud while maintaining strict adherence to the Garda Code of Ethics (2021).[122]

c) Division of Functions – Investigation by Garda Síochána vs. Prosecution by the ODPP (Garda Síochána Act 2005; GNECB structure)

124 In the Irish legal framework, a strict division exists between investigation and prosecution. Under the Garda Síochána Act 2005, the GNECB possesses sole authority to investigate complex fraud, whereas the ODPP holds the independent mandate to initiate proceedings for indictable offences (Department of Justice, 2019).

d) Decision to Prosecute, Charge and Deferral (Guidelines for Prosecutors, 5th Edition §§ 4–7)

125 The decision whether to prosecute constitutes a central exercise of prosecutorial discretion and must be taken objectively, with careful regard to its far-reaching consequences

[121] See https://tinyurl.com/3m7u5xxr. Accessed 30 October 2025.
[122] See https://odpp.gov.bs/overview-of-the-office-of-the-director-of-public-prosecutions. Accessed 30 October 2025.

for suspects, victims and public confidence in the criminal justice system (→ §§ 4.1–4.3). A prosecution should only be initiated where there is a prima facie case supported by admissible, relevant, credible and reliable evidence, and where there is a reasonable prospect of conviction.

The **choice of charge** lies primarily within the prosecutor's competence and must accurately reflect the criminal conduct disclosed by the evidence, without over-charging or undue multiplication of counts (§§ 6.1–6.4).[123] Charging decisions must ensure fairness, clarity of proceedings and an appropriate sentencing framework (→ §§ 6.2–6.6). **126**

Finally, while investigation and prosecution are institutionally distinct, structured cooperation between prosecutors and investigators is envisaged, ensuring prosecutorial independence while allowing for informed decision-making at all stages.[124] **127**

2. Start of Criminal Investigations

Particularly in regard to the initiation of investigations and allocation of competences, the rules, which would apply in Ireland are stated in Art 26 of the Council Regulation (EU) 2017/1939.[125] **128**

Table 7: Exercise of Competence for PIF offences etc. Ireland **129**

Overview	
Relevant national law	Ireland will possibly be part of the EPPO structure in 2026.
	There can be no offence within the competence of the EPPO, which Gardaí or the DPP could investigate. All PIF offences are investigated on their own. For the text of the offences that are mentioned by Art. 26 EPPO Regulation "an offence within…" see below → Annex 1 for the PIF offences.
Sanctions for legal persons	Liability and Sanctions for Legal persons can be found in the criminal Justice (Theft and Fraud Offences Act) 2021, s 42B.

[123] See https://www.dppireland.ie/app/uploads/2023/01/Guidelines-for-Prosecutors-5th-Edition-eng.pdf. Accessed 30 October 2025.
[124] See §§ 7.1–7.3 https://www.dppireland.ie/app/uploads/2023/01/Guidelines-for-Prosecutors-5th-Edition-eng.pdf. Accessed 30 October 2025.
[125] See https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32017R1939. Accessed 30 October 2025.

“[competence of] a hypothetical European Delegated Prosecutor in a Member State [Ireland]”	At the moment Ireland is not part of the EPPO mechanism, but if it would join, it would need to respect Art. 6 para 5, 13 and 26 of the EPPO Regulation and implement them within the Anti-Fraud Act 2001 (as amended 2021) or another procedural law relates Act a provision, which foresee the competence of the Garda or the Prosecution Offices.
“jurisdiction”	Cf. ss. from the Irish Criminal Code and cf. Art. 11 of the PIF Directive (cf. Art. 11, in: Hauck, 2025b, PIF Fraud Commentary, Edward Elgar, London.)

Source: The authors.

a) Initiation of Investigations and the Roles of An Garda Síochána and the Irish Prosecutors of the ODPP (Criminal Procedure Act 2010; DPP Guidelines)

130 *Nota bene*: “The prosecution system in Ireland is not described or set out fully in any one document.”[126] An *Garda Síochána*, the Irish police is the main body in Ireland that is competent to investigate offences and suspicious conduct. The tasks of these bodies must clearly be distinguished: The Director of Public Prosecutions has no investigative function. In the Irish criminal justice system, the investigation of criminal offences is the function of the *Garda Síochána*.“[127] [...] The **investigation and prosecution** of offences are **separate and distinct functions** within the criminal justice system. The Director of Public Prosecutions [DPP] as a general rule has no investigative function and no power to direct the *Garda Síochána* or other agencies in their investigations. The Director may advise investigators in relation to the sufficiency of evidence to support nominated charges and the appropriateness of charges or in relation to legal issues arising in the course of investigation. Whilst not responsible for the conduct of investigations, the Director is free to indicate what evidence would be required to sustain a prosecution.“[128] According to the third General Direction of the DPP in bribery and corruption cases the Garda should consult the DPP. Thus the **DPP** has a strong supervising function concerning the tasks of district prosecutors. The Office of the Director of Public Prosecutions, which was only **established in 1974**[129] and which consists “of three legal divisions, the Directing Division, the Solicitors Division and the Prosecution Support Services Division”[130] **ensures** that the competent prosecutors **follow the general [Irish] prosecution policy**, which is stipulated according to the “[Irish] Office of the Director

[126] See Office of the Director of Public Prosecutions DPP Ireland 2019, p. 6.
[127] See Office of the Director of Public Prosecutions DPP Ireland 2019, p. 8 „2.14“.
[128] See Office of the Director of Public Prosecutions DPP Ireland 2019, p. 24, „7.1“.
[129] See Prosecution of Offences Act 1974.
[130] See Office of the Director of Public Prosecutions DPP Ireland 2019, p. 7; see https://www.dppireland.ie/about-us/organisation-chart/. Accessed 30 October 2025; and cf. Baker 2019.

of Public Prosecutions DPP” Ireland 2019. The DPP and the Attorney General are the main bodies that file the inducement due to the investigation of the *Garda Síochána*.

And see Department of Justice, Review of structures and strategies to prevent, investigate and penalise economic crime and corruption Report of the Review Group, 2020. **131**

Here the **Review Group** states “It is significant to note that Ireland is not a participating country having decided not to opt in. The decision not to opt in was due to a number of **concerns** including that **EPPO is a civil law construct** which reflects the European approach to criminal a prosecutor led investigation model which is not compatible with the Irish system [footnote 90: Ireland has a common law structure where the *An Garda Síochána* lead investigations and the ODPP has no role in such matters until a file is sent to them and a decision has to be made whether a prosecution should occur]. Other concerns relate to the **final structure of EPPO** and the implications for the ability of Irish Courts to exclude evidence which would contravene constitutional rights in this jurisdiction. However, with the UK having left the EU, Ireland will have to reach its own accommodation with other Member States on how to cooperate with EPPO as a non-participating Member State. Ireland needs to continue to engage constructively in negotiations with the aim of addressing fundamental concerns so that participation may be a less problematic possibility in future.”[131] **132**

However, this **reasoning by the Review Group** seems a **bit short-sighted**: it would be possible to introduce an exception in the national system that only applies to European funds and the penal provisions provided for in the PIF Directive. Even France has taken it upon itself to give the EDP the rights that the *juge d’instruction* actually has. And Malta and Cyprus, both of which still use old English common law, are also taking part in the EPPO and have come to terms. There is no really in-depth study from Ireland that suggests a compromise proposal e.g. the establishment of a dedicated officer at Gardaí level in combination with a prosecutor from the Office of Prosecutors. Legislative creativity is required here. **133**

The Irish criminal justice system is special in several ways. The main investigative activities are carried out by **An Garda Síochána**[132], the Irish Police, which has several specialized offices for the investigation of economic crimes – including so-called **PIF crimes**, such as subsidy fraud, agricultural fraud, corruption etc. The cases, which have been investigated are later submitted to e.g. the International Unit of the Irish Prosecutors of the **Office of the Director of Public Prosecutions**[133], which can deal with **European arrest warrants**. If An Garda Síochána recognizes incidences of an EU fraud **134**

[131] See Hamilton Review Group 2020.
[132] Irish Council for Civil Liberties 2021, p. 11: “The police in Ireland, An Garda Síochána, (Gardaí) are tasked with gathering evidence and investigating crimes once they receive a criminal complaint.”
[133] Irish Council for Civil Liberties 2021, p. 10: “The DPP is the State body, separate from the Government, which is responsible for prosecuting criminal cases.”

offence, corruption offence (see below → The PIF Offences in Ireland) he/she will officially start an investigation against a suspect if the suspicion is strong enough for actions.

135 As can been seen already from this short description, a normal **integration of EDPs** within the Irish System, is **not as easy as in other Member States**. Still if Ireland would one day decide to act within the EPPO mechanism after having created a special construction between An *Garda Síochána* and the Irish Prosecutors of the Office of the Director of Public Prosecutions it would need to interpret the EPPO Regulation. And even if Ireland stays out of the mechanism due to its historic decisions, An Garda Síochána officers and the Prosecution office need to learn and understand the EPPO mechanism in order to be able to communicate with the Union officials, the EPPO and OLAF in cooperation matters. Therefore throughout the following text, there are explanations on this matter:

136 Art. 26 needs to be seen independent from Art. 27. Art. 26 stands on its own and describes a **principle of legality at Union level**, which has the effect of protecting the Unions' (own) financial interests.

137 As at the moment **Art. 26 EPPO Regulation does not apply in Ireland,** the national prosecution offices are competent to investigate budget fraud, subsidy fraud, illegal corruption, customs offences and smuggling detrimental to the financial interests of the Union.

138 The role of the prosecutor in Ireland is determined by the Prosecution of Offences Act 1974[134] and the Garda Síochána Act 2005[135].

139 This compendium tries to explain, in the circumstances where the EPPO would operate that the national law for operations of the EPPO already partly exist. It would only need slight amendments – especially **EDPs would need to be granted powers** equal to those of national prosecutors, what is requested by **Art. 13 of the EPPO Regulation**. The national legislator needs to come up with a proper solution for this part of the law that is applied by future Irish EDPs – should Ireland as a country opt-in to the EPPO mechanism.

b) Relevant Sources of Indications for Criminal Offence Falling within the Competence of the Irish Prosecution Service (and Potentially EPPO Competence)

140 An important statement was given by *Klement*, who points at the fact that criminal justice starts with a good **coordination of crime reports**, the so-called **EPPO Crime reports**, which can be **submitted via national authorities** and online *via* the EPPO's

[134] See https://www.irishstatutebook.ie/eli/1974/act/22/enacted/en/html. Accessed 30 October 2025.
[135] See https://www.irishstatutebook.ie/eli/2005/act/20/enacted/en/html. Accessed 30 October 2025.

Webpage: "In order to achieve its goals, the EPPO will need to establish **smart information flows** between the central office in Luxembourg, delegated prosecutors, and national authorities and, at the same time, avoid causing delays in the information exchange. […] In this regard, some of the existing EU mechanisms concerning *de facto* **reporting of PIF crimes** seem to be obsolete, as well as **national law duties to report such information to a national prosecution office** in advance or in parallel to the EPPO."[136]

aa. Initiation of Investigations (Criminal Justice (Theft and Fraud Offences) Act 2001)

Without information it is difficult to open an investigation. But economic operators and companies are obliged to report information (see Criminal Justice (Theft And Fraud Offences) Act 2001 (Revised and Updated to 22 November 2021): 141

Reporting of offences. 142
59.—(1) In this section—
"firm" means a partnership, a corporate or unincorporated body or a self-employed individual;
"relevant person" means a person—
(a) who audits the accounts of a firm, or
(b) who otherwise with a view to reward assists or advises a firm in the preparation or delivery of any information, or of any declaration, return, account or other document, which the person knows will be, or is likely to be, used for the purpose of keeping or auditing the accounts of the firm,
but does not include an employee of a firm who—
(i) in that capacity so assists or advises the firm, and
(ii) whose income from so doing consists solely of emoluments chargeable to income tax under Schedule E, as defined in section 19 of the Taxes Consolidation Act, 1997 .
(2) Where the accounts of a firm, or as the case may be any information or document mentioned in subsection (1)(b), indicate that—
(a) an offence under this Act (other than sections 8, 12 to 15, 49(1) and 52(8)) may have been committed by the firm concerned, or
(b) such an offence may have been committed in relation to its affairs by a partner in the firm or, in the case of a corporate or unincorporated body, by a director, manager, secretary or other employee thereof, or by the self-employed individual concerned, the relevant person shall, notwithstanding any professional obligations of privilege or confidentiality, report that fact to a member of the Garda Síochána.

[136] Klement 2021, pp. 51–52.

(3) A disclosure in a report made in good faith by a relevant person to a member of the Garda Síochána under subsection (2) shall not be treated as a breach of any restriction imposed by statute or otherwise or involve the person in liability of any kind.
(4) A person who fails, without reasonable excuse, to comply with the duty imposed by subsection (2) is guilty of an offence and is liable on summary conviction to a fine not exceeding £1,500 or imprisonment for a term not exceeding 12 months or both.

bb. Detection and Reporting (Revenue, OLAF, Financial Institutions)

143 If the EPPO existed in Ireland, a distinction would have to be made between the direct and the indirect path for the transfer of information related to the competence of the EPPO:

144 The individual is obliged to make information in cases of fraud offences:

145 **Reporting of offences.**
Section 59 of the Criminal Justice (Theft and Fraud Offences) Act, 2001[137]

Concealing facts disclosed by documents.
Section 51 of the Criminal Justice (Theft and Fraud Offences) Act, 2001[138]

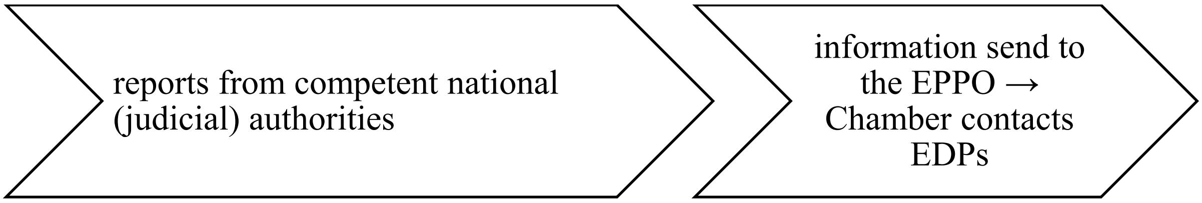
146 In addition the general Gardai powers and the notification to the Irish Police would apply:

147 **PART 4** Gardai Powers Act 2005 as amended
Complaints, Investigations and other Procedures
82. Definitions (*Part 4*).
83. How complaints are made by members of the public.
84. Time limits for making complaints.
85. If complaint is made to Garda Síochána.
86. If complaint is made directly to Ombudsman Commission.
87. Determination of whether complaint is admissible.
88. Notification following determination of whether complaint is admissible.
89. Duty to preserve evidence relating to complaint.
90. Resolution of complaint by mediation or other informal means.
91. Investigation of complaints concerning death of, or serious harm to, a person.
92. If other complaints are not resolved informally or if they warrant investigation.
93. Power to discontinue investigation.
94. If complaint is referred to Garda Commissioner.

[137] See https://www.irishstatutebook.ie/eli/2001/act/50/section/59/enacted/en/html. Accessed 30 October 2025.
[138] See https://www.irishstatutebook.ie/eli/2001/act/50/enacted/en/print#sec51. Accessed 30 October 2025.

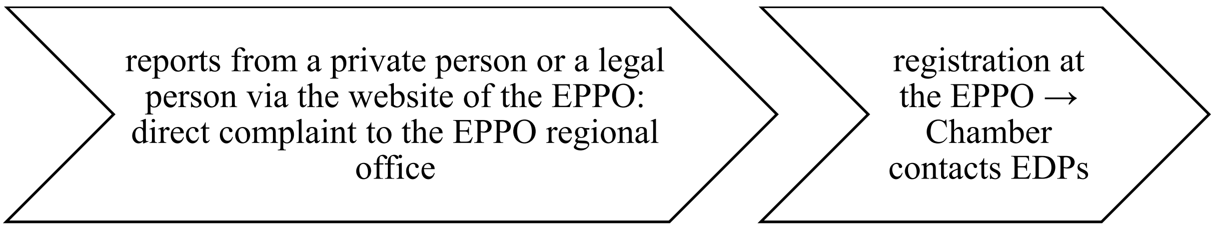
Most likely the **Gardai National Economic Crime Bureau (GNECB)** would be informed as it is a specialist Bureau within **An Garda Síochána** that investigates the more serious and complex cases of economic crime. **148**

Figure 2: National (Indirect Way of) Obtaining Information for the EPPO Competence and the Exercise of Jurisdiction **149**



Art. 24 para 8

Figure 3: Supranational (Direct Way of) Obtaining Information for the EPPO Competence and the Exercise of Jurisdiction **150**



Another, third source of information are the Union bodies, which are obliged to report either to OLAF or to the EPPO (e.g. by obliged by Working Agreements) – depending on the seriousness of the suspected conduct: irregularities only or clear foundations for potential criminal offences. National authorities, who report to OLAF need to obey the Italian "Guidelines on how to report irregularities and fraud to the European Commission". **151**

OLAF will either way report conduct that falls in the EPPO's competence by virtue of Art. 12c OLAF Reg. **152**

cc. Determination of the Competence and Verification of Crime Reports

The first task of the EDPS in an Irish regional office would be to determine whether the EPPO has competence and jurisdiction or can obtain competence and exercise jurisdiction. **153**

These are formal but essential questions. They are for all countries that already participate determined by means of Union secondary legislation and special delegated guidelines required by secondary legislation, the so-called **Internal Rules on Procedure [of the EPPO]**. This depends on the **criteria of the Regulation** (see Art. 22, 23). **154**

155 *Nota bene* : There are rules issued by the EPPO Chamber but they apply for Art. 27 Right of evocation. **Art. 26 para 5 and 6** refer to special rules on splitting or merging cases on Italian territory if different regional offices have initiated an investigation in similar cases.

(1) The Union Standards Art. 24 para. 6 et seq. EPPO Regulation

156 For the EPPO to be competent, the requirements of the Regulation must be met. Either an examination according to Art. 24 para 6 must show that the EPPO is competent or the delegated prosecutor carries out an **examination and assessment** by virtue of Art. 26 para 1 EPPO Regulation himself/herself without informing the Permanent Chamber and initiates an investigation about which he/she subsequently informs the Permanent Chamber.

157 For the current wording of the IRP rules consult another country chapter (see e.g. France above). The requirements of Art. 25 para. 2 and 3 must be observed but he/she can still initiate an investigation "without prejudice to the rules set out in Article 25(2) and (3)". The provisions, jurisdiction (e.g. territory), euro thresholds of the Regulation and orders of the Luxembourg Chamber must exist for the exercise of competence.

158
- ***Article 22 Material competence of the EPPO***
  - PIF Implementation (see below → p. 105).
  - National databases and information according to Art. 40 para 3 IRP
- ***Article 23 Territorial and personal competences of the EPPO***
  - The EPPO is competent if :
  - the criminal offenses were committed, in whole or in part, on the territory of one or more participating EU Member States ;
  - the criminal offenses were committed by a national of a participating EU Member State,
  - the criminal offenses were committed by a person subject to the Staff Regulations or rules applicable to EU officials.

SECTION 2 Exercise of the competence of the EPPO

- ***Article 24 Communication, registration and verification of information***
  - The transfer of information to the relevant EDPs or the chamber of the EPPO is mainly regulated by Art. 24 EPPO Regulation. If Ireland joined the EPPO one day it would need to make this information public to all authorities in Ireland by virtue of the EPPO Adoption Act.
  - Two sources can **help to understand the transfer of information**: The Irish Government would need to contact and notify the EPPO by virtue of Art. 11 EPPO Regulation.

(2) Competence of the EPPO, Art. 26 para. 4

If the competence can be shared between two or more EDPs from different countries, the procedure of Art. 26 para 4 (see above) would apply. 159

(3) How to Construct Jurisdiction & Competence of the (European Delegated) Prosecutor in Ireland for PIF Offences

At the moment Ireland has no EDPs (see above for the reasons and the Irish Position in Protocol 21 & 22 annexed to the TFEU). 160

Instead the national prosecution offices are competent on their own to investigate fraud offences to the detriment of the EU's budget.

The Jurisdiction and competence of a national prosecution office is determined by the Constitution and the Irish CPC. Excerpt - Criminal Justice (Theft and Fraud Offences) Act 2001 as Amended 2021: 161

162

Extra-territorial jurisdiction in case of certain offences.

45.—(1) It is an offence for a person to commit fraud affecting the Communities' financial interests or to commit the **offence of money laundering**, or to participate in, instigate or attempt any such fraud or offence, outside the State if—

(a) the benefit of the fraud or offence is obtained, or a pecuniary advantage is derived from it, by a person within the State, or

(b) a person within the State knowingly assists or induces the commission of the fraud or offence, or

(c) the offender is an Irish citizen, a national official or a Community official working for a European Community institution or a body set up in accordance with the Treaties establishing the European Communities which has its headquarters in the State.

(2) Active or passive corruption committed by a person outside the State is an offence if—

(a) the offender is an Irish citizen, a national official or a Community official working for a European Community institution or a body set up in accordance with the Treaties establishing the European Communities which has its headquarters within the State, or

(b) in the case of active corruption, it is directed against an official, or a member of one of the institutions mentioned in paragraphs (i) to (iv) of the definition of "national official" in section 40 , who is an Irish citizen.

(3) A person guilty of an offence under this section is liable on conviction on indictment to a fine or imprisonment for a term not exceeding 5 years or both.

Another Act, which must be taken into account in this regard is the Criminal Justice (Corruption Offences) Act 2018. 163

164 **PART 3 Corruption Occurring Partly in or outside State**

Corruption occurring partly in State

11. A person may be tried in the State for an offence under this Act if any one or more of the acts alleged to constitute the offence were committed—

(a) in the State,

(b) on board an Irish ship within the meaning of section 33 of the Merchant Shipping (Registration of Ships) Act 2014, or

(c) on an aircraft registered in the State,

notwithstanding that the other acts alleged to constitute the offence were committed outside the State.

Corruption occurring outside State

12. (1) Subject to subsection (2), where a person (in this section referred to as the "person concerned") does an act in a place outside the State that, if done in the State, would constitute an offence under—

(a) section 5 , 6 , 7 , 8 or 18 (1), or

(b) section 9 concerning the creation or use of a false accounting, auditing or financial document,

the person concerned shall be guilty of an offence and shall be liable on conviction to the penalty to which the person concerned would have been liable if the person concerned had done that act in the State.

(2) Subsection (1) shall apply where—

(a) the act is committed on board an Irish ship within the meaning of section 33 of the Merchant Shipping (Registration of Ships) Act 2014 ,

(b) the act is committed on an aircraft registered in the State, or

(c) the act constitutes an offence under the law of the place where it was done and the person concerned is—

(i) an Irish official acting in his or her capacity as an Irish official,

(ii) an Irish citizen,

(iii) an individual who has had his or her principal residence in the State for the period of 12 months immediately preceding the alleged commission of the offence concerned,

(iv) a company, or

(v) any other body corporate established under the law of the State.

(3) Where a European Union official working for an institution of the European Union or a body set up in accordance with the treaties governing the European Union which has its headquarters in the State does an act in a place outside the State that—

(a) if done in the State, would constitute an offence under section 5 , and

(b) constitutes an offence under the law of the place where it was done,

he or she shall be guilty of an offence and shall be liable on conviction to the penalty to which he or she would have been liable if he or she had done that act in the State.
(4) Where a person does an act in a place outside the State that—
(a) if done in the State, would constitute an offence under subsection (1) of section 5 ,
(b) constitutes an offence under the law of the place where it was done, and
(c) the person last-mentioned in that subsection is an Irish citizen and—
(i) a national official of a Member State, or
(ii) a member of—
(I) the European Commission,
(II) the European Parliament,
(III) the Court of Justice of the European Union, or
(IV) the Court of Auditors of the European Union,
the first-mentioned person shall be guilty of an offence and shall be liable on conviction to the penalty to which he or she would have been liable if he or she had done that act in the State.
(5) In this section—
"Convention" means the Convention drawn up on the basis of Article K.3(2)(c) of the Treaty on European Union on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union done at Brussels on 26 May 1997;
"European Union official" has the same meaning as "Community official" in Article 1(b) of the Convention;
"national official"—
(a) in relation to a Member State other than the State, has the meaning it has in Article 1 (c) of the Convention, and
(b) in relation to the State, means an Irish official;
"treaties governing the European Union" has the meaning it has in the European Communities Act 1972. Location of proceedings relating to offences committed outside State
13. Proceedings for an offence under section 12 may be taken in any place in the State and the offence may for all incidental purposes be treated as having been committed in that place.

dd. How to Assess and Verify the Suspicion Level According to Art. 26 para. 1 and the CPC for a Criminal Offense Falling within the Competence of the EPPO

The **initial suspicion** (*Anfangsverdacht*, in German) is only to determine the **impetus**, so to speak, the "ball that **gets the criminal proceedings** rolling", i.e. a first glimpse of a PIF offence identified by an official, participant, operator or police, e.g. ay forged paper, a deepfake statement of a banking account ensuring enough money for a huger project financed with an additional EU subsidy, a figure about acres of land not correct with the official acres. The **suspicion** must be **related to a harmonized PIF offence**: 165

(1) The PIF Offences in Ireland

166 The Gardaí, the Revenue, the Customs officers and the national prosecution offices must investigate PIF offences (such as e.g. real fraud offences[139], smuggling, i.e. fuel laundering[140], tobacco smuggling, [141] subsidy frauds or any form part of the national crime scenery of frauds[142]) and the offences of the so-called **shadow-economy**[143], heavy VAT frauds[144], as long as the Republic of Ireland is not part of the EPPO, on its own. On the 14th day of April 2021 the Criminal Justice (Theft and Fraud Offences) (Amendment) Act 2021 (No. 2 of 2021) came into force and on the Criminal Justice (Corruption Offences) Act 2018 came into force – both containing major statutory law for the **implementation of the Directive 2017/1371 (EU)**. The new Criminal Justice (Theft and Fraud Offences) (Amendment) Act 2021 gives effect to Directive (EU) 2017/137 and it contains an **extension** "**for extraterritorial jurisdiction for offences committed abroad by Irish citizens**, corporates and residents that relate to 'fraud affecting the financial interests of the European Union'".[145]

167 The ICCL has explained the **system of Irish offences**, which can be understood by having knowledge of the Irish criminal law basics[146], containing the dogmatics on justificatory defences[147] and inchoate offences (incitement and attempt as well as aiding and abetting addressed by Art. 5 PIF Directive)[148] in criminal law, precisely:

> "There are **three categories of criminal offence(s)**.
>
> **First**, there are **summary only** offences. These are the **least serious crimes** and can only be dealt with in the District Court by a judge sitting without a jury. Summary only offences include road traffic offences and public order offences. The maximum prison sentence is 12 months for a single offence. Where multiple offences are involved, the maximum sentence the District Court can impose is 24 months. The Gardaí may take on the role of prosecutor for summary offences in the name of the DPP and the DPP has the power to direct the Gardaí as to how to deal with the case.

[139] See within a monography Quinn 2003.
[140] See Irish Tax and Customs 2023a.
[141] E.g. tobacco smuggling is still a major offence within the customs sector. Evading taxes or customs duties is damaging the EU's revenue and therefore a major concern of the Anti-Fraud Bodies of the EU, the EPPO and OLAF. Irish Tax and Customs is competent to deal with tobacco smuggling (see below → Part. E on OLAF operations and References to the OLAF Regulation in Irish law) https://www.revenue.ie/en/corporate/assist-us/reporting-shadow-economy-activity/tobacco-smuggling.aspx. Accessed 30 October 2025.
[142] See Hamilton 2022.
[143] See Irish Tax and Customs 2023a.
[144] See Lally C 2019; Irish Revenue, https://www.revenue.ie/en/vat/what-is-vat/what-is-vat-fraud.aspx. Accessed 30 October 2025; see Di Nicola, Flor, Baratto et al. 2025, pp. 55, 163 et seq. on (digital) VAT fraud in Ireland; see Carroccia 2024, passim on a new strategy to fight digital VAT frauds in the EU by approaching differently.
[145] See Reynolds et al. 2024.
[146] See Ní Choileáin 2017; Rafter Solicitors 2024.
[147] Law Reform Commission 2009, pp. 3, 11–21 with a good overview.
[148] Law Reform Commission 2010, pp. 23, 71, 113, 135 et seq.

The **second category** of crimes are “hybrid offences”. These are offences which, depending on the facts of the case, could be tried summarily in the District Court or could be sent forward to the Circuit Court for trial before a Judge and jury. The DPP and the District Court judge will generally decide whether or not a matter should be sent forward on indictment, though in some cases the accused will have a choice as to whether they wish to be tried by a jury. Most offences are hybrid offences, such as theft, burglary and assault. [*scil.* From our point-of-view it is highly likely that all PIF offences fall under this category].

The **third** and final **category of offences** are **indictable only offences**. These are the most serious crimes such as murder, manslaughter and rape. These crimes can only be tried before a Judge and jury and are usually dealt with in the Central Criminal Court. Some indictable-only and hybrid offences are sent forward to the Special Criminal Court where they are heard by three judges without a jury.”[149]

(a) General Rules on Criminal Liability

The General Rules on Criminal Liability are applicable in EU Fraud Offence Situations 168
the **rules on criminal liability of natural and legal persons** (body corporate):

Liability for offences by body corporate, etc. (Part 6) 169
Section 42B. Criminal Justice Act 2021 [formerly Section 5 of the Criminal Justice]
(1) Where a relevant offence is committed for the benefit of a body corporate by a relevant person and the commission of the relevant offence is attributable to the failure, by a director, manager, secretary or other officer of the body corporate, or a person purporting to act in that capacity, to exercise, at the time of the commission of the relevant offence and in all the circumstances of the case, the requisite degree of supervision or control of the relevant person, the body corporate shall be guilty of an offence.
(2) In proceedings for an offence under subsection (1), it shall be a defence for a body corporate against which such proceedings are brought to prove that it took all reasonable steps and exercised all due diligence to avoid the commission of the offence.
(3) Where an offence under section 42 or 42A, or an offence of inciting, aiding and abetting, or attempting the commission of such an offence, is committed by a body corporate and it is proved that the offence was committed with the consent or connivance, or was attributable to any wilful neglect, of a person who was a director, manager, secretary or other officer of the body corporate, or a person purporting to act in that capacity, that person shall, as well as the body corporate, be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

[149] Irish Council for Civil Liberties 2021, pp. 11–12.

(4) Where the affairs of a body corporate are managed by its members, subsection (3) shall apply in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director or manager of the body corporate.
(5) Subsection (1)—
(a) is without prejudice to the other circumstances, under the general law, whereby acts or omissions of a natural person are attributed to a body corporate resulting in criminal liability of that body corporate for those acts or omissions, and
(b) does not exclude criminal proceedings against natural persons who are involved as perpetrators, inciters or accessories in an offence referred to in that subsection.
(6) A person guilty of an offence under subsection (1) is liable on conviction on indictment to a fine.
(7) In this section—
'relevant person', in relation to a **body corporate**, means—
(a) a **director**, **manager**, **secretary** or other officer of the body corporate, or a person purporting to act in that capacity, or
(b) an **employee**, **subsidiary or agent** of the body corporate;
'relevant offence' means—
(a) an offence under section 42 or 42A,
(b) a **money laundering offence** involving property derived from the proceeds of an offence referred to in paragraph (a), (c) or (d),
(c) a **corruption offence** that damages, or is likely to damage, the financial interests of the European Union, or
(d) an **offence of inciting, aiding and abetting, or attempting** the commission of an offence referred to in paragraph (a), (b) or (c);
'subsidiary', in relation to a body corporate, has the same meaning as it has in the Companies Act 2014 .".

(b) Changes to Criminal Justice (Theft and Fraud Offences) Act 2001 in 2021: Definitions due to Directive 2017/1371

170 The Legislator adopted changes to the Criminal Justice (Theft and Fraud Offences) Act 2001 in 2021:

171 **"40.** (1) In this Part—
'Act of 2018' means the Criminal Justice (Corruption Offences) Act 2018 ;
'corruption offence' means an offence under section 5 of the Act of 2018;
'Directive' means **Directive (EU) 2017/1371** of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law, the text of which is, for convenience of reference, set out in Schedule 1A;

‘fraud affecting the financial interests of the European Union’ has the same meaning as ‘fraud affecting the Union’s financial interests’ in Article 3(2) of the Directive;
‘misappropriation’ has the same meaning as it has in Article 4(3) of the Directive;
‘money laundering offence’ means an offence under Part 2 of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 ;
‘national official’, for the purposes of the application of Article 4(4)(a) of the Directive, means an Irish official within the meaning of section 2(1) of the Act of 2018;
‘public official’ means —
(a) a Union official within the meaning of Article 4(4)(a)(i) of the Directive,
(b) a national official,
(c) a foreign official within the meaning of section 2(1) of the Act of 2018, or
(d) a person referred to in Article 4(4)(b) of the Directive.
(2) A word or expression that is used in this Part and that is also used in the Directive has, unless the context otherwise requires, the same meaning in this Part as it has in the Directive.”.

(c) Criminal Justice (Theft and Fraud Offences) (Amendment) Act 2021: Fraud to the Union

(aa) Offences under Articles 3 and 4 PIF Directive as Reflected in National Law

The Legislator adopted changes in order to comply with the definition of EU fraud in Art. 2 PIF Directive and changed its offences in order to comply with Art. 3, 4 and 5 PIF-Directive 2017/1371: 172

Section 42 173
(1) Subject to subsection (2), a person **who intentionally commits** any fraud affecting the financial interests of the European Union is guilty of an offence and is liable on conviction on indictment to a fine or to imprisonment for a term not exceeding 5 years or both.
(2) Where an offence under subsection (1) relates to acts or omissions to which Article 3 (2)(d) of the Directive applies, the offence is not committed unless such acts or omissions are connected with the territory of two or more Member States and involve a total damage of not less than €10,000,000.

The **Principal Act of 2001** is also amended by the insertion of the following: 174

Section 42A 175
A public official **who intentionally commits** misappropriation is guilty of an offence and is liable on conviction on indictment to a fine or to imprisonment for a term not exceeding 5 years or both.

176 This definition is very important for **white collar crimes** e.g. an economic operator, who acts for an Irish company as an expert or a mayor, who is directing a company as another job etc.

(bb) Fraud (Section 6–10, Theft and Fraud Offences Act 2001)

177 **Making gain or causing loss by deception.**

6.—(1) A person who dishonestly, with the intention of making a gain for himself or herself or another, or of causing loss to another, by any deception induces another to do or refrain from doing an act is guilty of an offence.

(2) A person guilty of an offence under this section is liable on conviction on indictment to a fine or imprisonment for a term not exceeding 5 years or both.

Obtaining services by deception.

7.—(1) A person who dishonestly, with the intention of making a gain for himself or herself or another, or of causing loss to another, by any deception obtains services from another is guilty of an offence.

(2) For the purposes of this section a person obtains services from another where the other is induced to confer a benefit on some person by doing some act, or causing or permitting some act to be done, on the understanding that the benefit has been or will be paid for.

(3) Without prejudice to the generality of subsection (2), a person obtains services where the other is induced to make a loan, or to cause or permit a loan to be made, on the understanding that any payment (whether by way of interest or otherwise) will be or has been made in respect of the loan.

(4) A person guilty of an offence under this section is liable on conviction on indictment to a fine or imprisonment for a term not exceeding 5 years or both.

Making off without payment.

8.—(1) Subject to *subsection (2)*, a person who, knowing that payment on the spot for any goods obtained or any service done is required or expected, dishonestly makes off without having paid as required or expected and with the intention of avoiding payment on the spot is guilty of an offence.

(2) *Subsection (1)* shall not apply where the supply of the goods or the doing of the service is contrary to law or where the service done is such that payment is not legally enforceable.

(3) Subject to *subsections (5)* and *(6)*, any person may arrest without warrant anyone who is or whom he or she, with reasonable cause, suspects to be in the act of committing an offence under this section.

(4) Where a member of the Garda Síochána, with reasonable cause, suspects that an offence under this section has been committed, he or she may arrest without warrant any person whom the member, with reasonable cause, suspects to be guilty of the offence.
(5) An arrest other than by a member of the Garda Síochána may be effected by a person under *subsection (3)* only where the person, with reasonable cause, suspects that the person to be arrested by him or her would otherwise attempt to avoid, or is avoiding, arrest by a member of the Garda Síochána.
(6) A person who is arrested pursuant to this section by a person other than a member of the Garda Síochána shall be transferred by that person into the custody of the Garda Síochána as soon as practicable.
(7) A person guilty of an offence under this section is liable on conviction on indictment to a fine not exceeding £3,000 or imprisonment for a term not exceeding 2 years or both.

Unlawful use of computer.
9.—(1) A person who dishonestly, whether within or outside the State, operates or causes to be operated a computer within the State with the intention of making a gain for himself or herself or another, or of causing loss to another, is guilty of an offence.
(2) A person guilty of an offence under this section is liable on conviction on indictment to a fine or imprisonment for a term not exceeding 10 years or both.

False accounting.
10.—(1) A person is guilty of an offence if he or she dishonestly, with the intention of making a gain for himself or herself or another, or of causing loss to another—
(*a*) destroys, defaces, conceals or falsifies any account or any document made or required for any accounting purpose,
(*b*) fails to make or complete any account or any such document, or
(*c*) in furnishing information for any purpose produces or makes use of any account, or any such document, which to his or her knowledge is or may be misleading, false or deceptive in a material particular.
(2) For the purposes of this section a person shall be treated as falsifying an account or other document if he or she—
(*a*) makes or concurs in making therein an entry which is or may be misleading, false or deceptive in a material particular, or
(*b*) omits or concurs in omitting a material particular therefrom.
(3) A person guilty of an offence under this section is liable on conviction on indictment to a fine or imprisonment for a term not exceeding 10 years or both.

Suppression, etc., of documents.
11.—(1) A person is guilty of an offence if he or she dishonestly, with the intention of making a gain for himself or herself or another, or of causing loss to another, destroys,

defaces or conceals any valuable security, any will or other testamentary document or any original document of or belonging to, or filed or deposited in, any court or any government department or office.
(2) (*a*) A person who dishonestly, with the intention of making a gain for himself or herself or another, or of causing loss to another, by any deception procures the execution of a valuable security is guilty of an offence.
(*b*) *Paragraph (a)* shall apply in relation to—
(i) the making, acceptance, endorsement, alteration, cancellation or destruction in whole or in part of a valuable security, and
(ii) the signing or sealing of any paper or other material in order that it may be made or converted into, or used or dealt with as, a valuable security,
as if that were the execution of a valuable security.
(3) In this section, "valuable security" means any document—
(*a*) creating, transferring, surrendering or releasing any right to, in or over property,
(*b*) authorising the payment of money or delivery of any property, or
(*c*) evidencing the creation, transfer, surrender or release of any such right, the payment of money or delivery of any property or the satisfaction of any obligation.
(4) A person guilty of an offence under this section is liable on conviction on indictment to a fine or imprisonment for a term not exceeding 10 years or both.

(d) Forgery Affecting the Union's Financial Interests

178 The forgery offences are anchored in Part 4 of the Criminal Justice (Theft and Fraud Offences) Act 2001.[150]

(e) Bribery and Corruption (Criminal Justice Act 2019 and the Criminal Justice (Corruption Offences) Act 2018)

179 The Union Legislator has proposed to amend the **definition of corruption offences** within the PIF Directive 2017/1371 in May 2023. It still remains questionable when this proposal will be adopted, but the Irish Legislation includes bribery offences already as of 2021:

180 **Active corruption. 43.**—A person who commits active corruption is guilty of an offence and is liable on conviction on indictment to a fine or imprisonment for a term not exceeding 5 years or both.

Passive corruption. 44.—An official who commits passive corruption is guilty of an offence and is liable on conviction on indictment to a fine or imprisonment for a term not exceeding 5 years or both.

[150] https://www.irishstatutebook.ie/eli/2001/act/50/enacted/en/html. Accessed 30 October 2025.

The **Criminal Justice (Corruption Offences) Act 2018** contains further rules: **181**

PART 1 **182**

Preliminary and General

1. (1) This Act may be cited as the Criminal Justice (Corruption Offences) Act 2018.

(2) This Act shall come into operation on such day or days as the Minister may by order or orders appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

Interpretation

2. (1) In this Act—

"company" means a company formed and registered under the Companies Act 2014 or an existing company within the meaning of that Act;

"consideration" includes valuable consideration of any kind;

"corruptly" includes acting with an improper purpose personally or by influencing another person, whether—

(a) by means of making a false or misleading statement,

(b) by means of withholding, concealing, altering or destroying a document or other information, or

(c) by other means;

"court"—

(a) in relation to the State, includes a court-martial, and

(b) in relation to any other state, includes a military court by whatever name called;

"director" means—

(a) in relation to a company, a director within the meaning of the Companies Act 2014, and

(b) in the case of an Irish public body that is not a company, a person who is a member of the body or a member of a board by whatever name called that controls, manages or administers the body;

"enactment" means a statute or an instrument made under a power conferred by statute;

"foreign official" means—

(a) a member of the government of any other state,

(b) a member of a parliament, regional or national, of any other state,

(c) a member of the European Parliament other than a person who is such a member by virtue of the European Parliament Elections Act 1997 ,

(d) a member of the Court of Auditors of the European Union,

(e) a member of the European Commission,

(f) a public prosecutor in any other state,

(g) a judge of a court in any other state, including a coroner’s court by whatever name called,
(h) a judge of a court established under an international agreement to which the State is a party,
(i) a member of a jury in court proceedings (whether criminal or civil), including an inquest in relation to the death of a person, in any other state,
(j) an arbitrator, including any member of an arbitral board, panel or tribunal, in arbitral proceedings not governed by the law of the State,
(k) a member of, or any other person employed by, or acting for or on behalf of, an organisation or body established under an international agreement to which the State is a party,
(l) any other person employed by or acting on behalf of the public administration of any other state, including a person under the direct or indirect control of the government of such a state, or
(m) a member of, or any other person employed by, or acting for or on behalf of, an international organisation established by an international agreement between states to which the State is not a party;
“Irish official” means—
(a) a member of Dáil Éireann,
(b) a member of Seanad Éireann,
(c) a member of the European Parliament who is such a member by virtue of the European Parliament Elections Act 1997,
(d) the Attorney General,
(e) the Comptroller and Auditor General,
(f) the Director of Public Prosecutions,
(g) a judge of a court in the State,
(h) an arbitrator, including any member of an arbitral board, panel or tribunal, in arbitral proceedings governed by the law of the State,
(i) a member of a jury in court proceedings (whether civil or criminal) in the State or in an inquest held under the Coroners Act 1962,
(j) an officer, director, employee or member of an Irish public body (including a member of a local authority),
(k) any other office holder appointed under an enactment who is remunerated out of moneys provided by the Oireachtas and who is independent in the performance of the functions of that office, or
(l) any other person employed by or acting for or on behalf of the public administration of the State;
“Irish public body” shall be construed in accordance with Schedule 1 ;
“local authority” means a county, city or city and county council within the meaning of section 2 of the Local Government Act 2001;

"Minister" means the Minister for Justice and Equality;
"official" means an Irish official or a foreign official;
"prescribed" means prescribed by regulations made by the Minister under section 3;
"seized property" shall be construed in accordance with section 20;
"state", in relation to a state other than the State, includes—
(a) a territory, whether in the state or outside it, for whose external relations the state or its government is wholly or partly responsible,
(b) a subdivision of the government of the state, and
(c) a national, regional or local entity of the state;
"subsidiary" has the meaning it has in section 7 of the Companies Act 2014.
(2) A reference in this Act to an act includes a reference to an omission and a reference in this Act to the commission or doing of an act includes a reference to the making of an omission.

Regulations
3. (1) The Minister may by regulations provide for any matter referred to in this Act as prescribed or to be prescribed.
(2) Regulations under this section may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations.
(3) Every regulation made by the Minister under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House sits after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Repeals
4. The enactments specified in Schedule 2 are repealed to the extent specified in column (3) of that Schedule.

PART 2
Corruption Offences
Active and passive corruption
5. (1) A person who, either directly or indirectly, by himself or herself or with another person—
(a) corruptly offers, or
(b) corruptly gives or agrees to give,
a gift, consideration or advantage to a person as an inducement to, or reward for, or otherwise on account of, any person doing an act in relation to his or her office, employment, position or business shall be guilty of an offence.

(2) A person who, either directly or indirectly, by himself or herself or with another person—
(a) corruptly requests,
(b) corruptly accepts or obtains, or
(c) corruptly agrees to accept,
for himself or herself or for any other person, a gift, consideration or advantage as an inducement to, or reward for, or otherwise on account of, any person doing an act in relation to his or her office, employment, position or business shall be guilty of an offence.

Active and passive trading in influence
6. (1) A person who, either directly or indirectly, by himself or herself or with another person—
(a) corruptly offers, or
(b) corruptly gives or agrees to give,
a gift, consideration or advantage in order to induce another person to exert an improper influence over an act of an official in relation to the office, employment, position or business of the official shall be guilty of an offence.
(2) A person who, either directly or indirectly, by himself or herself or with another person—
(a) corruptly requests,
(b) corruptly accepts or obtains, or
(c) corruptly agrees to accept,
for himself or herself or for any other person, a gift, consideration or advantage on account of a person promising or asserting the ability to improperly influence an official to do an act in relation to the office, employment, position or business of the official shall be guilty of an offence.
(3) For the purposes of subsections (1) and (2), it is immaterial whether or not—
(a) the alleged ability to exert an improper influence existed,
(b) the influence is exerted,
(c) the supposed influence leads to the intended result, or
(d) the intended or actual recipient of the gift, consideration or advantage is the person whom it is intended to induce to exert influence.

Corruption in relation to office, employment, position or business
7. (1) An Irish official who, either directly or indirectly, by himself or herself or with another person, does an act in relation to his or her office, employment, position or business for the purpose of corruptly obtaining a gift, consideration or advantage for himself or herself or for any other person, shall be guilty of an offence.

(2) An Irish official who uses confidential information obtained in the course of his or her office, employment, position or business for the purpose of corruptly obtaining a gift, consideration or advantage for himself or herself or for any other person shall be guilty of an offence.
Giving gift, consideration or advantage that may be used to facilitate offence under this Act
8. A person who gives a gift, consideration or advantage to another person where the first-mentioned person knows, or ought reasonably to know, that the gift, consideration or advantage, or a part of it, will be used to facilitate the commission of an offence under this Act shall be guilty of an offence.

Creating or using false document
9. (1) A person who, either directly or indirectly, by himself or herself or with another person, corruptly creates or uses a document, that the person knows or believes to contain a statement which is false or misleading in a material particular, with the intention of inducing another person to do an act in relation to his or her office, employment, position or business to the prejudice of the last-mentioned person or another person shall be guilty of an offence.
(2) In this section—
“document” includes—
(a) a book, record or other written or printed material in any form (including in any electronic device),
(b) a map, plan or drawing,
(c) a disc, tape or other mechanical or electronic device in which data other than visual images are embodied so as to be capable, with or without the aid of some other mechanical or electronic equipment, of being reproduced from the disc, tape or other device,
(d) a film, disc, tape or other mechanical or electronic device in which visual images are embodied so as to be capable, with or without the aid of some other mechanical or electronic equipment, of being reproduced from the film, disc, tape or other device, and
(e) a copy of anything that falls within paragraph (a), (b), (c) or (d);
“electronic device” includes any device which uses any electrical, digital, magnetic, optical, electromagnetic, biometric or photonic means, or other forms of related technology, or any combination thereof, to store or transmit data or both to store and transmit data.
Intimidation
10. (1) A person who, either directly or indirectly, by himself or herself or with another person, threatens harm to a person with the intention of corruptly influencing that person or another person to do an act in relation to the person’s office, employment, position or business shall be guilty of an offence.

(2) In this section “harm” includes loss, disadvantage or injury of any kind.

183 Part 4 rules on the presumptions relating to corruption:

184 **Presumption of corrupt gift, consideration or advantage**

14. (1) Where, in any proceedings against a person for an offence under section 5, 6, 7 or 8 , it is proved that—

(a) a gift, consideration or advantage has been—

(i) given to an official or a connected person of an official,

(ii) given to a person while intended to be for the benefit of an official or a connected person of an official, or

(iii) received by or on behalf of an official or a connected person of an official,

and

(b) the person who gave the gift, consideration or advantage, or on whose behalf the gift, consideration or advantage was given, had an interest in the discharge by the official of any of the functions to which this subsection applies by virtue of subsection (3),

the gift, consideration or advantage shall be presumed to have been given and received corruptly as an inducement to, or reward for, or otherwise on account of, that official doing an act in relation to the performance of any of those functions, unless the contrary is proved.

(2) Where, in any proceedings against a person for an offence under section 5, 6, 7 or 8 , it is proved that—

(a) a gift, consideration or advantage has been—

(i) given to an official or a connected person of an official,

(ii) given to a person while intended to be for the benefit of an official or a connected person of an official, or

(iii) received by or on behalf of an official or a connected person of an official,

and

(b) the official performed or omitted to perform any of the functions to which this subsection applies by virtue of subsection (3) so as to give rise to an undue benefit or advantage to the person who gave the gift, consideration or advantage, or on whose behalf the gift, consideration or advantage was given,

the gift, consideration or advantage shall be presumed to have been given and received corruptly as an inducement to, or reward for, or otherwise on account of, that official doing an act in relation to the performance of any of those functions, unless the contrary is proved.

(3)Subsections (1) and (2) apply to functions of officials relating to the following matters or under the following enactments:

(a) the awarding, granting, issuing, sanctioning, renewal, refusal, withdrawal or revocation of—

(i) a tender for goods or services,

(ii) a contract,
(iii) a grant, payment or loan, or a credit facility of any kind,
(iv) a licence, permit, certificate, warrant, authorisation or similar permission or instrument, or
(v) a passport, visa or immigration permission or status;
(b) the making of a decision regarding—
(i) the appointment of a person to an office, position or employment,
(ii) the acquisition, letting or sale of any land or other property by any means, or
(iii) a designation affecting the treatment of any land, cash or other property or income for the purposes of any tax or any rate of taxation;
(c) the investigation or prosecution of offences;
(d) the exercise of judicial functions;
(e) the administration of justice;
(f) the performance by the Central Bank of Ireland of its functions;
(g) the performance by the National Asset Management Agency of its functions;
(h) the Planning and Development Acts 2000 to 2016 and any Act which is to be construed together as one with those Acts.
(4) The Minister may prescribe a class of persons for the purposes of paragraph (i) of the definition of "connected person" of an official in subsection (5) only if the Minister is satisfied that it would be appropriate for the provisions of this section to be applied in relation to members of the class, having regard to any heightened risk, arising from their close family relationship with the official, that such persons may be involved in offences under sections 5, 6, 7 and 8.
(5) In this section—
"civil partner" has the meaning it has in section 3 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;
"connected person", in relation to an official, means—
(a) an individual who has joint beneficial ownership of a legal entity or legal arrangement, or any other close business relations, with the official,
(b) an individual who has sole beneficial ownership of a legal entity or legal arrangement set up for the actual benefit of the official,
(c) a spouse or civil partner of the official,
(d) a person who is considered to be equivalent to a spouse or civil partner of the official under the national or other law of the place where the person or official resides,
(e) a child of the official,
(f) a spouse or civil partner of a child of the official,
(g) a person who is considered to be equivalent to a spouse or civil partner of a child of the official under the national or other law of the place where the person or child resides,
(h) a parent of the official, or
(i) any person who is a member of a class of persons prescribed under subsection (4).

Presumption of corrupt donation

15. (1) Where, in any proceedings against a person to whom this section applies by virtue of subsection (2) (in this subsection referred to as the "person concerned") for an offence under section 5, 6, 7 or 8 , it is proved that—

(a) the person concerned received a donation—

(i) exceeding in value the relevant amount specified in section 23A(1) of the Act of 1997 or section 19B(1) of the Act of 1999, as may be appropriate, or

(ii) of a type specified in section 23A(2), 23AA(1) or 24A(2) of the Act of 1997 or section 19B(2) or 19BB(1) of the Act of 1999, as may be appropriate,

(b) the person concerned failed to—

(i) return the donation or the part of the donation exceeding the limit concerned to the donor in accordance with whichever section of the Act of 1997 or the Act of 1999, as the case may be, is appropriate, or

(ii) notify the Standards in Public Office Commission or the local authority concerned of the receipt of the donation and remit the donation or the part of it exceeding the limit concerned or the value thereof to the Standards in Public Office Commission or that local authority in accordance with whichever section of the Act of 1997 or the Act of 1999, as the case may be, is appropriate,

and

(c) the donor had an interest in the person concerned doing an act in relation to his or her office, employment, position or business,

the donation shall be presumed to have been given and received corruptly as an inducement to, or reward for, or otherwise on account of, the person concerned doing an act in relation to his or her office, employment, position or business, unless the contrary is proved.

(2) This section applies to a person who was—

(a) a member of Dáil Éireann,

(b) a member of Seanad Éireann,

(c) a member of the European Parliament who is such a member by virtue of the European Parliament Elections Act 1997, or

(d) a member of a local authority,

at the time of the alleged commission of the offence concerned.

(3) In this section—

"Act of 1997" means the Electoral Act 1997;

"Act of 1999" means the Local Elections (Disclosure of Donations and Expenditure) Act 1999 ;

"donation"—

(a) in relation to a person referred to in paragraph (a), (b) or (c) of subsection (2), has the meaning it has in section 22 of the Act of 1997, and

(b) in relation to a person referred to in paragraph (d) of subsection (2), has the meaning it has in section 2 of the Act of 1999;
"donor" means the person who makes a donation or on whose behalf a donation is made and includes a corporate donor within the meaning of section 22(2)(aa) of the Act of 1997 or section 19A of the Act of 1999, as the case may be.

Offences of **office holders** are enshrined here as well: **185**

Presumption of corrupt enrichment
16. (1) (a) Paragraph (b) applies where, in any proceedings against an Irish official who is or was a member or an office holder for an offence under section 5, 6, 7 or 8 , it is proved that he or she owns or has, or owned or had, an interest in land or other property that was required to be declared in the statement of registrable interests of that member or office holder but was not so declared.
(b) It shall be presumed that the land or other property referred to in paragraph (a) derives or derived, either directly or indirectly, from a gift, consideration or advantage received as an inducement to, or reward for, or otherwise on account of, the Irish official doing an act in relation to his or her office, employment, position or business, unless the contrary is proved.
(2) In this section—
"member", "office holder" and "registrable interest" have the meanings they have in the Ethics in Public Office Act 1995;
"statement of registrable interests" means a statement of registrable interests (if any) which an Irish official who is a member or an office holder is or was required to make in accordance with the Ethics in Public Office Act 1995.

(f) Customs Offences and AML

The customs offences and AML offences are partly enshrined in the criminal code and partly in the customs code. The **Customs Act 2016** provides for the following offences: **186**

The Customs Act 2016: PART 3 Offences, Penalties and Proceedings **187**
14. Offences relating to improper importation or exportation of goods
15. Miscellaneous customs offences
16. Trial of offences summarily or on indictment
17. Forfeiture
18. Notice of seizure
19. Notice of claim
20. Proceedings for condemnation by court
21. Proceedings in relation to offences
22. Damages
23. Presumptions and onus of proof

24. Other penalties to which a person may be liable.

(g) Tax Offences (Tax Consolidation Act 1977 as Amended 2022)

188 The following offences and section of the **Tax Consolidation Act** may apply:

189

PART 47 Penalties, Revenue Offences, Interest on Overdue Tax and Other Sanctions

CHAPTER 1

Income tax and corporation tax penalties

1052.

Penalties for failure to make certain returns, etc.

1053.

Penalty for **fraudulently or negligently making incorrect returns**, etc.

1054.

Increased penalties in case of body of persons.

1055.

Penalty for assisting in making incorrect returns, etc.

1056.

Penalty for false statement made to obtain allowance.

1057.

Fine for obstruction of officers in execution of duties.

1058.

Refusal to allow deduction of tax.

1059.

Power to add penalties to assessments.

1060.

Proceedings against executor or administrator.

1061.

Recovery of penalties.

1062.

Proceedings where penalty recoverable cannot be definitely ascertained.

1063.

Time limit for recovery of fines and penalties.

1064.

Time for certain summary proceedings.

1065.

Mitigation and application of fines and penalties.

1066.

False evidence: punishment as for perjury.

1067.

Admissibility of statements and documents in criminal and tax proceedings.
1068.
Failure to act within required time.
1069.
Evidence of income.
1070.
Saving for criminal proceedings.

CHAPTER 2
Other corporation tax penalties
1071.
Penalties for failure to make certain returns.
1072.
Penalties for fraudulently or negligently making incorrect returns, etc.
1073.
Penalties for failure to furnish particulars required to be supplied by new companies.
1074.
Penalties for failure to give notice of liability to corporation tax.
1075.
Penalties for failure to furnish certain information and for incorrect information.
1076.
Supplementary provisions (*Chapter 2*).

CHAPTER 3
Capital gains tax penalties
1077.
Penalties for failure to make returns, etc. and for fraudulently or negligently making incorrect returns, etc.

CHAPTER 4
Revenue offences
1078.
Revenue offences.
1079.
Duties of relevant person in relation to certain revenue offences.

CHAPTER 5
Interest on overdue tax
1080.
Interest on overdue income tax and corporation tax.

1081.
Effect on interest of reliefs given by discharge or repayment.
1082.
Interest on overdue income tax and corporation tax in cases of fraud or neglect.
1083.
Application of *sections 1080* to *1082* for capital gains tax purposes.

CHAPTER 6
Other sanctions
1084.
Surcharge for late returns.
1085.
Corporation tax— late returns: restriction of certain claims for relief.
1086.
Publication of names of tax defaulters.

190 The Revenue offences, which are particularly important for the EPPO are enshrined in Chapter 4 of the **Tax Consolidation Act** and have the following wording:

191 **CHAPTER 4 Revenue offences**
1078.—(1) In this Part—
"the Acts" means—
(a) the Customs Acts,
(b) the statutes relating to the duties of excise and to the management of those duties,
(c) the Tax Acts,
(d) the Capital Gains Tax Acts,
(e) the Value-Added Tax Act, 1972, and the enactments amending or extending that Act,
(f) the Capital Acquisitions Tax Act, 1976, and the enactments amending or extending that Act,
(g) the statutes relating to stamp duty and to the management of that duty, and
(h) Part VI of the Finance Act, 1983,
and any instruments made thereunder and any instruments made under any other enactment and relating to tax;
"authorised officer" means an officer of the Revenue Commissioners authorised by them in writing to exercise any of the powers conferred by the Acts;
"tax" means any tax, duty, levy or charge under the care and management of the Revenue Commissioners.
(2) A person shall, without prejudice to any other penalty to which the person may be liable, be guilty of an offence under this section if the person—
(a) knowingly or wilfully delivers any incorrect return, statement or accounts or knowingly or wilfully furnishes any incorrect information in connection with any tax,

(b) knowingly aids, abets, assists, incites or induces another person to make or deliver knowingly or wilfully any incorrect return, statement or accounts in connection with any tax,
(c) claims or obtains relief or exemption from, or repayment of, any tax, being a relief, exemption or repayment to which, to the person's knowledge, the person is not entitled,
(d) knowingly or wilfully issues or produces any incorrect invoice, receipt, instrument or other document in connection with any tax,
(e) (i) fails to make any deduction required to be made by the person under section 257 (1),
(ii) fails, having made the deduction, to pay the sum deducted to the Collector-General within the time specified in that behalf in section 258 (3), or
(iii) fails to pay to the Collector-General an amount on account of appropriate tax (within the meaning of Chapter 4 of Part 8) within the time specified in that behalf in section 258 (4),
(f) (i) fails to make any deduction required to be made by the person under section 734 (5), or
(ii) fails, having made the deduction, to pay the sum deducted to the Collector-General within the time specified in paragraph 1(3) of Schedule 18,
(g) knowingly or wilfully fails to comply with any provision of the Acts requiring—
(i) the furnishing of a return of income, profits or gains, or of sources of income, profits or gains, for the purposes of any tax,
(ii) the furnishing of any other return, certificate, notification, particulars, or any statement or evidence, for the purposes of any tax,
(iii) the keeping or retention of books, records, accounts or other documents for the purposes of any tax, or
(iv) the production of books, records, accounts or other documents, when so requested, for the purposes of any tax,
(h) knowingly or wilfully, and within the time limits specified for their retention, destroys, defaces or conceals from an authorised officer—
(i) any documents, or
(ii) any other written or printed material in any form, including any information stored, maintained or preserved by means of any mechanical or electronic device, whether or not stored, maintained or preserved in a legible form, which a person is obliged by any provision of the Acts to keep, to issue or to produce for inspection,
(i) fails to remit any income tax payable pursuant to Chapter 4 of Part 42, and the regulations under that Chapter, or value-added tax within the time specified in that behalf in relation to income tax or value-added tax, as the case may be, by the Acts, or
(j) obstructs or interferes with any officer of the Revenue Commissioners, or any other person, in the exercise or performance of powers or duties under the Acts for the purposes of any tax.

(3) A person convicted of an offence under this section shall be liable—
(a) on summary conviction to a fine of £1,000 which may be mitigated to not less than one fourth part of such fine or, at the discretion of the court, to imprisonment for a term not exceeding 12 months or to both the fine and the imprisonment, or
(b) on conviction on indictment, to a fine not exceeding £10,000 or, at the discretion of the court, to imprisonment for a term not exceeding 5 years or to both the fine and the imprisonment.
(4) Section 13 of the Criminal Procedure Act, 1967, shall apply in relation to an offence under this section as if, in place of the penalties specified in subsection (3) of that section, there were specified in that subsection the penalties provided for by subsection (3) (a), and the reference in subsection (2) (a) of section 13 of the Criminal Procedure Act, 1967, to the penalties provided for in subsection (3) of that section shall be construed and apply accordingly.
(5) Where an offence under this section is committed by a body corporate and the offence is shown to have been committed with the consent or connivance of any person who, when the offence was committed, was a director, manager, secretary or other officer of the body corporate, or a member of the committee of management or other controlling authority of the body corporate, that person shall also be deemed to be guilty of the offence and may be proceeded against and punished accordingly.
(6) In any proceedings under this section, a return or statement delivered to an inspector or other officer of the Revenue Commissioners under any provision of the Acts and purporting to be signed by any person shall be deemed until the contrary is proved to have been so delivered and to have been signed by that person.
(7) Notwithstanding any other enactment, proceedings in respect of an offence under this section may be instituted within 10 years from the date of the commission of the offence or incurring of the penalty, as the case may be.
(8) Section 1 of the Probation of Offenders Act, 1907, shall not apply in relation to offences under this section.
(9) Sections 987 (4) and 1052 (4), subsections (3) and (7) of section 1053 , and sections 1068 and 1069 and sections 26 (6) and 27 (7) of the Value-Added Tax Act, 1972 , shall, with any necessary modifications, apply for the purposes of this section as they apply for the purposes of those sections, including, in the case of such of those sections as are applied by the Capital Gains Tax Acts, the Corporation Tax Acts, or Part VI of the Finance Act, 1983, the purposes of those sections as so applied.

(h) Money Laundering (Criminal Justice Act 1994)

192 Money laundering is a **global phenomenon**, which does not play on the national ground but crosses borders easily requiring the EU, the UN and states in general to adapt common approaches, whereby **money laundering means** “the process by which criminals

legitimise 'dirty' money, generated as profit from organised or regular crime (referred to as predicate offences)"[151]. Ireland has its own **strategy** and some speak of the Irish AML "**far from perfect**" being constructed as a "**complex socio-technical system**"[152], meaning the specialities, the competencies and the legal statues regulating the predicate offences, the offence itself and the sanctions as well as their enforcement.[153]

PART IV Money laundering, etc. 193
31.—(1) A person shall be guilty of an offence if he—
(a) conceals or disguises any property which is, or in whole or in part directly or indirectly represents, his proceeds of drug trafficking or other criminal activity, or
(b) converts or transfers that property or removes it from the State,
for the purpose of avoiding prosecution for an offence or the making or enforcement in his case of a confiscation order.
(2) A person shall be guilty of an offence if, knowing or believing that any property is, or in whole or in part directly or indirectly represents, another person's proceeds of drug trafficking or other criminal activity, he—
(a) conceals or disguises that property, or
(b) converts or transfers that property or removes it from the State,
for the purpose of assisting any person to avoid prosecution for an offence or the making or enforcement of a confiscation order.
(3) A person shall be guilty of an offence if he handles any property knowing or believing that such property is, or in whole or in part directly or indirectly represents, another person's proceeds of drug trafficking or other criminal activity.
(4) In subsection (1) (a) and (2) (a) of this section the references to concealing or disguising any property include references to concealing or disguising its nature, source, location, disposition, movement or ownership or any rights with respect to it.
(5) In subsections (1) (b) and (2) (b) of this section the references to converting, transferring or removing any property include the provision of any advice or assistance in relation to converting, transferring or removing such property.
(6) For the purposes of subsection (3) of this section, a person handles property if he dishonestly—
(a) receives it, or
(b) undertakes or assists in its retention, removal, disposal or realisation by or for the benefit of another person, or
(c) arranges to do any of the things specified in paragraph (a) or (b) of this subsection.

[151] See Meighan 2026, p. 6 and then explaining the different approaches very accurate and quite well legally, see pp. 39 et seq. on the EU's law-making competence and ambition to regulate money laundering; on Ireland pp. 47 et seq.
[152] Ibid, p. 115.
[153] Ibid, p. 50: "AML in Ireland is the system put in place by the Irish government in consultation with the relevant national and supranational organisations, and the private-sector entities, to address money laundering."; p. 53.

(7) Where a person does, in relation to any property which is, or in whole or in part directly or indirectly represents, another person's proceeds of drug trafficking or of any other criminal activity, any of the acts specified in subsection (2) or (3) of this section in such circumstances that it is reasonable to conclude that he knew or believed that the property was, or in whole or in part directly or indirectly represented, another person's proceeds of drug trafficking or other criminal activity, he shall be taken to have so known or believed unless the court or jury, as the case may be, is satisfied having regard to all the evidence that there is a reasonable doubt as to whether he so knew or believed.
(8) In this section believing property to be, or in whole or in part directly or indirectly to represent, another person's proceeds of drug trafficking or other criminal activity includes thinking that the property was probably, or probably represented, such proceeds.
(9) A person guilty of an offence under this section shall be liable—
(a) on summary conviction, to a fine not exceeding £1,000 or to imprisonment for a term not exceeding 12 months or to both, or
(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 14 years or to both.
(10) Offences created by this section shall be felonies.
(11) The provisions of this section shall, in so far as they relate to the proceeds of drug trafficking or other criminal activity, apply whether the drug trafficking or other criminal activity concerned took place in the State or elsewhere, and whether it occurred before or after the commencement of this section, provided that where the trafficking or other activity occurred outside the State it corresponded to an offence under the law of the State and amounted to an offence under the law of the country or territory in which it occurred.

(2) Sanctions, Penalties

194 Intentional fraud is punished by Article 3 para 2 PIF Directive and misappropriation by Article 4 para 3. PIF Directive). Upon conviction on indictment, individuals are liable to a term of imprisonment not exceeding 5 years, an unlimited fine, or both.[154]

195 Ireland exercises jurisdiction over these offences if committed abroad by Irish citizens, residents, or bodies corporate established under Irish law.[155]

(a) Penal Framework for Individuals and Legal Persons

196 The Criminal Justice (Theft and Fraud Offences) (Amendment) Act 2021, which transposed the PIF Directive (EU 2017/1371) introduces a "**robust regime**" for corporate criminal liability. Thus, a body corporate is guilty if a **relevant offence is** committed for

[154] See https://rb.gy/uo3ezq. Accessed 30 October 2025.
[155] Ibid.

its benefit by a "**relevant person**" (i.e. director, manager, officer, agent) due to a failure of the company to exercise the requisite degree of supervision or control.

It is a defence for the body corporate to prove it took "all reasonable steps and exercised all due diligence" to avoid the commission of the offence. Conviction on indictment leads to unlimited fines. Furthermore, if the offence was committed with the "consent, connivance or neglect" of a director or manager, that individual can be prosecuted personally alongside the corporation. **197**

(b) Forfeiture and Confiscation (Proceeds of Crime Acts 1996–2016)

Ireland utilizes a **dual system for asset recovery**: criminal (conviction-based) and civil (non-conviction based). The Criminal Assets Bureau (CAB) uses a civil standard of proof (balance of probabilities) to freeze and seize assets. The 2016 Amendment reduced the threshold value for property that CAB can pursue from €13,000 to €5,000.[156] **198**

The 2021 Act amended the 1994 Act to include **PIF fraud and misappropriation** in the list of offences eligible for extended confiscation. This allows the court to assume that all property held by the defendant in the preceding years constitutes proceeds of crime unless proven otherwise.[157] **199**

(c) Civil Recovery and Administrative Sanctions

The Central Bank of Ireland operates the ASP for regulatory breaches (e.g., AML/CTF failures related to PIF offences). **200**

(d) Mutual Recognition of Freezing and Confiscation Orders (Regulation (EU) 2018/1805)

Since December 2020, Regulation (EU) 2018/1805 has been the primary legal instrument for judicial cooperation in asset recovery between Ireland and other EU Member States (excluding Denmark).[158] The **principle of mutual recognition** concerns freezing and confiscation orders issued by another Member State "within the framework of proceedings in criminal matters" are recognized and executed without further formalities. **201**

(3) Methods of Investigation, Collecting Information and Documenting the Initiation of an Investigation for an Indictment

The Gardai, the Prosecution and potentially future Irish EDPs would need to exercise methods of investigation in order to collect information about a conduct, which **202**

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[156] See https://www.gov.ie/en/department-of-justice-home-affairs-and-migration/publications/proceeds-of-crime-amendment-act-2016/. Accessed 30 October 2025.
[157] See https://shorturl.at/AIP58. Accessed 30 October 2025.
[158] See https://shorturl.at/LX4Km. Accessed 30 October 2025.

could trigger their competence. They would need to document the initiation of an investigation for an indictment:

(a) Impetus of Fraud Knowledge Patterns

203 Recent studies have analysed the peculiarities and **types of fraud** against the EU extensively and they are therefore highly important for EDPs and their knowledge about the structures of this crime area (**criminological insights**):

National level: See Central Statistics Office on Crime and Justice, Revenue Commissioners annual reports, etc.

EU-level: PIF Reports, Rule of law Report, "Impact of Organised Crime on the EU's Financial Interests"[159], VAT gap in Europe – report 2025.

204 **Nota bene**: The Anti-Fraud Knowledge Centre hosted by the EU Commission/OLAF provides information on fraud patterns, prevention tools and case studies.

(b) Special National Databases for PIF Offences/Digital Investigations, Art. 40 para 3 IRP 2020.003

205 There are **different types of fraud** against the EU budget. A basic distinction must be made between fraud on the revenue side and fraud on the expenditure side. This separation applies not only to investigations by the delegated public prosecutors, but also to OLAF investigators (see → Art. 3, 5 OLAF Regulation) and national authorities in administrative procedures (especially on the expenditure side, for example in the case of subsidies). The first **EPPO crime report** therefore correctly distinguishes between:

- Non-procurement expenditure fraud
- Procurement expenditure fraud
- VAT revenue fraud
- Non-VAT revenue fraud and corruption cases (4% in 2021).

* All information, which is not taken from a judgement, is taken from the EPPO's first crime report (published March 2022; see now already the **report for 2025**) and serves as a basis for explaining the initial suspicion scenarios in this area. References can be made to national case law.

206 Fraud may include **primarily damage to the budget**. There are two ways the budget may be damaged. First by revenue frauds and secondly by expenditure-related budget fraud.

207 Revenue frauds are manifold. First, the **scheme should be identified**. For this, it is worthwhile to compare the suspected behaviour with known **behaviour patterns**. From

[159] See Malan and Bosch Chen 2022.

a legal as well as a police point of view, the overview of crime patterns is useful. VAT fraud may be concerned as well as customs duties fraud.

c) Actions if "Decision to Open a Case" (Regulation + Rules in IRP, 2020.003 EPPO)

If a prosecutor decides to initiate an investigation he/she **must note this in the case management system (Art. 45 para 1 EPPO Regulation, 38 IRP[160])**. In addition, the numerous obligations to provide information from Art. 24 para 3 to 8. 208

If an investigation is opened by virtue of Art. 26 para 1 EPPO Regulation, he/she must insert the following information in the Case Management System according to **Art. 38 para 3 IRP**: 209

"a) the possible **legal qualification of the reported criminal conduct**, including if it was committed by an organised group;
b) a short description of the reported criminal conduct, including the date when it was committed;
c) the amount and nature of the estimated damage;
d) the Member State(s) where the focus of the criminal activity is, respectively where the bulk of the offenses, if several, was committed;
e) other Member States that may be involved;
f) the names of the potential suspects and any other involved persons in line with Article 24(4) of the Regulation, their date and place of birth, identification numbers, habitual residence and / or nationality, their occupation, suspected membership of a criminal organisation;
g) whether privileges or immunities may apply;
h) the potential victims (other than the European Union);
i) the place where the main financial damage has occurred;
j) inextricably linked offences; […]"
k) any other additional information, if deemed appropriate by the inserter.

Specific information are presented by the IRP; Art. 41 relates to the initiation according to Art. 26 EPPO Regulation: 210

Article 41: Decision to initiate an investigation or to evoke a case 211
1. Where, following the verification, the European Delegated Prosecutor decides to exercise EPPO's competence by initiating an investigation or evoking a case, a case file shall be opened and it shall be assigned an identification number in the index of the case files (hereinafter the Index). A permanent link to the related registration under Article

[160] See https://www.eppo.europa.eu/sites/default/files/2020-12/2020.003%20IRP%20-%20final.pdf. Accessed 30 October 2025.

38(1) above shall be automatically created by the Case Management System. If an investigation procedure is to be started, the competent national authorities must be informed:

2. The corresponding reference in the Index shall contain, to the extent available:

a) As regards suspected or accused persons in the criminal proceedings of the EPPO or persons convicted following the criminal proceedings of the EPPO,

i. surname, maiden name, given names and any alias or assumed names;

ii. date and place of birth;

iii. nationality;

iv. sex;

v. place of residence, profession and whereabouts of the person concerned,

vi. social security numbers, ID-codes, driving licences, identification documents, passport data, customs and tax identification numbers;

vii. description of the alleged offences, including the date on which they were committed;

viii. category of the offences, including the existence of inextricably linked offences;

ix. the amount of the estimated damages;

x. suspected membership of a criminal organisation;

xi. details of accounts held with banks and other financial institutions;

xii. telephone numbers, SIM-card numbers, email addresses, IP addresses, and account and user names used on online platforms;

xiii. vehicle registration data;

xiv. identifiable assets owned or utilised by the person, such as crypto-assets and real estate.

xv. information whether potential privileges or immunities may apply.

b) as regards natural persons who reported or are victims of offences that fall within the competence of the EPPO,

i. surname, maiden name, given names and any alias or assumed names;

ii. date and place of birth;

iii. nationality;

iv. sex;

v. place of residence, profession and whereabouts of the person concerned;

vi. ID-codes, identification documents, and passport data;

vii. description and nature of the offences involving or reported by the person concerned, the date on which the offences were committed and the criminal category of the offences.

c) as regards contacts or associates of one of the persons referred to in point (a) above,

i. surname, maiden name, given names and any alias or assumed names;

ii. date and place of birth;

iii. nationality;
iv. sex;
v. place of residence, profession and whereabouts of the person concerned;
vi. ID-codes, identification documents, and passport data. The categories of personal data referred to above under points (a) (x) - (xv) shall be entered in the Index only to the extent practicable, taking into account the operational interest and available resources. The reference in the Index shall be maintained up to date during the investigation of a case file. The Case Management System shall periodically notify the European Delegated Prosecutor if certain categories of information are not entered in the Index.
3. The Case Management System shall notify the supervising European Prosecutor and the European Chief Prosecutor and shall randomly assign the monitoring of the investigation to a Permanent Chamber, in accordance with Article 19.
4. Where the handling European Delegated Prosecutor considers that in order to preserve the integrity of the investigation it is necessary to temporarily defer the obligation to inform the authorities referred to in Articles 25(5), 26(2) and 26(7) of the Regulation, he/she shall inform the monitoring Permanent Chamber without delay. The latter may object to this decision and instruct the European Delegated Prosecutor to proceed with the relevant notification immediately.

d) Consequences to the "Decision to open a case"

If this decision has been achieved the EDPs will need to plan on how to conduct the investigation and gather the relevant evidence in order to collect all information that is necessary to prove a criminal offence i.e. a **criminal liability** and the elements that constitute the whole concept of crime in general. A PIF offence will need to be assessed by the relevant **conditions for a crime** i.e. the elements of a particular PIF offence of the present country. **212**

The EDPs will need to focus on the *actus reus a*nd the *mens rea* conditions of the relevant offence.[161] In other words: What German criminal justice calls "*Tatbestand*"[162], in relation to the German **substantive criminal law** enshrined in the Criminal Code or partly in ancillary (not: secondary) criminal law (*Nebenstrafrecht* e.g. *Abgabenordnung*) needs to be assessed according to the requirements that the legislator set up, which includes the objective elements (*actus reus*, see above) of the crime[163], the subjective elements (*mens rea*, see above)[164] as well as the unlawfulness of the conduct (i.e. no **213**

[161] See for the common terms in comparing criminal law and criminal procedure Child et al. 2022.
[162] Bohlander 2009, pp. 29 et seq.
[163] These include in the most criminal law systems questions of causal links, Authorship, causality, "scientific causation" (emphasis added to the cited book) adequacy, limitation of an endless *sine qua non formula*, etc., see recently Walen and Weiser 2022, pp. 57–94.
[164] See only out of many Safferling 2008 who points at the fact that the traditional German terms are "intention" and culpability. But even if the terminology is not congruent and differs in detail, it can be said that these are

written or unwritten justifications/justificatory defences[165] must intervene) and last but not least the guilt of the offender, which is given if the potential perpetrator is not excused for his/her conduct in relation to a PIF offence.[166]

214 Similar or the same conditions exist in relation to the general part of the offense (i.e. a PIF offence, Art. 22 EPPO Regulation, Art. 1-5 PIF Directive) in almost every country in the EU, with a **divide running where common law differs** and civil law countries encounter.

215 In addition, it is important to determine how the indictment should look like: Are several people involved and is there not an isolated act, but possibly a complicity (*Mittäterschaft*) or an indirect perpetrator (*mittelbare Täterschaft*)? In addition, the questions of the criminal liability of a participant must be clarified in order to be able to determine whether an incitement (*Anstiftung*) to a PIF offense or an abetting (*Beihilfe*) to such an act exists.[167]

216 If there is no success to a crime, the question arises as to whether a criminal offense can be determined because of the **attempt of a PIF offence**.[168]

217 For all of these questions and purposes, the EDPs can additionally to the present presentations, analysis and compendium references rely on the existing legal commentaries on the penal codes of the EU Member States and the code of criminal procedures of the Member States, which participate in the EPPO, insofar as national law is concerned, e.g. in the concept of a criminal offence or the start of an investigation.

3. Evocation under Art. 27 EPPO Regulation

1. Upon receiving all relevant information in accordance with article 24(2), the EPPO shall take its decision on whether to exercise its right of evocation as soon as possible, but no later than 5 days after receiving the information from the national authorities and shall inform the national authorities of that decision. The European Chief Prosecutor may in a specific case take a reasoned decision to prolong the time limit by a maximum period of 5 days and **shall inform the national authorities** accordingly.
2. During the periods referred to in para 1, the national authorities shall refrain from taking **any decision under national law** that may have the effect of precluding the EPPO from exercising its right of evocation.

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elements of the subjective offense that occur in continental European criminal codes and are also required separately by the PIF Directive for PIF offenses.

[165] This is a worldwide recognised condition as a basic element of the concept of crime, see Stasi 2021, pp. 31–47.

[166] See Eser 2007, pp. 17–65; on the historical implications and the differences between the common law and civil law approach; Bohlander 2009, pp. 77 et seq. (*Rechtswidrigkeit*), pp. 115 et seq. ("Guilt and Excusatory Defences").

[167] See Hauck, 2025b, Commentary on PIF Directive, Art. 5. For the various translations of these terms see the EUR-Lex database translations of the PIF Directive 2017/1371.

[168] See Hauck 2025b, Commentary on PIF Directive, Art. 5.

The **national authorities** shall take any urgent measures necessary, **under national law**, to ensure effective investigation and prosecution.
3. If the EPPO becomes aware, by means other than the information referred to in article 24(2), of the fact that an investigation in respect of a criminal offence for which it could be competent is already undertaken **by the competent authorities of a Member State**, it shall inform **these authorities** without delay. After being duly informed in accordance with article 24(2), the EPPO shall take a decision on whether to exercise its right of evocation. The decision shall be taken within the time limits set out in para 1 of this article.
4. The EPPO shall, where appropriate, consult the **competent authorities of the Member States** concerned before deciding whether to exercise its right of evocation.
5. Where the EPPO exercises its right of evocation, the **competent authorities of the Member States** shall transfer the file to the EPPO and refrain from carrying out further acts of investigation in respect of the same offence.
6. The right of evocation set out in this article may be exercised by a European Delegated Prosecutor from any Member State whose **competent authorities** have initiated an investigation in respect of an offence that falls within the scope of articles 22 and 23.
Where a European Delegated Prosecutor, who has received the information in accordance with article 24(2), considers not to exercise the right of evocation, he/she shall inform the competent Permanent Chamber through the European Prosecutor of his/her Member State with a view to enabling the Permanent Chamber to take a decision in accordance with article 10(4).
7. Where the EPPO has refrained from exercising its competence, it shall inform the competent national authorities without undue delay. At any time during the proceedings, the competent national authorities shall inform the EPPO of any new facts which could give the EPPO reasons to reconsider its decision not to exercise competence.
The EPPO may exercise its right of evocation after receiving such information, provided that the **national investigation has not already been finalised** and that an **indictment has not been submitted** to a court. The decision shall be taken within the time limit set out in para 1.
8. Where, with regard to offences which caused or are likely to cause damage to the Union's financial interests of less than EUR 100,000, the College considers that, with reference to the degree of seriousness of the offence or the complexity of the proceedings in the individual case, there is no need to investigate or to prosecute at Union level, it shall in accordance with article 9(2), issue general guidelines allowing the European Delegated Prosecutors to decide, independently and without undue delay, not to evoke the case.
The guidelines shall specify, with all necessary details, the circumstances to which they apply, by establishing clear criteria, taking specifically into account the nature of the offence, the urgency of the situation and the commitment of the **competent national**

authorities to take all necessary measures to fully recover the damage to the Union's financial interests.
9. To ensure coherent application of the guidelines, a European Delegated Prosecutor shall inform the competent Permanent Chamber of each decision taken in accordance with para 8 and each Permanent Chamber shall report annually to the College on the application of the guidelines.

a) General Remarks

1 Art. 27 as secondary Union-law enables the EPPO as competent EU organ to **evocate cases from any EPPO zone member states**.[169] In general, at the beginning it can be said that the EPPO as a hierarchical body has the opportunity to gather the incoming information flow on potential EU fraud crimes. All information on potential EU crimes, which means as well all PIF crimes and other irregularities, which are not already investigated by OLAF (see Art. 12a, 3 OLAF) will be investigated either by the competent national prosecution offices or the EPPO. Union law therefore established, to avoid conflicts and double-blind investigations into the same facts of potential crimes a **time-framed reporting mechanism** (towards the EPPO), which shall ensure the flow of information to the EPPO. If the competent EDP (see Art. 26) is informed about potentially relevant incoming information for an evocation procedure, he/she will use the **EPPO's Guidelines**[170] to assess whether to exercise the right prescribed in Union law to really evocate, thus **"pull" the case from the national "stage" to the European stage**. This right offers the EPPO the possibility to better protect the financial interests as legal good (*Rechtsgut*) of all EU citizens and as public offence.

aa. Execution of the Right of Evocation

2 In details, thus, the EPPO may decide to use its **right of evocation** when a judicial or law enforcement authority of a Member State has already initiated an investigation into an offence for which the EPPO could exercise competence.[171]

3 Verification for evocation includes **assessing the maturity of the investigation**, its relevance to EPPO's investigation and prosecution policy, cross-border aspects, and

[169] For a more detailed analysis from the wording, the background and telos of this Article see Hauck 2026a, EPPO Regulation.
[170] See Decision of 21/04/2021 *Adopting Operational Guidelines on Investigation, Evocation Policy* and Referral of Cases.
[171] Decision of the College of the European Public Prosecutor's Office of 21 April 2021 adopting operational guidelines on investigation, evocation policy and referral of cases, amended by Decision 026/2022 of 29 June 2022 of the College of the EPPO.

whether the EPPO is better placed to continue the case.[172] Upon receiving relevant information from national authorities, the EPPO must decide whether to evoke the case within a strict 5-day deadline.[173]

bb. Preservation of Investigative Status

Pending the EPPO's **decision on evocation**, national authorities may continue investigative actions but must refrain from any decision that precludes the EPPO from exercising its right.[174] Once the right is exercised, national authorities must refrain from further acts. 4

National authorities **must report criminal conduct** falling within the EPPO's remit without undue delay.[175] This communication must be filed directly and exclusively with the EPPO to prevent interference with its prerogatives.[176] 5

cc. Ongoing national Investigations

If a national authority is already investigating an offence that appears to fall under EPPO competence[177], they are obliged to inform the EPPO. Conversely, the EPPO is obliged to convey timely information to national authorities whenever it decides to initiate a case.[178] 6

In case of **conflicts of competence**, which happened already in Spain (see in the Spanish volume) and disagreements between the EPPO and national prosecution authorities regarding competence are resolved through specific legal frameworks, such as national guidelines or a decision of the Attorney General. 7

dd. Disagreement and Decision

In the event of a disagreement (see Art. 25 para 6) over whether a conduct falls within specific EPPO remit (Articles 22 para 2, 22 para 3, 25 para 2, or 25 para 3), the final decision rests with the national authority competent to decide on the attribution of prosecution competences at the national level.[179] 8

If the EPPO decides to raise a conflict, the EDP must file a **reasoned application** with the competent national authority requesting a declaration of EPPO competence.[180] 9

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[172] Ibid, Annex I.
[173] Art. 27.
[174] Decision 026/2022 of 29 June 2022 of the College of the EPPO, Annex I.
[175] Decision 026/2022 of 29 June 2022 of the College of the EPPO, Annex I, Evoking an investigation.
[176] Decision 026/2022 of 29 June 2022 of the College of the EPPO, Annex I, Evoking an investigation.
[177] This includes Articles 22, 25 para 2, or 25 para 3.
[178] Ibid, Annex I, 1. Initiating an investigation.
[179] Decision 026/2022 of 29 June 2022 of the College of the EPPO, Annex I, 4.1.
[180] Decision 026/2022 of 29 June 2022 of the College of the EPPO, Annex I, 4.2.

10 If a national prosecutor raises a conflict, the handling EDP, after consulting the supervising European Prosecutor, shall file a memorandum explaining why the EPPO exercised its competence and provide supporting documents.[181]

11 A **positive conflict** occurs when both the EPPO and national authorities claim competence. A **negative conflict** occurs when both claim the other is competent. National authorities cannot transfer cases but must inform the EPPO, which then assesses whether to exercise its right.[182]

ee. Referral back to National Authorities

12 The Permanent Chamber holds the **authority to refer cases back** to national authorities under specific conditions. For offences causing **damage of less than EUR 100,000**, the Permanent Chamber **shall refer** the case to national authorities unless specific factors (e.g., involvement of public officials, criminal organizations, or Union-level repercussions) necessitate an EPPO investigation.

13 In certain fraud cases prescribed **in Article 3 para 2 (a) and (b)** of Directive 2017/1371), if the damage to the Union **does not exceed damage** to another victim (such as a national public body), the Chamber **may refer** the case if the national authority is "better placed" to prosecute, but when is this the case is left to clarify by the ECJ.

14 National authorities are generally not entitled to reject a referral made under Article 34(1) concerning participation in criminal organizations where the focus is found not to be against the Union's financial interests. However, they may decide not to accept referrals made under Article 34(2) and (3).[183] In the EPPO system, referral back to national authorities is therefore somehow needed as a **counterbalance to the right of evocation** under Art. 27 EPPO Regulation. To put it different, Art. 27 allows the EPPO to take over national investigations where an offence falls within its competence. However, **not every case** affecting the Union's financial interests **requires prosecution at EU level**. Referral back ensures that the **EPPO remains focused on serious, cross-border or Union-relevant cases** and does not become overburdened with minor or predominantly national matters. All in all, the referral back preserves the principle of proportionality and the **functional division of competences** between the EPPO and national prosecution services. It **prevents duplication**, avoids unnecessary centralisation, and allows **national authorities to deal with cases that are mainly domestic in character**, while the EPPO concentrates on cases where EU-level prosecution adds genuine value.

[181] Decision 026/2022 of 29 June 2022 of the College of the EPPO, Annex I, 4.2., b.
[182] Decision 026/2022 of 29 June 2022 of the College of the EPPO, Annex I, 4.1. d–k.
[183] Decision 026/2022 of 29 June 2022 of the College of the EPPO, Annex I, 4.1. k.

b) Summary on Evocation

The primary goal of the EPPO's policy in this regard is it to ensure a "**coherent prosecution policy**" across all participating Member States, preventing different standards of justice for PIF crimes based on geography. Evocation is governed by the **principles of proportionality** and necessity; it is intended to be used only where EPPO involvement brings "added value", such as in complex cross-border schemes where a single office is more effective than multiple national agencies. By mandating that **information flow "directly and exclusively" to the EPPO**, the law seeks to prevent national "interference with the prerogatives of the EPPO" and avoid the serious glitch of parallel investigations that could lead to *ne bis in idem* issues.[184] **15**

In daily practice, the EDP acts as the "**operational bridge**" between national judicial systems and the EPPO, ensuring that the Union's financial interests are protected through a centralized and coherent prosecution policy. **16**

The EDP must verify if the criminal **conduct falls within the EPPO's remit** (PIF crimes, organized crime[185], or inextricably linked offences) and assess the investigation's "maturity" and cross-border dimensions, must ensure a decision on evocation is reached within a **strict 5-day timeframe**, the **EDP evaluates whether the EPPO is "better placed"** to continue the investigation, specifically checking for involvement of EU public officials, cross-border dimensions, or if national authorities have failed to take pertinent actions to recover damages or offences with **damage under EUR 100,000**, the EDP may independently decide not to evoke the case unless specific high-risk factors (like involvement of a criminal organization) are present. If a national prosecutor raises a conflict, the EDP after consulting the supervising European Prosecutor must file a memorandum explaining the EPPO's grounds for exercise of competence and provide supporting evidence. **17**

4. Conducting the Investigation, the Irish Frameworks and Irish Investigation Authorities (Garda, GNECB, Revenue, CAB, CEA, DPP)

Article 28 Conducting the investigation

1. The European Delegated Prosecutor handling a case may, in accordance with this Regulation **and with national law**, either undertake the investigation measures and other measures on his/her own or instruct the competent authorities in his/her Member State. Those authorities shall, **in accordance with national law**, ensure that all instructions are followed and undertake the measures assigned to them. The handling European Delegated Prosecutor shall report through the case management system to the competent

[184] Hauck 2026b, Art. 27 EPPO Regulation on the evocation term, its history in Germany and the concept and telos of it.
[185] See for Ireland Criminal Justice Act 2006 in the Irish Statute Book; and see PROTAX 2020b, pp. 436 (452: „main legal framework for organised crime in Ireland."; 452–463)

European Prosecutor and to the Permanent Chamber any significant developments in the case, in accordance with the rules laid down in the internal rules of procedure of the EPPO.
2. At any time during the investigations conducted by the EPPO, the c**ompetent national authorities** shall take urgent measures **in accordance with national law** necessary to ensure effective investigations even where not specifically acting under an instruction given by the handling European Delegated Prosecutor. The **national authorities** shall without undue delay inform the handling European Delegated Prosecutor of the urgent measures they have taken.
3. The competent Permanent Chamber may, on proposal of the supervising European Prosecutor decide to reallocate a case to another European Delegated Prosecutor in the same Member State when the handling European Delegated Prosecutor:
(a) cannot perform the investigation or prosecution; or
(b) fails to follow the instructions of the competent Permanent Chamber or the European Prosecutor.
4. In exceptional cases, after having obtained the approval of the competent Permanent Chamber, the supervising European Prosecutor may take a reasoned decision to conduct the investigation personally, either by undertaking personally the investigation measures and other measures or by **instructing the competent authorities in his/her Member State**, where this appears to be indispensable in the interest of the efficiency to the investigation or prosecution by reasons of one or more of the following criteria:
(a) the seriousness of the offence, in particular in view of its possible repercussions at Union level;
(b) when the investigation concerns officials or other servants of the Union or members of the institutions of the Union;
(c) in the event of failure of the reallocation mechanism provided for in paragraph 3.
In such exceptional circumstances Member States shall ensure that the European Prosecutor is entitled to order or request investigative measures and other measures and that he/she has all the powers, responsibilities and obligations of a European Delegated Prosecutor in accordance with this Regulation and national law.
The **competent national authorities** and the European Delegated Prosecutors concerned by the case shall be informed without undue delay of the decision taken under this paragraph.

1 As part of the introduction to Art. 28 EPPO Regulation in this compendium, which is relevant to all EDPs and also affects the academic and political debate about specialised investigative personnel, the following can be said: The conduct of investigations is dependent on **instruction relationships**, whereby in **contrast to the dependency in classically national systems**, in the area of EU anti-fraud investigations the EPPO (i.e. the college level) has supervisory powers as it is a supranational, independent body. The

main aim of the investigation is it to **gather evidence during the pre-trial phase**.[186] The EPPO might rely especially on digital evidence, documents, eavesdropping and telecommunication interception as well as expert witness.[187] The Irish Government identified as main challenge of Irish legislation *ex-ante* i.e. prior to the decision joining EPPO that “Irish criminal procedure does not enable the prosecutor to instruct the police”.[188]

Ireland is not part of the EPPO at the moment (see above Introduction on the thoughtful history of this decision). Therefore the national police, Gardaí and special forces conduct investigations only on behalf of fully national prosecution offices. These offices conduct e.g. investigations e.g. as well into budget fraud as a PIF offence.

If the EPPO existed in IE, the **EDPs of Ireland would be vested with the same powers as their national homologues** and they would have the power to assign tasks to the national police and special forces (see below Art. 30 EPPO Regulation). At least according to the wording of the EPPO Regulation, this would need to be ensured in relevant Irish statutory laws as well as the Gardai Síochána Act.

2 The following explanations do only apply if Ireland decides in the near future to combat EU fraud on a stronger, supranational, instead of theoretically weaker national, ***basis***, which does not provide measures as easily as the EPPO transfers evidence from one Member State to another or request a search in a house as easily as EDPs:

3 In her **speech for the first anniversary of the EPPO**, given at the conference “EPPO one year in action – Towards Resolving Complexity and Bringing Added Value”[189] in the *Hémicylce* in Luxembourg on 1st June 2022, *Laura Kövesi* outlined that in order to enhance the detection rates of EU fraud specialised customs units and specialised financial experts, groups of specialised EU investigators educated in the typologies of EU frauds are needed to enhance the conduct of investigations. She underlined that these special units could be set up tomorrow and that doing so depended only on political will.[190]

[186] See Ryan 2014, pp. 83 et seq.
[187] See on expert witness Daly 1999. Ireland has an expert witness directory of Ireland.
[188] Conway 2025, https://pifitalia.lex.unict.it/wp-content/uploads/2025/10/Prof.-Conway.pdf, slide 3. Accessed 31 March 2026.”
[189] Organized by the University of Luxembourg (Prof. Katalin Ligeti), ECLAN and the EPPO.
[190] EPPO 2022; Kövesi 2022: “I therefore call upon all competent national authorities to adopt this best practice and to set up specialized units combining financial, tax, and customs investigators to support our investigations. I propose that we form an elite task force of highly qualified financial fraud investigators within the EU, operating cross-border via the EPPO. No laws need to be amended for this; it is purely an organizational decision by the competent national authorities. It can happen as early as tomorrow.” This statement was republished by various newspapers and journals across Europe (see e.g. Figaro article in the French country chapter); see Hauck 2026b, Art. 28 EPPO Regulation and its interpretation from the Union law perspective and Herrnfeld, Brodowski, Burchard 2nd edn, Art. 28 and its legislative history

4 As long as there are no special units in all countries as the first Advocate General of the EPPO requested, the detection rates depend on the conduct of investigations and the cooperation with established – e.g. in Italy more than 100 years old structures in the area of tax investigations (see other CNP volumes an IT) – national authorities – especially the **assignment and instruction of investigative tasks to "those national authorities"**. The situation in the present country chapter will be analysed below, stating the cooperation level and important actions to be taken.

5 The investigations **on national level and at Union-level** must be distinguished. Especially at the Union level, the investigation is different than at the national level. In many cases, investigations will be carried out in Union institutions (**EU IBOAs**). The EPPO has started to set up working arrangements for this type of investigation. For example, the one with the European Investment Bank provides for cooperation with the in-house fraud detection service ("a kind of internal investigation commission"). In the following we shall focus on the national investigations level with regard to the present country.

6 For the **different PIF offences**, the specific country system provides different investigative bodies acting by virtue of different national codes such as the General Tax Code, the police laws and the customs laws including the customs administration laws. Generally speaking, it depends, for the analysis of Art. 28 EPPO Regulation, on whether a centrally governed country of the EU is affected or whether there is a federal system with differentiated competences of the federal units.

7 In addition, the **lawfulness of the action** is very important as a generalisation of all instructions from the staff, which are made available to the EPPO and the EDPs from the national resource area.

8 The next section can be read from today's point of view, which means that it **depicts the national investigation powers e.g. police, customs and tax investigation service**. It might as well be read in case that the EPPO welcomes Ireland as a full partner instead of only an associated Member by virtue of Art. 104, 105 EPPO Regulation.

a) Irish Prosecutors/Gardaí Concerning: "The Handling EDP Carrying Out the Investigative Measures, para. 1"

9 We say it here again, at the moment of finish the manuscript, Ireland has/d no handling EDPs. Thus, the Irish national Gardaí and the prosecutor carry out investigative measures. Local and chief-prosecution offices are distinguished.

b) Instructions/Assignment of Investigative Measures for "Those National Authorities"

10 But, in the case Ireland participated, the Prosecution would **need to be competent or have a competence to instruct and assign tasks** to the following national authorities:

- Gardai (national Fraud Bureau)
- Tax Offices
- VAT Departments
- Customs Offices

As said, at the moment (March 2026) the DPP has no competence to instruct these investigative agencies – even in special investigative sceneries: "The DPP as a general rule has no investigative function and **no power to direct An Garda Síochána or other agencies** in their investigations."[191] 11

This is one reason, why the DPP **cannot easily tasked with the position of an EDP**, if Ireland would decide to join the EPPO mechanism. 12

aa. Garda National Economic Crime Bureau (GNECB): Structure and Mandate

The Garda National Economic Crime Bureau (GNECB) is a **specialized division** of An Garda Síochána tasked with investigating complex financial crimes, including money laundering and corruption. Its mandate is significantly reinforced by the Criminal Justice (Theft and Fraud Offences) (Amendment) Bill 2020. Following the Hamilton Review Group report, the GNECB collaborates with the ODPP to combat transnational organized crime.[192] 13

bb. Serious Economic Crime Unit, Money Laundering Investigation Unit, Anti-Bribery & Corruption Unit

The GNECB's specialized units provide a multi-layered response to financial crime. The Serious Economic Crime Unit targets large-scale fraud, while the Money Laundering Investigation Unit enforces strict protocols (see Criminal Justice (Theft and Fraud Offences) (Amendment) Bill 2020). Furthermore, the Anti-Bribery & Corruption Unit implements recommendations to tackle public and private sector graft.. 14

cc. The Role of the Revenue Commissioners and Customs Division

The Revenue Commissioners and Customs Division play a critical role in tackling fiscal fraud and smuggling. They must maintain a close operational relationship with the GNECB to address tax evasion and transnational organized crime. 15

dd. The Criminal Assets Bureau Proceeds of Crime Act 1996

The Criminal Assets Bureau (CAB), established under the Criminal Assets Bureau Act 1996, utilizes a multi-agency approach involving Gardaí, Revenue, and Social Protection. Its primary legal mechanism is the Proceeds of Crime Act 1996, which allows for civil forfeiture of assets derived from criminal conduct. 16

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[191] Irish Council for Civil Liberties 2021, p. 13.
[192] Hamilton Review Group, 2020; An Garda Síochána Inspectorate, 2023.

ee. The Corporate Enforcement Authority (CEA)

17 The Corporate Enforcement Authority (CEA), established under the Companies (Corporate Enforcement Authority) Act 2021, replaced the ODCE to strengthen company law enforcement and tasked with investigating white-collar crime.

ff. The DPP and the Decision to Prosecute

18 The Director of Public Prosecutions (DPP) is independent in its functions, as established by the Prosecution of Offences Act 1974. The decision to prosecute is governed by a two-stage test: the evidential stage (assessing if there is a reasonable prospect of conviction) and the public interest stage.

gg. Cooperation with the Central Bank (AML/CFT Supervision, Part 4 CJA)

19 The Central Bank of Ireland acts as the competent authority for AML/CFT supervision under Part 4 of the Criminal Justice Act 2010. It collaborates with the GNECB to monitor financial institutions, ensuring compliance[193] with standards reinforced by the Criminal Justice (Theft and Fraud Offences) (Amendment) Bill 2020.

c) A closer look at statutory laws and visualisation of the Criminal Justice System

20 *Police Investigation Authorities 1*

<table>
<tr><th></th><th>An Garda Síochána Act 2005, Criminal Justice Act 1994, Criminal Justice Theft and Fraud Act 2001, 2021</th></tr>
<tr><td colspan="2">“All members of An Garda Síochána can investigate crimes of a fraudulent nature and many members throughout the country have received specialist training in this area of crime investigation. In that context reports should be made in the first instance to your local Garda station. The Garda National Economic Crime Bureau (GNECB) is a specialist Bureau within An Garda Síochána that investigates the more serious and complex cases of economic crime, and cases which are deemed unsuitable for local attention are forwarded to that section for investigation. The Bureau also provides assistance to local investigations.”[194]</td></tr>
</table>

[193] For compliance see as well *DPP v Bowe & Casey* [2017] IECA 250.
[194] See https://www.garda.ie/en/crime/fraud/which-unit-within-an-garda-siochana-investigates-fraud-.html. Accessed 30 October 2025.

Figure 4: Regional Boundaries **21**

Top Level

- Garda Commissioner
- Garda Internal Audit Section (GIAS)
- Office of Corporate Communications
- Deputy Commissioner Policing & Security

National Units

- Garda National Drugs & Organised Crime Bureau
- Garda National Cyber Crime Bureau
- Garda National Economic Crime Bureau
- Garda National Immigration Bureau
- Garda National Protective Services Bureau
- Garda National Technical Bureau
- Garda National Surveillance Unit
- Special Detective Unit
- Special Tactics & Operations Command
- Security & Intelligence
- Liaison & Protection
- Divisions / Regions

Dublin Metropolitan Region (DMR)

- DMR North
- DMR South
- DMR East

- DMR West
- Roads Policing
- Eastern Region
- Louth
- Meath
- Kildare
- Laois/Offaly
- Wicklow
- Waterford
- Northern Region
- Donegal
- Sligo/Leitrim
- Mayo
- Roscommon/Longford
- Cavan/Monaghan
- Southern Region
- Cork City
- Cork North
- Cork West
- Kerry
- Clare
- Limerick
- Tipperary
- Western Region
- Galway
- Mayo
- Roscommon/Longford
- Sligo/Leitrim
- Deputy Commissioner Strategy, Governance & Performance

Strategy & Transformation

Governance & Accountability

- Garda Culture & Diversity
- Garda Policy & Coordination Unit
- Garda Professional Standards Unit
- Internal Audit
- Garda Risk Management Unit
- Corporate Services
- Information & Communications Technology

- Garda Information Services Centre
- National Data Governance Office
- National Office for Digital Services
- Garda Vetting Bureau
- Technical Architecture

CAO Organisational Support

Finance & Services

- Procurement
- Estate Management
- Fleet Management
- HR Directorate
- HR Operations
- Staff Performance & Training
- Talent Acquisition
- Training, Learning & Development
- Industrial Relations
- Workforce Planning & People Management
- Occupational Health & Wellbeing
- Garda National Wellbeing Office

Legal

- Civil Legal
- Crime Legal & Human Rights
- Employment Law

Correct as of January 2022. Any subsequent changes will be incorporated into future iterations. Includes the Garda National Drugs & Organised Crime Bureau (GNDCB) interact with the CAO. (We transferred the original picture to a text format)

Figure 5: An Garda Síochána with a Special Focus on the Economic Crime Bureau

An Garda Síochána
Office of Corporate Communications
Garda Commissioner
Garda Internal Audit Section (GIAS)

Deputy Commissioner (Policing & Security)

- **Assistant Commissioner: Garda National Crime & Security Intelligence Service**
- Special Detective Unit (SDU)

- Assistant Commissioner: Eastern Region
  Garda National Bureau of Criminal Investigation
- Assistant Commissioner: North Western Region
  Garda National Drugs & Organised Crime Bureau
- Assistant Commissioner: Organised & Serious Crime
  Garda National Economic Crime Bureau
- Assistant Commissioner: Metropolitan Region (DMR)
- Criminal Assets Bureau (CAB)
- **Deputy Commissioner (Strategy, Governance)**
- Assistant Commissioner: Governance
- Internal Affairs
- Garda Anti-Corruption Unit
- Executive Director: Strategy & Transformation

Chief Administrative Officer (CAO)

- **Garda National Economic Crime Bureau**
- Assessment Unit
- Payment Card and Counterfeit Currency Unit
- Money Laundering Investigation Unit
- Serious Economic Crime Investigation Unit
- Anti-Bribery & Corruption Unit
- Financial Intelligence Unit
- Competition and Consumer Protection Commission
- Office of the Director of Corporate Enforcement
- **Criminal Intelligence Office**
- Divisional Liaison Unit

Sources: https://tinyurl.com/3tenh788. Accessed 30 October 2025.

aa. Tax Area

22 The tax area is primarily controlled by the Office of the Revenue Commissioners.

Tax Investigation Authorities 1

	Law
See → Revenue Commissioners Order, 1923[195]	

[195] https://www.irishstatutebook.ie/eli/1923/sro/702/made/en/print. Accessed 30 October 2025.

bb. Customs Area

Customs Investigation Authorities 1 23

Law Number 18 of 2015

CUSTOMS ACT 2015 REVISED. Updated to 22 November 2021

"This Revised Act is an administrative consolidation of the Customs Act 2015. It is prepared by the Law Reform Commission in accordance with its function under the Law Reform Commission Act 1975 (3/1975) to keep the law under review and to undertake revision and consolidation of statute law."

PART 5

Administration

Duties of customs

36. (1) All duties of customs shall be under the care and management of the Commissioners and the Commissioners are the customs authority for the purposes of the Customs Code.

(2) The Commissioners may do all such acts as may be deemed necessary and expedient for raising, collecting, receiving and accounting for duties of customs in the like and in as full and ample a manner as they are authorised to do in relation to any other duties and taxes under their care and management.

Authorisations

37. (1) The Commissioners may—

(a) authorise any officer of the Commissioners to be an officer of customs, and

(b) authorise such officers and other persons for collecting, receiving, managing and accounting for any duties of customs and for functions in connection with the application of prohibitions and restrictions on the importation and exportation of goods and for any other function deemed necessary by the Commissioners as are not required to be authorised by some other authority,

and the holders of such authorisations shall have power to execute the duties of their respective offices in every part of the State.

(2) All such authorisations shall continue in force, notwithstanding the death, or the ceasing to hold office, of any Commissioner.

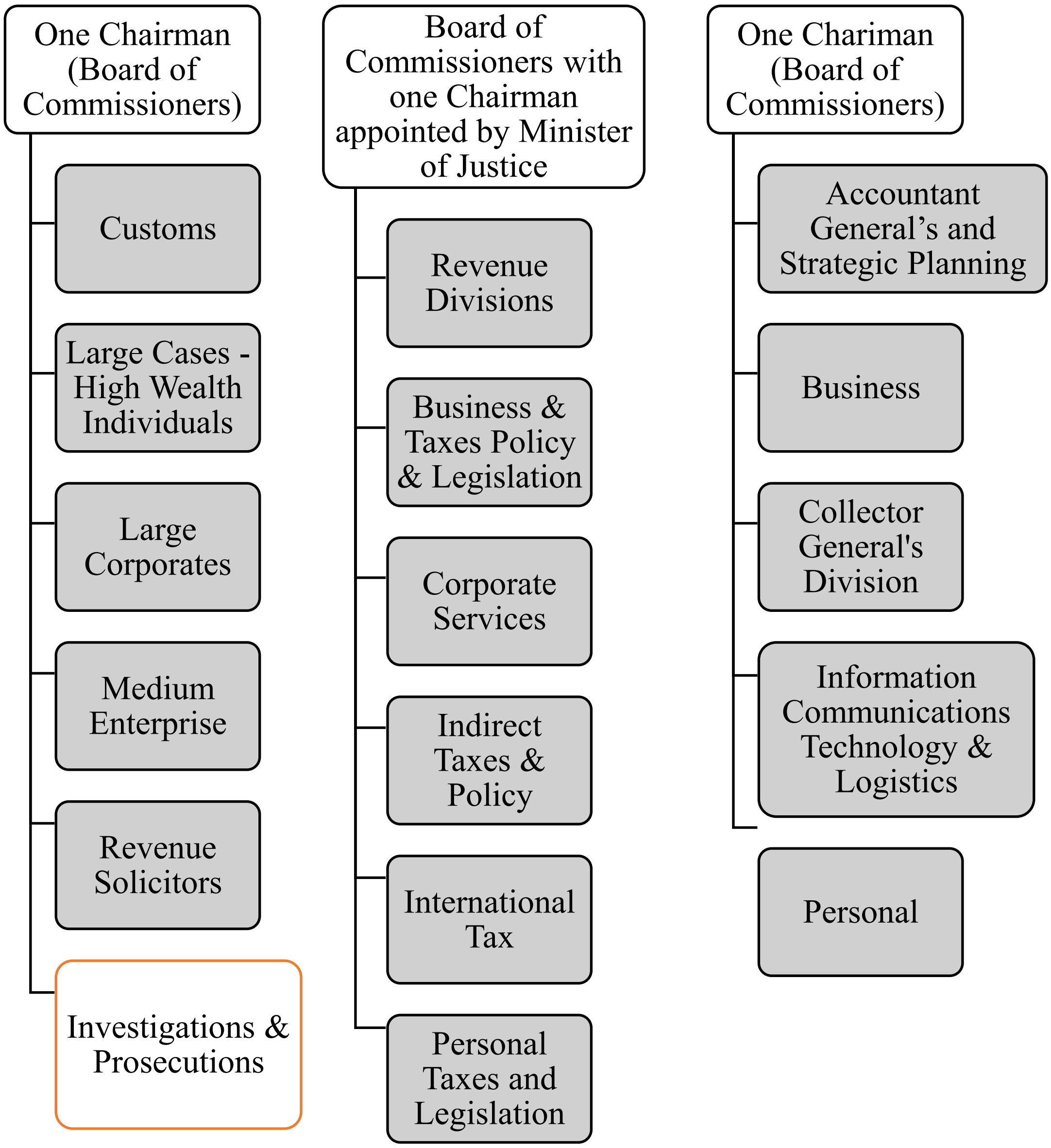
(3) The Commissioners may revoke an authorisation made under this section.

Exercise of functions

38. (1) Any act or thing required or permitted by the Customs Acts to be done by the Commissioners in relation to duties of customs may be done by any one Commissioner.

(2) Any power, function or duty conferred or imposed on the Commissioners by the Customs Acts (other than under ***section 6***, ***39*** and ***41***) may be exercised or performed on their behalf, and subject to their direction and control, by an officer of the Commissioners authorised by them in writing for that purpose.

Figure 6: Organisational Chart – Irish Revenue Authority



Source: https://tinyurl.com/yat2wcnh, p. 6. Accessed 30 October 2025.

d) Ensuring Compliance with National Law

The Department of Public Prosecution should determine the strategy and the compliance with national law (with the oversight of the court) by ensuring that the investigation measures are in line with the established criminal law. 24

5. "Obstacles" to Criminal Investigations in Ireland (Art 29, Privilege, LLP, Legal Professional Secrecy, Data Protection Act 2018, Journalistic Privilege, Constitutional Rights)

An investigation, the prosecution or the persecution in general might be confronted in Ireland as in most jurisdictions with special "**obstacles**" i.e. **procedural barriers** to Criminal Investigations, i.e. **immunities**, which has happened in the so-called *Kaili*-case and in the case of a German EU-parliament participant.[196] Mostly these rules have a **certain *ratio*** in every member state, e.g. to protect the staff of a parliament. There are already cases known in which the EPPO received a negative report in a case it requested to proceed with the lifting procedure in the EP. It might be the case the lifting procedure is used e.g. by political opponents, but on the other hand it is problematic that cases are not clarified and leave a bitter taste to transparency.[197] EPPO itself can as a Union body **request the ECJ and file a court appeal** by submitting a **formal action for annulment** to the General Court of the European Union under **Article 263 TFEU** to **clarify denials of access, denials of witnesses, negative decision on lifting an immunity**, as it is competent to collect inculpatory and exculpatory evidence and could otherwise not achieve its task and therefore it needs to present evidence, why a denying decision is not lawful.[198] 1

The equivalent provision of the EPPO Regulation would be Art. 29, which reads like follows: 2

Art. 29 EPPO Regulation Lifting privileges or immunities
1. Where the investigations of the EPPO involve persons protected by a privilege or immunity **under national law**, and such privilege or immunity presents an obstacle to a specific investigation being conducted, the European Chief Prosecutor shall make a

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[196] *Corcoran v Commissioner of An Garda Síochána and DPP* [2023] 2 ILRM 237 (SC); there are different privileges e.g. for journalists *Corcoran v Commissioner of An Garda Síochána and DPP* [2023] IESC 16, [2023] 2 ILRM 237.

[197] See EPPO Press Release, https://www.eppo.europa.eu/en/media/news/statement-refusal-to-lift-immunity-german-member-european-parliament: "The refusal to lift immunity now creates a procedural barrier: as a result, the investigation cannot proceed beyond this preliminary stage. In practice, the European Delegated Prosecutor is prevented from any investigative measures in this case. The EPPO reserves the right to challenge the decision before the competent courts."

[198] E.g. "On 10 February 2025, the European Public Prosecutor's Office (EPPO) filed an appeal (case number T-99/25) to the Court of Justice of the European Union, under Article 263, paragraph 4, TFEU, against the decision of the European Court of Auditors denying the request of the EPPO to allow a number of staff members of the Court of Auditors to testify in an ongoing criminal investigation", see OJ C, C/2025/2403, 28.4.2025, ELI: http://data.europa.eu/eli/C/2025/2403/oj.

reasoned written request for its lifting **in accordance with the procedures laid down by that national law.**
2. Where the investigations of the EPPO involve persons protected by privileges or immunities under the Union law, in particular the Protocol on the privileges and immunities of the European Union, and such privilege or immunity presents an obstacle to a specific investigation being conducted, the European Chief Prosecutor shall make a reasoned written request for its lifting in accordance with the procedures laid down by Union law.

3 The legal professional privilege might be, from the point-of-view of prosecutors or the police an obstacle to an investigation. The Irish Law Society has summarized the **applicability of the Legal Professional Privilege** in Ireland:

“**Overview**
1) Legal professional privilege (LPP) confers on a client a privilege of exemption from disclosure of communications that may otherwise be required to be revealed. The party asserting the existence of LPP bears the onus of justifying the claim. Unlike other forms of privilege, once LPP has been established on the facts of a case, it is inviolate and there is no judicial discretion to displace it. LPP encompasses two distinct forms of privilege: legal advice privilege (LAP) and litigation privilege (LP).

Status of LPP
2) LPP is a common law right, copper-fastened in many instances by statute. Further, LPP has a constitutional foundation that elevates it beyond a mere rule of evidence. LPP enjoys constitutional protection as a dimension of the protection of the administration of justice afforded by article 34 of the Constitution. It is unclear whether LPP is also recognised as an unenumerated constitutional right (see, for example, Miley v Flood [2001] 2 IR 50; Martin v Legal Aid Board [2007] 2 IR 759; and the comments of McGrath on ‘Evidence’ (2nd ed, 2014) at para 10-248).
3) LPP is recognised as a fundamental right in the jurisprudence of the ECHR, as an aspect of article 6 (the right to a fair trial; Niemietz v Germany (1992) 16 EHRR 97) and Article 8 (the right to privacy; Campbell v UK (1993) 15 EHRR 137). Equally, its existence as a fundamental right has been recognised in the case law of the CJEU (AM&S v Commission [1982] ECR 1575 and Akzo Nobel Chemicals v Commission [2010] 5 CMLR 19).

Legal advice privilege
4) Legal advice privilege (LAP) arises in respect of a confidential communication or a continuum of communications, or a reference to such communications, which takes

place between a professionally qualified lawyer and a client, in the course of a professional legal relationship, in which legal advice is sought and/ or received."[199]

4 Art. 15 para 13 of the Constitution of Ireland holds that: "The members of each House of the Oireachtas shall, except in case of treason as defined in this Constitution, felony or breach of the peace, be privileged from arrest in going to and returning from, and while within the precincts of, either House, and shall not, in respect of any utterance in either House, be amenable to any court or any authority other than the House itself."

5 Union law contains equivalent privileges for e.g. Irish citizens, who work for the EU – either permanently or as seconded national experts. The protocol of the TFEU will apply in these cases: **Under Union law the** protocol(**Protocol (No 7) on the privileges and immunities of the European Union** *OJ C 326, 26.10.2012*, p. 266–272)[200] will apply if the immunity or a privilege of a Union official needs to be lifted

6 **Note bene**: The EPPO, the Commission and other EU IBOAs have drafted **templates** that enable EDPs to request the **lifting via a standard procedure** easily as not to hinder the investigation itself. At this stadium in the investigation the presumption of innocence plays a highly important role. See in the **other Volumes of the CNP Volume Series** for further information, case law and the templates or special regulations in other EU member and EPPO zone states.

I. Investigation Measures and Irish Frameworks and Some Information on the Defence

In the following section the **investigation measures**, which can be exercised by the Gardaí and the prosecution in **PIF cases** , shall be explored. These measures have in common that they are aiming at and providing evidence for a potential trial.

1. Investigation Measures in Irish PIF Cases (Equivalence to Article 30 EPPO Regulation)

[199] See https://www.lawsociety.ie/Solicitors/knowledge-base/Practice-Notes/legal-professional-privilege. Accessed 30 October 2025.
[200] Cf. https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:12012E/PRO/07. Accessed 30 October 2025.

1 Hereby, it is at the same time assessed whether the Irish law capacities are equal to the powers, which the EPPO Regulation requires in Art. 30. The aim of the **Gardaí and the DPP**, if it is competent e.g. for indictable only offences, is it to **draft a Book of Evidence**.[201]

See EPPO, Operational Guidelines on Investigation, Evocation Policy and Referral of Cases *(Decisions 029/2021, 007/2022, 026/2022) in* EPPO Legal Framework Handbook 2025 *169.*

[…]

SECTION 2

Rules on investigation measures and other measures

Art. 30 Investigation measures and other measures

1. At least in cases where the offence subject to the investigation is punishable by a maximum penalty of at least 4 years of imprisonment, Member States shall ensure that the European Delegated Prosecutors are entitled to order or request the following investigation measures:

(a) search any premises, land, means of transport, private home, clothes and any other personal property or computer system, and take any conservatory measures necessary to preserve their integrity or to avoid the loss or contamination of evidence;

(b) obtain the production of any relevant object or document either in its original form or in some other specified form;

[201] Irish Council for Civil Liberties 2021, p. 15.

(c) obtain the production of stored computer data, encrypted or decrypted, either in their original form or in some other specified form, including banking account data and traffic data with the exception of data specifically retained in accordance with national law pursuant to the second sentence of Article 15(1) of Directive 2002/58/EC of the European Parliament and of the Council;
(d) freeze instrumentalities or proceeds of crime, including assets, that are expected to be subject to confiscation by the trial court, where there is reason to believe that the owner, possessor or controller of those instrumentalities or proceeds will seek to frustrate the judgement ordering confiscation.
(e) intercept electronic communications to and from the suspect or accused person, over any electronic communication means that the suspect or accused person is using;
(f) track and trace an object by technical means, including controlled deliveries of goods.
2. Without prejudice to Article 29, the investigation measures set out in paragraph 1 of this Article may be subject to conditions in accordance with the **applicable national law** if the national law contains specific restrictions that apply with regard to certain categories of persons or professionals who are legally bound by an obligation of confidentiality.
3. The investigation measures set out in points(c), (e) and (f) of paragraph 1 of this Article may be subject to further conditions, including limitations, provided for in the applicable national law. In particular, Member States may limit the application of points (e) and (f) of paragraph 1 of this Article to specific serious offences. A Member State intending to make use of such limitation shall notify the EPPO of the relevant list of specific serious offences in accordance with Article 117.
4. The European Delegated Prosecutors shall be entitled to request or to order any other measures in their Member State that are available to prosecutors under national law in similar national cases, in addition to the measures referred to in paragraph 1.
5. The European Delegated Prosecutors may only order the measures referred to in paragraphs 1 and 4 where there **are reasonable grounds to believe that the specific measure in question might provide information or evidence useful to the investigation**, and where there is no less intrusive measure available which could achieve the same objective. The procedures and the modalities for taking the measures shall be governed by the **applicable national law**.

a) Member States Shall Ensure that the European Delegated Prosecutors are Entitled to Order or Request

At this moment Ireland is not part of the EPPO and has therefore not adopted any law 2
that would grant national prosecutors the rights of an EDP.

b) Investigation Measures of Garda Síochána and Prosecution Offices (search, seizure, production, data, freezing, interception, tracking)

3 The **Criminal Justice and Fraud Offences Act 2001** as amended 2021 provides for the following explicit measures:

4 **PART 7 Investigation of Offences**

48. Search warrants.
49. Obstruction of Garda acting on warrant.
50. Forfeiture of seized property.
51. Concealing facts disclosed by documents.
52. Order to produce evidential material.

aa. Search Measures

5 Union law asks the Member States to ensure that an EDP can search any premises or land/search any means of transport/search any private home/search any clothes and any other personal property/search any computer system and seize items during the pre-trial phase.[202] Where does Irish law regulate such powers?

6 Part. 7 of the **Criminal Justice and Fraud Offences Act 2001** as amended 2021 contains provisions on search warrants:

7 **PART 7 Investigation of Offences**
Search warrants.
The provisions in relation to this can be found in Section 48 of The Criminal Justice (Theft and Fraud Offences) Act, 2001[203]

Obstruction of Garda acting on warrant.
The provisions in relation to this can be found in Section 49 of The Criminal Justice (Theft and Fraud Offences) Act, 2001[204]

8 The following form is related to criminal proceedings in the district court:

District Court[205] - Schedule: B - Forms in criminal proceedings

S.I. No. 322 of 2008

No. 34.1

[202] See Ryan 2014, pp. 83 et seq.
[203] https://www.irishstatutebook.ie/eli/2001/act/50/section/48/enacted/en/html. Accessed 30 October 2025. See *DPP v Begley* [2013] IECCA 32.
[204] See https://www.irishstatutebook.ie/eli/2001/act/50/section/49/enacted/en/html. Accessed 30 October 2025.
[205] All forms for different situations and suspected offences for district courts can be found here, https://highcourtsearch.courts.ie/content/forms-criminal-proceedings.

Criminal Justice (Theft And Fraud Offences) Act 2001, Section 48(2)

(As Substituted By Criminal Justice Act 2006, Section 192(1)(A))

Information For Search Warrant

District Court Area of

District No.

THE INFORMATION of .... of ....

Who says on oath—

I am a member of the Garda Síochána. I have reasonable grounds for suspecting that—

evidence of, or relating to the commission of, an offence to which section 48 of the Criminal Justice (Theft And Fraud Offences) Act 2001 (as amended by section 192(1)(a) of the Criminal Justice Act 2006) applies is to be found in a place (within the meaning of section 48(8) of the Criminal Justice (Theft And Fraud Offences) Act 2001), namely .... in the said court (area and) district.

The basis for such grounds is as follows—

And I hereby apply for the issue of a warrant under section 48(2) of the Criminal Justice (Theft and Fraud Offences) Act 2001 (as substituted by section 192(1)(a) of the Criminal Justice Act 2006) in respect of that place and any person found at that place.

Signed ....

Informant

SWORN before me this ... day of ..... 20....

Signed ....

Judge of the District Court

District Court - Schedule: B - Forms in criminal proceedings

No. 34.1A

Criminal Justice (Theft And Fraud Offences) Act 2001, Section 48(2)

(As Substituted By Criminal Justice Act 2006, Section 192(1)(A))

Search Warrant

District Court Area of

District No.

WHEREAS from the information on oath and in writing under section 48(2) of the above-mentioned Act of 2001 (as substituted by section 192(1)(a)of the Criminal Justice Act 2006) sworn before me on this day, by .... of .... a member of the Garda Síochána

I AM SATISFIED THAT there are reasonable grounds for suspecting that—

evidence of, or relating to the commission of, an offence to which section 48 of the Criminal Justice (Theft and Fraud Offences) Act 2001 (as amended by section 192(1)(a) of the Criminal Justice Act 2006) applies is to be found at a place, namely .... in the court (area and) district aforesaid.

THIS IS TO AUTHORISE ...., of ...., a member of the Garda Síochána, accompanied by such other persons as the said member considers necessary,

TO ENTER, at any time or times within seven days from the date of issuing of this warrant (if necessary by the use of reasonable force) the place, namely .... in the said court (area and) district aforesaid,

TO SEARCH the said place and any persons found there,

To EXAMINE, SEIZE and RETAIN anything found there, or in the possession of any person present there at the time of the search, which (s)he reasonably believes to be evidence of, or relating to the commission of, an offence to which section 48 of the said Act applies and

TO TAKE any other steps which may appear to him/her to be necessary for preserving any such thing and preventing interference with it.

Dated this ...... day of .... 20.....

Signed ....

Judge of the District Court

To Superintendent/Inspector of the Garda Síochána

at ....

In case of **suspected corruption offences**, a different form is required: **9**

District Court - Schedule: B - Forms in criminal proceedings

S.I. No. 322 of 2008

No. 34.41

Prevention Of Corruption (Amendment) Act 2001, Section 5(1)

(As Substituted By Criminal Justice Act 2006, Section 191(1))

Information For Search Warrant

District Court Area of

District No.

THE INFORMATION of .... of ....

Who says on oath— I am a member of the Garda Síochána. I believe that there are reasonable grounds for suspecting that evidence of or relating to the commission of an offence or suspected offence under the Prevention of Corruption Acts 1889 to 2001 punishable by imprisonment for a term of 5 years or by a more severe penalty is to be found in a place, namely .... in the said court (area and) district.

The basis for my so believing is as follows— And I hereby apply for the issue of a warrant under section 5(1) of the Prevention of Corruption (Amendment) Act 2001 (as substituted by section 191(1) of the Criminal Justice Act 2006) in respect of that place and any person found at that place.

Signed ....

Informant

SWORN before me this ..... day of .... 20....

Signed ....

Judge of the District Court

The **Customs Act 2015** provides for the following: **10**

PART 4 **11**

Powers of Officers of Customs

Power to enter, inspect and patrol certain places

25. (1) An officer of customs, and any person assisting such officer, may, for the purposes of carrying out their functions under the Customs Acts, at any time and without warrant—

F6[(a) enter and inspect a customs port or customs airport or any place approved under the Customs Acts, or any conveyance within such port, airport or place,]
(b) patrol upon and pass freely along and over any part of the coast or shore and over any land within 32 kms of the land frontier and may remain in any such place for the purposes of carrying out patrols or surveillance,
and shall not be liable in any proceedings for anything done in the discharge or purported discharge of his or her functions under this section.
(2) An officer of customs, when exercising a power under this section, may be accompanied by other persons and may take with him or her, or those persons may take with them, any equipment, materials, vessel, aircraft, vehicle, customs dog or other thing to assist the officer in the exercise of the power.
(3) An officer of customs or other person in charge of any vessel employed for the prevention of smuggling may anchor, moor, berth or land the vessel, or haul the vessel ashore, at any place within the State and at no cost to the State.

Power to board and search conveyances
27. (1) An officer of customs, on production of the authorisation of that officer, if so requested by any person affected, and any officer accompanying such officer, may, at any time and in such manner as the officer considers appropriate, subject to *subsection (2)*, enter or board any conveyance that—
(a) is entering or has entered the State,
(b) is leaving the State,
(c) is in the contiguous zone of the State, or
(d) is at any other place in the State,
and remain on that conveyance for such period as is necessary for the purposes of *subsection (3)*.
(2) The power specified in—
(a) *subsection (1)(a)* in respect of a conveyance that is entering or has entered the State from another Member State,
(b) *subsection (1)(b)* in respect of a conveyance that is leaving the State destined for another Member State, or
(c) *subsection (1)(d)*,
shall only be exercised where the officer concerned has reasonable grounds to suspect that the conveyance or any goods carried on it are—
(i) chargeable with a duty of customs which has not been paid or secured,
(ii) being or have been imported, or are intended to be exported, contrary to any prohibition or restriction on their importation or exportation, as the case may be,
(iii) records relating to transactions in contravention of the Customs Acts, or
(iv) otherwise liable to forfeiture under the Customs Acts.

(3) An officer of customs who stops, enters or boards a conveyance mentioned in *subsection (1)* may—
(a) examine that conveyance,
(b) search the conveyance and examine any goods on or in it as appear to him or her to be necessary to establish whether anything on or in the conveyance or in any manner attached to the conveyance is liable to forfeiture under the Customs Acts,
(c) examine any records found on or in the conveyance and take copies of, or extracts from, any such records,
(d) remove and retain those records for such period as may be reasonable for further examination,
(e) take a sample of any goods on or in the conveyance,
(f) cause any goods to be marked before they are loaded onto or unloaded from that conveyance,
(g) lock up, seal, mark or otherwise secure any goods carried on or in the conveyance,
(h) break open any place or receptacle, which is locked and of which the keys are withheld,
(i) question the person in charge of the conveyance in relation to the conveyance or any goods on it, in it, or in any manner attached to it, and require that person, within such time and in such form or manner as may be specified by the officer—
(i) to give all information in relation to the conveyance and goods, and
(ii) to produce and permit the inspection of and the taking of copies of, or extracts from, all records relating to the conveyance and any such goods,
as may reasonably be required by the officer and which is in the possession or procurement of such person,
(j) seize and detain any goods found in the course of a search under this section, which are liable to forfeiture under the Customs Acts or which may be required as evidence in proceedings for an offence under the Customs Acts or any other enactment.
(4) An officer of customs may require any person in control of a conveyance which is being searched under *subsection (3)*, and any person travelling on that conveyance, not to remove any goods from the conveyance and to remain with the conveyance for the duration of the search.

Power to search premises or land
29. (1) A judge of the District Court, who is satisfied on information on oath of an officer of customs that there are reasonable grounds to suspect that—
(a) anything liable to forfeiture under the Customs Acts, or
(b) any records relating to transactions in contravention of the Customs Acts,
is or are kept or concealed on or at any premises or land, may issue a search warrant.
(2) A search warrant issued under this section shall be expressed and shall operate to authorise a named officer of customs, accompanied by such other officers of customs or

persons or both as the officer considers necessary, at any time or times within one month from the date of issue of the warrant—
(a) to enter, if necessary by the use of reasonable force, the premises or land named or specified in the warrant,
(b) to search the premises or land,
(c) to require any person found on the premises or land to remain there for the duration of the search,
(d) to examine anything found on the premises or land,
(e) to inspect any record found on the premises or land,
and, if there are reasonable grounds to suspect that anything found is liable to forfeiture under the Customs Acts, or that anything found, including records, may be required as evidence in any proceedings under the Customs Acts or any other enactment, to seize or detain the thing as liable to forfeiture or, in the case of records, to detain them for so long as is reasonably required.
(3) In this section—
"land" includes any structure on land;
"structure" means building, structure or any other thing constructed, erected, placed or made on, in or under any land.

Power to search persons
30. (1) An officer of customs who with reasonable cause suspects that a person at or in the vicinity of any port or airport, the coast, the land frontier, or any premises or land the subject of a search warrant issued under *section 29*, or on board a conveyance that has been boarded under ***section 27***, is in possession of—
(a) anything liable to forfeiture under the Customs Acts, or
(b) any records relating to transactions in contravention of the Customs Acts,
may, subject to *subsection (2)*, without warrant—
(i) search the person and, if the officer considers it necessary for that purpose, detain the person for such time as is reasonably necessary for carrying out the search, and
(ii) examine, by opening or otherwise, and seize and detain anything found in the course of the search which appears to the officer to be something which may be required as evidence in proceedings for an offence under the Customs Acts or any other enactment.
(2) An officer conducting a search of a person under *subsection (1)* shall ensure that—
(a) as far as practicable, the person being searched understands the reason for the search and that it is conducted with due respect for that person,
(b) the person, unless consent is so given, shall not be searched by an officer or other person (who is not a registered medical practitioner or a registered nurse), of another sex, and
(c) where the search of the person involves removal of clothing, other than headgear or a coat, jacket, glove or similar article of clothing, no other officer or person of another

sex shall be present unless either that person is a registered medical practitioner or a registered nurse, or the officer considers that the presence of that person is necessary by reason of the violent conduct of the person being searched.
(3) An officer of customs who decides to search a person under this section may require the person to accompany such officer to a customs office or to such other place as may be specified by that officer for the purpose of being so searched at that office or other place, and may arrest without warrant any person who fails to comply with this requirement.
(4) A requirement mentioned in *subsection (3)* shall remain in force until the search in relation to which it is made is completed, but such search shall be carried out as soon as is practicable.
(5) Where an officer of customs has reasonable grounds to suspect that a person is in possession of a controlled drug or other thing which is concealed internally, then such officer may detain the person and, as soon as is practicable thereafter—
(a) present the person, or
(b) bring and present the person,
to a member of the Garda Síochána.
(6) In this section—
"registered nurse" means a nurse whose name is registered in—
(a) the register of nurses established under **section 27** of the **Nurses Act 1985**, or
(b) the nurses division of the register of Nurses and Midwives established under **section 46** of the **Nurses and Midwives Act 2011**;
"registered medical practitioner" means a registered medical practitioner within the meaning of the **Medical Practitioners Act 2007**.

The VAT Act 2010 and here section 108 para 2 c contains a provision on **a search in relation to VAT fraud investigations**. During a normal audit, inspectors might uncover an offence and then report it to the Garda, which can afterwards conduct a search on the basis of this provision. **12**

bb. Seizure

The **Criminal Justice (Theft And Fraud Offences) Act 2001** (Revised and Updated to 22 November 2021) allows the seizure in relation to certain offences, which can damage the budget of the EU: **13**

Forfeiture of seized property. **14**
50.—(1) This section applies to anything which has been seized by a member of the Garda Síochána (whether the seizure was effected by virtue of a warrant under section 48 or otherwise) and which the member suspects to be—

(a) anything used (whether before or after the commencement of this section), or intended to be used, for the making of any false instrument, or any copy of a false instrument, in contravention of section 25 or 27 respectively,
(b) any false instrument or any copy of a false instrument used (whether before or after the commencement of this section), or intended to be so used, in contravention of section 26 or 28 respectively,
(c) any thing the custody or control of which, without lawful authority or excuse, is an offence under section 29,
(d) any thing which is a counterfeit of a currency note or coin,
(e) any thing used, whether before or after the commencement of this section, or intended to be used, for the making of any such counterfeit.
(2) A member of the Garda Síochána may, at any time after the seizure of any thing to which this section applies, apply to the judge of the District Court for the time being assigned to the district in which the seizure was effected for an order under this subsection with respect to it; and the judge may, if satisfied both that the thing is one to which this section applies and that it is in the public interest to do so, subject to subsection (4), make such order as the judge thinks fit for its forfeiture and subsequent destruction or disposal.
(3) Subject to subsection (4), the court by or before which a person is convicted of an offence under Part 4 or 5 may order any thing shown to the satisfaction of the court to relate to the offence to be forfeited and either destroyed or dealt with in such other manner as the court may order.
(4) The court shall not order any thing to be forfeited under subsection (3) or (4) where a person claiming to be the owner of or otherwise interested in it applies to be heard by the court, unless an opportunity has been given to the person to show cause why the order should not be made.

15 If the judge has been involved, he/she may order such a document, which may nowadays have changed due to the changes of 2021:

16 **District Court** - Schedule: B - Forms in criminal proceedings

S.I. No. 322 of 2008

No. 34.2A

Criminal Justice (Theft And Fraud Offences) Act 2001, Section 50

Notice Of Application For Forfeiture/Disposal

District Court Area of

District No.

[A.B, ...

Prosecutor

C.D,................................

Accused]

WHEREAS *[a] thing(s), namely .... has/have been seized by me, a member of the Garda Síochána and whereas I suspect such thing(s) to be *[a] thing(s) of a kind described in section 50(1)(a) to section 50(1)(e) of the above-named Act of 2001, to wit, ...

TAKE NOTICE that I will apply to the Judge for the time being assigned to the District Court District wherein the seizure was effected at the sitting of the District Court to be held at .... on the .... day of .... at ...... a.m./p.m. for an order that the said thing(s) be forfeited and destroyed or disposed of.

*[If you wish to oppose the said application, you should attend at the said sitting and show cause why such order should not be made.]

Dated this .... day of .... 20...

Signed ....

Garda To: District Court Clerk at

And to:

*delete if inapplicable

District Court - Schedule: B - Forms in criminal proceedings

S.I. No. 412 of 2003

No. 34.2B

Criminal Justice (Theft And Fraud Offences) Act, 2001, Section 50

Order For Forfeiture/Disposal

District Court Area of

District No.

[A.B, ………………………………………………………… Prosecutor

C.D, ………………………………………………………… Accused]

WHEREAS on the application of Garda made under section 50(2) of the aforesaid Act of 2001 in respect of [a] thing[s] seized by Garda ……………, namely …………………………

AND HAVING HEARD said applicant and *all/*no persons appearing before the Court claiming to be the owner of or otherwise interested in the thing.

AND BEING SATISFIED that the thing[s] is/are [a] thing[s] to which section 50 of the said Act of 2001 applies and that it is in the public interest to do so

IT IS HEREBY ORDERED that the said thing[s] be forfeited and *delivered to [and destroyed by and under the supervision of the Superintendent of the Garda Síochána at ……………………]

THIS ORDER shall not take effect before the expiry of the time within notice of appeal here from may be given by any person and, if any such appeal is taken, before the determination of any such appeal.

Dated this ..... day of 20

Signed …………………………………….

Judge of the District Court

[* delete as appropriate]

District Court - Schedule: B - Forms in criminal proceedings

S.I. No. 322 of 2008

No. 34.2D

Criminal Justice (Theft And Fraud Offences) Act 2001, Section 52(2)

(As Substituted By Criminal Justice Act 2006, Section 192(1)(B))

Order

District Court Area of

District No.

WHEREAS from the information on oath and in writing sworn before me on this day, by .... of .... a member of the Garda Síochána,

I AM SATISFIED THAT

The Garda Síochána are investigating an offence to which Section 52 of the above-named Act applies, to wit, ... a person, namely,..................... of

.... in the court (area and) district aforesaid has possession or control of particular material, or material of a particular description, namely ....

And that there are reasonable grounds for suspecting that the said material constitutes evidence of or relating to the commission of the offence.

IT IS HEREBY ORDERED that the said .... of .... in the court (area and) district aforesaid *[produce the said material, being .... to ...., a member of the Garda Síochána for such member to take away] or *[give access to the said material, being .... to ...., a member of the Garda Síochána] *immediately upon production of this order to him/her * within .... days of the production of this order to him/her

Note: Under section 52(3) of the above-named Act, where the material consists of or includes information contained in a computer, this order shall have effect as an order to produce the information, or to give access to it, in a form in which it is visible and legible and in which it can be taken away.

Dated this ...... day of .... 20....

Signed ....

Judge of the District Court

To the Superintendent of the Garda Síochána:

....

At And to the said: [* delete if inapplicable]

Nota bene: All of the forms above might change quickly after publication or even stay applicable for several years. In any case make sure that you request at the correct court/authority the right forms or software needed to submit formal and correct requests. 17

cc. Obtainment of the Production of Any Relevant Object or Document and Order to Produce Evidential Material

Order to produce evidential material. The provisions in relation to this can be found in Section 52 of The Criminal Justice (Theft and Fraud Offences) Act, 2001.[206] 18

In a customs fraud case the customs provisions may apply:

Power to seize goods and conveyances 19
The provisions in relation to this can be found in Sections 34 and 35 of the Customs Act 2015.[207]

[206] See https://www.irishstatutebook.ie/eli/2001/act/50/section/52/enacted/en/html. Accessed 30 October 2025.
[207] See https://www.irishstatutebook.ie/eli/2015/act/18/enacted/en/print. Accessed 30 October 2025.

20 Again, the Criminal Justice (Theft And Fraud Offences) Act 2001 (Revised and Updated to 22 November 2021) provides for an important provision:

21 **Order to produce evidential material.**

52.—(1) This section applies to any offence under this Act which is punishable by imprisonment for a term of five years or by a more severe penalty.

(2) A judge of the District Court, on hearing evidence on oath given by a member of the Garda Síochána, may, if he or she is satisfied that—

(a) the Garda Síochána are investigating an offence to which this section applies,

(b) a person has possession or control of particular material or material of a particular description, and

(c) there are reasonable grounds for suspecting that the material constitutes evidence of or relating to the commission of the offence,

order that the person shall—

(i) produce the material to a member of the Garda Síochána for the member to take away, or

(ii) give such a member access to it,

either immediately or within such period as the order may specify.

(3) Where the material consists of or includes information contained in a computer, the order shall have effect as an order to produce the information, or to give access to it, in a form in which it is visible and legible and in which it can be taken away.

(4) An order under this section—

(a) in so far as it may empower a member of the Garda Síochána to take away a document, or to be given access to it, shall also have effect as an order empowering the member to take away a copy of the document (and for that purpose the member may, if necessary, make a copy of the document),

(b) shall not confer any right to production of, or access to, any document subject to legal privilege, and

(c) shall have effect notwithstanding any other obligation as to secrecy or other restriction on disclosure of information imposed by statute or otherwise.

(5) Any material taken away by a member of the Garda Síochána, under this section may be retained by the member for use as evidence in any criminal proceedings.

(6) (a) Information contained in a document which was produced to a member of the Garda Síochána, or to which such a member was given access, in accordance with an order under this section shall be admissible in any criminal proceedings as evidence of any fact therein of which direct oral evidence would be admissible unless the information—

(i) is privileged from disclosure in such proceedings,

(ii) was supplied by a person who would not be compellable to give evidence at the instance of the prosecution,

(iii) was compiled for the purposes or in contemplation of any—
(I) criminal investigation,
(II) investigation or inquiry carried out pursuant to or under any enactment,
(III) civil or criminal proceedings, or
(IV) proceedings of a disciplinary nature,
or unless the requirements of the provisions mentioned in paragraph (b) are not complied with.
(b) References in sections 7 (notice of documentary evidence to be served on accused), 8 (admission and weight of documentary evidence) and 9 (admissibility of evidence as to credibility of supplier of information) of the Criminal Evidence Act, 1992, to a document or information contained in it shall be construed as including references to a document mentioned in paragraph (a) and the information contained in it, and those provisions shall have effect accordingly with any necessary modifications.
(c) The Criminal Procedure Act, 1967, is amended both in section 6(1)(e) (as amended by section 10 of the Criminal Evidence Act, 1992) and in section 11 (as so amended) by the insertion, after "1992", of "or section 52 (6)(b) of the Criminal Justice (Theft and Fraud Offences) Act, 2001,".
(7) A judge of the District Court may, on the application of any person to whom an order under this section relates or a member of the Garda Síochána, vary or discharge the order.
(8) A person who without reasonable excuse fails or refuses to comply with an order under this section is guilty of an offence and liable on summary conviction to a fine not exceeding £1,500 or imprisonment for a term not exceeding 12 months or both.

dd. Obtainment of the production of stored computer data, encrypted or decrypted

Criminal Justice (Theft and Fraud Offences) Act, 2001 22
Forfeiture of seized property.
The provisions in relation to this can be found in Section 50 of The Criminal Justice (Theft and Fraud Offences) Act, 2001[208]

Looking into **bank accounts** is possible under the Criminal Justice Act 1994.[209] Text 23
messages can be used as evidence.[210] **Passwords of smartphones** may be requested in

[208] https://www.irishstatutebook.ie/eli/2001/act/50/section/50/enacted/en/html#sec50. Accessed 30 October 2025.
[209] See https://tinyurl.com/yc3jv377. Accessed 30 October 2025.
[210] *DPP v Timmons* [2011] IECCA 13.

serious economic crime cases without infringing the *nemo tenetur* principle.[211] The **seizure of electronic data** is possible, but has a certain scope. If **e-mail accounts** are concerned, there are precedents from law enforcement.[212]

ee. Freezing Instrumentalities or Proceeds of Crime, Including Assets

24 Ireland has a special (Centralized) Criminal Assets Bureau, which will be most likely competent to deal with freezing instrumentalities or proceeds of crime[213], including assets under the **Proceeds of Crime Act 1996** Revised (Updated to 30 July 2018):

25 **[Seizure and detention of property]**

1A. (1) Where a bureau officer who is—

(a) in a public place,

(b) in any other place under a power of entry authorised by law or to which he or she was expressly or impliedly invited or permitted to be, or

(c) carrying out a search authorised by law,

finds or comes into possession of any property and he or she has reasonable grounds for suspecting that the property—

(i) in whole or in part, directly or indirectly, constitutes proceeds of crime, and

(ii) is of a total value of not less than €5,000,

he or she may seize and detain the property for a period not exceeding 24 hours.

(2) Where a bureau officer has seized and detained property in accordance with subsection (1), the Chief Bureau Officer may, before the expiration of the relevant period of 24 hours, if he or she—

(a) is satisfied that there are reasonable grounds for suspecting that the property, in whole or in part, directly or indirectly, constitutes proceeds of crime,

(b) is satisfied that there are reasonable grounds for suspecting that the total value of the property is not less than €5,000,

(c) is satisfied that the Criminal Assets Bureau is carrying out an investigation into whether there are sufficient grounds to make an application to the Court for an interim order or an interlocutory order in respect of the property, and

[211] *Yavor Poptoshev v DPP* [2025] IESC 47.

[212] *CRH plc v Competition and Consumer Protection Commission* [2018] IESC 23, [2018] 1 IR 521.

[213] According to Para 1 of this Act the definitions are: F1['proceeds of crime' means any property obtained or received at any time (whether before or after the passing of this Act) by or as a result of or in connection with criminal conduct;] F1['property', in relation to proceeds of crime, includes— (a) money and all other property, real or personal, heritable or moveable, (b) choses in action and other intangible or incorporeal property, and (c) property situated outside the State where— (i) the respondent is domiciled, resident or present in the State, and (ii) all or any part of the criminal conduct concerned occurs therein, and references to property shall be construed as including references to any interest in property;]. Be aware that Directive 2014/42/EU were regulated by the European Union (Freezing and Confiscation of Instrumentalities and Proceeds of Crime) Regulations 2017.

(d) has reasonable grounds for believing that the property, in whole or in part, may in the absence of an authorisation, be disposed of or otherwise dealt with, or have its value diminished, before such an application may be made,
authorise the detention of the property by the Criminal Assets Bureau for a further period not exceeding 21 days.
(3) The Chief Bureau Officer shall give notice in writing of an authorisation to any person having possession or control of the property and any other person who appears to be or is affected by it, unless the Chief Bureau Officer is satisfied that it is not reasonably possible to ascertain his, her or their whereabouts.
(4) A notice given under this section shall include the reasons for the authorisation and inform the person to whom the notice is given of his or her right to make an application under section 1B.
(5) The reasons given in a notice under this section need not include details the disclosure of which there are reasonable grounds for believing would prejudice the investigation in respect of which the authorisation is given.
(6) The Chief Bureau Officer may vary or revoke an authorisation and shall revoke an authorisation if any of the grounds on which it was issued no longer exists.
(7) In this section, 'property' does not include land.]

Seizure of certain property.
15.—(1) Where an order under this Act is in force, a member of the Garda Síochána or an officer of customs and excise may; for the purpose of preventing any property the subject of the order being removed from the State, seize the property.
(2) Property seized under this section shall be dealt with in accordance with the directions of the Court.

For an **offence** in relation to **bribery i.e. corruption offences** the Irish Statues contain a special section on the seizure and forfeiture of the bribe in the **Criminal Justice (Corruption Offences) Act 2018**: 26

Seizure of suspected bribe 27
20. (1) Subject to subsection (2), a member of the Garda Síochána may seize and detain land, cash or other property that the member has reasonable grounds for suspecting is a gift or consideration used or intended to be used for the purposes of an offence under section 5 , 6 , 7 or 8 (in this Act referred to as "seized property").
(2) Seized property shall not be detained for more than 72 hours unless its detention for a further period is authorised by an order under subsection (3).
(3) Subject to subsections (4) and (7), a judge of the Circuit Court may, upon application in that behalf, order the continued detention of seized property (including seized property detained pursuant to a previous order under this subsection) for a further period

specified in the order, not exceeding 3 months from the date of the order, where he or she is satisfied that—
(a) there are reasonable grounds to suspect that the seized property is a gift or consideration used or intended to be used for the purposes of an offence under section 5, 6, 7 or 8,
(b) one or more of the following applies:
(i) the origin or derivation of the seized property is being further investigated;
(ii) an application in respect of the seized property under section 21 has been made but not finally determined;
(iii) proceedings have been instituted or consideration is being given to instituting proceedings (whether in the State or elsewhere) against a person for an offence with which the seized property is connected,
and
(c) the further detention of the seized property is justified.
(4) Subject to subsection (5), orders under subsection (3) may not authorise the detention of seized property for periods that, in aggregate, exceed 2 years.
(5) (a) Paragraph (b) applies in the case of seized property in respect of which—
(i) an application under section 21 has been made for the forfeiture of the seized property, or
(ii) proceedings have been brought (whether in the State or elsewhere) against any person for an offence with which the seized property is connected,
before the expiration of the period of 2 years referred to in subsection (4).
(b) Orders under subsection (3) may authorise the detention of seized property for periods after the expiration of the period of 2 years referred to in subsection (4) but may not authorise the detention of seized property for any period after the final determination of the application or the proceedings, as the case may be, referred to in paragraph (a) in respect of the seized property concerned.
(6) An application for an order under subsection (3) may be made by a member of the Garda Síochána.
(7) A judge of the Circuit Court may amend or revoke an order under subsection (3) if he or she is satisfied, on application by the person from whom the seized property concerned was seized or any other person, that its further detention in accordance with the terms of the order is no longer justified.

Forfeiture of bribe
21. (1) A judge of the Circuit Court may order seized property to be forfeited if he or she is satisfied, on application made by or on behalf of the Director of Public Prosecutions, that it is a gift or consideration used or intended to be used for the purposes of an offence under section 5, 6, 7 or 8.

(2) An order under subsection (1) may be made whether or not proceedings are brought against a person for an offence with which the gift or consideration concerned is connected.
(3) The standard of proof in proceedings under this section is that applicable in civil proceedings.
Application of sections 40, 41, 42 and 45 of Criminal Justice Act 1994 to seized property
22. Sections 40 (appeal against forfeiture order), 41 (interest on cash detained), 42 (procedure) and 45 (disposal of forfeited cash) of the Criminal Justice Act 1994 shall, with all necessary modifications, apply in relation to cash or any other seized property detained under section 20, or forfeited under section 21, as they apply to cash (within the meaning of Part VI of that Act) detained under section 38, or forfeited under section 39, of that Act.

The "S.I. No. 540/2017 - European Union (Freezing and Confiscation of Instrumentalities and Proceeds of Crime) Regulations 2017" applies. It amended the Criminal Justice Act 1994 particularly Section 32[214]. **28**

ff. Interception of Electronic Communications to and from the Suspect or Accused Person

Section 2 of The Interception of Postal Packets and Telecommunications Messages (Regulation) Act, 1993 applies[215] in regard to the authorisation of interceptions. The **tapping of telephones** must be legal[216] as otherwise the evidence may not be used and damages might be requested. **29**

gg. Tracking and Tracing an Object

Sections 3, 4, 5, 6, 7 and 8 of the **Criminal Justice (Surveillance) Act 2009**[217] may apply in this area along with any common law considerations. **30**

c) Para. 2: Specific Restrictions in National Law That Apply with Regard to Certain Categories of Persons or Professionals with an LLP Obligation, Art. 29

Without prejudice to Article 29, the investigation measures set out in paragraph 1 of this Article may be subject to conditions in accordance with the applicable national law

[214] See https://www.irishstatutebook.ie/eli/1994/act/15/section/32/enacted/en/html#sec32. Accessed 30 October 2025.
[215] See https://www.irishstatutebook.ie/eli/1993/act/10/section/2/enacted/en/html. Accessed 30 October 2025.
[216] *Kennedy v Ireland* [1988] (High Court, 1 January 1988) Here the plaintiffs brought proceedings for damages for the unlawful tapping of their telephones. In particular they claimed that the actions of the servants of the State amounted to a breach of their personal right to privacy and freedom from unlawful and unwarranted intrusion guaranteed by Article 40 of the Constitution.
[217] See https://www.irishstatutebook.ie/eli/2009/act/19/enacted/en/html. Accessed 30 October 2025; see Ryan 2014, p. 86.

if the ***national law contains specific restrictions*** *that apply with regard to c****ertain categories of persons or professionals*** *who are legally bound by an obligation of confidentiality.*

31 These **restrictions need to be respected** if they are **enshrined in the statutory laws** above or derive from authorities that decided cases on the matter.[218] As long as Ireland is not part of EPPO the "Assistance in criminal matters between State and EPPO" Part in Art. 52 of the Act of 2008 applies, which was amended by the insertion of the following Part after Part 7A: "PART 7B". Art. 59 of the **Criminal Justice (Theft and Fraud Offences) Act, 2001** e.g. mentions *expressis verbis* for the reporting of offences "the relevant person shall, notwithstanding any professional obligations of privilege or confidentiality, report that fact to a member of the Garda Síochána". The **Taxes Consolidation Act, 1997** (Number 39 of 1997) holds in **s. 908 F e.g. para 2 et seq.**[219] according to s. 908–to 909[220], which allows an inspector to request a bank to produce material about a person investigated that: "If a person refuses to produce a document or give access to it pursuant to an order of a judge of the District Court under section 908E on the grounds that the document is privileged legal material, an authorised officer may apply to a judge of that Court for a determination as to whether the document is privileged legal material." **Art. 905**, regulating the Inspection of documents and records says in para 2 (c) "Nothing in this section shall be construed as requiring any person to disclose to an authorised officer— (i) information with respect to which a claim **to legal professional privilege** could be maintained in legal proceedings, [...] (iii) professional advice of a **confidential nature given to a client** (other than advice given as part of a dishonest, fraudulent or criminal purpose)." These interpretations are **not exhaustive**.

2. Art. 31 and 32 EPPO Regulation and EAW-Procedure

Article 31 – Cross-border investigations

1. The European Delegated Prosecutors shall act in close cooperation by assisting and regularly consulting each other in cross-border cases. Where a measure needs to be undertaken in a Member State other than the Member State of the handling European Delegated Prosecutor, the latter shall decide on the adoption of the necessary measure and **assign it to** a European Delegated Prosecutor located **in the Member State where the measure needs to be carried out**.

[218] See *CRH plc v Competition and Consumer Protection Commission* [2018] 1 IR 521 (SC); all measures need to be lawful People (DPP) v Quirke (No 1) [2023] 1 ILRM 225 (SC). Privileges are very important and if they are infringed the evidence cannot be used in the case.

[219] In this section "privileged legal material" means a document which, in the opinion of the court concerned, a person is entitled to refuse to produce or to give access to it on the grounds of legal professional privilege.

[220] For a table of powers of Revenue commissioners see Annex 2, https://www.revenue.ie/en/tax-professionals/tdm/powers/38-04-04.pdf. https://www.charteredaccountants.ie/taxsourcetotal/1997/en/act/pub/0039/sec0 900 -2-sec0909.html. Accessed 31 March 2026.

2. The handling European Delegated Prosecutor may **assign any measures available to him/her in accordance with Article 30**. The justification and adoption of such measures shall be governed by the law of the Member State of the handling European Delegated Prosecutor. Where such a Prosecutor assigns an investigation measure to one or several Delegated Prosecutors from another Member State, he/she shall at the same time inform his/her supervising European Prosecutor.
3. If **judicial authorisation is required under the law of the Member State of the assisting European Delegated Prosecutor**, the assisting Prosecutor shall obtain that authorisation in accordance with the law of that Member State. If judicial authorisation is refused, the handling Prosecutor shall withdraw the assignment. However, where the law of the assisting Member State does not require judicial authorisation but the law of the handling Member State does, the authorisation shall be obtained by the handling Prosecutor and submitted with the assignment.
4. The assisting European Delegated Prosecutor shall undertake the assigned measure, or instruct the competent national authority to do so.
5. Where the assisting European Delegated Prosecutor considers that (a) the assignment is incomplete or contains a manifest relevant error; (b) the measure cannot be undertaken within the time limit for justified and objective reasons; (c) an alternative but less intrusive measure would achieve the same results; or (d) the assigned measure does not exist or **would not be available in a similar domestic case under the law of his/her Member State**, he/she shall inform the supervising European Prosecutor and consult with the handling Prosecutor to resolve the matter bilaterally.
6. If the assigned measure does not exist in a purely domestic situation but would be available in a cross-border situation under mutual recognition or cross-border cooperation instruments, the Delegated Prosecutors may, with the agreement of the supervising Prosecutors, use such instruments.
7. If the Delegated Prosecutors cannot resolve the matter within seven working days and the assignment is maintained, the matter shall be referred to the competent Permanent Chamber. The same applies where the assigned measure is not undertaken within the set time limit or within a reasonable time.
8. The competent Permanent Chamber shall, to the extent necessary, hear the Delegated Prosecutors concerned and decide without undue delay, in accordance with national law and this Regulation, whether and by when the assigned measure or a substitute measure shall be undertaken by the assisting Prosecutor, and shall communicate this decision through the competent European Prosecutor.

Article 32 – Enforcement of assigned measures

The assigned measures shall be carried out in accordance with this Regulation and the law of the Member State of the assisting European Delegated Prosecutor. Formalities and procedures expressly indicated by the handling Prosecutor shall be complied with unless they are contrary to the fundamental principles of law of the assisting Member State.

a) General Remarks on Art. 31 and 32

32 By building on the **principle of mutual recognition**[221], the EPPO can bypass the slower traditional **mutual legal assistance procedures** and instead have delegated prosecutors directly request and implement investigation measures in other member states, ensuring faster and more effective action against cross-border crimes such as PIF crimes detrimental to the EU's interest (Art. 22–25 EPPO Regulation, Art. 1–5 PIF Directive).

aa. Assistance between the Irish State and EPPO (2023–2026)

33 Cooperation with the EPPO in Ireland is (2025) still regulated by Part 7B of the Criminal Justice (Mutual Assistance) Act 2008. It integrates EPPO into the existing **mutual legal assistance** framework by: creating a general duty to cooperate (s. 94G), redefining key terms so "member state/competent authority/issuing state" are read as EPPO or the relevant EPPO member state, and applying the existing provisions on evidence-gathering, freezing, interception, DNA, etc. to EPPO requests with only minimal textual modifications.

bb. Part 7B Special Provisions on EPPO

PART 7B ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE STATE AND EPPO
Chapter 1 – General
Application of Part – Section 94F
(1) This Part shall apply to the provision of assistance in criminal matters between the State and the European Public Prosecutor's Office (EPPO).
(2) This Part shall apply to EPPO requests whether made before, on, or after the coming into operation of section 52 of the Criminal Justice (Miscellaneous Provisions) Act 2023.
(3) Where, before the coming into operation of section 52 of the Criminal Justice (Miscellaneous Provisions) Act 2023, EPPO has sought assistance from the State, the seeking of such assistance shall, for the purposes of this Part, be deemed:
(a) to be an EPPO request,
(b) to have been made in accordance with this Act, and
(c) subject to subsection (4), to have been received by the State on the coming into operation of that section.

[221] Conway 2009, pp. 283 et seq. on the situation in 2009. The situation will change in 2026 if a draft bill for the EPPO will be tabled, we assume. This is to the reason that Art. 31 EPPO Regulation is a legal sui generis mechanism outdating the old principle (which will then only continue to apply for non-participating member states like Denmark and Hungary); see Ružičkov 2022 on the situation within the EPPO mechanism.

(4) Where the assistance referred to in subsection (3) involves:
(a) the notification of the Minister as referred to in section 27(1)(d), section 27(2) shall apply as if the words “and at the latest within a period specified in subsection (7),” were deleted, and
(b) an external freezing order, section 35(3) shall apply as if the words “and, whenever practicable, within 24 hours of receipt of the order and a duly completed certificate” were deleted.

Section 94G – Cooperation with EPPO
(1) The State shall cooperate with the European Public Prosecutor’s Office (EPPO) in respect of EPPO requests.
(2) An EPPO request and a request to EPPO by the State may be made under this Act, notwithstanding that such requests are not made in accordance with the provisions of an international instrument.
(3) Where the State has received a request in accordance with a relevant international instrument from a Member State that is a relevant EPPO Member State, the Minister may, notwithstanding the purposes permitted by the relevant international instrument, permit the evidence and information obtained in the State in compliance with the request to be shared by the Member State with EPPO.
(4) Where the State has received a request referred to in subsection (3), assistance shall not be refused solely on the ground that evidence or information regarding the request is to be provided by the State to EPPO.

Section 94H – Modification of References for Purposes of This Part (General)
For the purposes of this Part, a reference in this Act—
(a) to a member state shall, subject to paragraph (b), unless the context otherwise requires, be construed as a reference to a relevant EPPO member state,
(b) to a request from a member state shall be construed as a reference to an EPPO request,
(c) to an assurance by a requesting authority shall, subject to section 94AG and paragraph (c) of section 94AQ, be construed as a reference to an assurance by—
(i) the European Public Prosecutor’s Office (EPPO), or
(ii) the relevant EPPO member state in which EPPO is conducting a criminal investigation or criminal proceedings that are the subject of an EPPO request,
(d) to an order, an interception order, a warrant or a document being issued or made by EPPO shall be construed as including a reference to an order, an interception order, a warrant or a document, as the case may be, being issued or made by the relevant EPPO member state on the request of EPPO, and
(e) to the law of the designated state shall—

(i) in section 15(2)(c)(iv), be construed as a reference to the law of the relevant EPPO member state,
(ii) in section 17(3)(a), be construed as a reference to the law of the relevant EPPO member state, and
(iii) in section 66(5), be construed as a reference to the law of the relevant EPPO member state.

34 Section 94H and adjacent provisions offer a **whole series of modifications** and state for this Part of the law, which was changed in order to **enable the EPPO to cooperate with Ireland** that "member state" read as relevant EPPO member state „request from a member state" read as EPPO request, "requesting authority" includes EPPO or the relevant EPPO member state. References to "law of the designated state" for some sections, reads as law of the relevant EPPO member state. In fact everywhere the original Act writes about "designated state / competent authority / issuing state", Part 7B tells the relevant Irish organs they shall if receiving requests **pretend that is EPPO** (or the relevant EPPO member state), unless the context clearly says otherwise.

35 Through sections 94O–94Z, 94AA–94AS, the Act **systematically modifies Parts 2–6** so that: Section 14, 17, 20, 24, 25, 27, 28, 31, 34, 35, 42, 45, 46, 47, 62, 63, 64, 66, 67, 70, 73, 74, 75, 78, 79, 79A, 79C, 82, 83, 88 all apply to EPPO with small wording changes like: "competent authority / competent authority in a designated state" → EPPO "issuing judicial authority" EPPO, "requesting state" relevant EPPO member state references to acting "in accordance with the relevant international instrument" often deleted. The **practical effect** is that the **EPPO can**: request freezing orders, seek interception, obtain evidence, documents, DNA profiles, controlled deliveries, etc. using exactly the same procedural channels as other mutual assistance requests but with the roles linguistically recast to fit EPPO. Section 31 now defines: "**competent authority" as EPPO and the "issuing state" as EPPO**. EPPO orders must be accompanied by a certified copy and grounds. The Part 6 Modifications concerning evidence gathering abroad and Joint Investigations (ss. 94AQ–94AS) ensure that EPPO is treated as the prosecuting or issuing authority and can participate in or lead joint investigation teams (JITs) or it may request operations such as controlled deliveries. In essence, Ireland treats EPPO as if it were an EU member state authority with full access to all mutual legal assistance tools. This situation will only change if a new bill is tabled and discussed on how Irish EDPs can act on their own and then this laws will be changed or outdated.

b) Admissibility of Evidence and the Irish Framework

36 To ensure the admissibility of evidence, it is a long standing **research area**.[222] Article 37 of Regulation (EU) 2017/1939 (the EPPO Regulation) establishes the principle that

[222] See Ryan 2014.

evidence lawfully gathered by the EPPO in one Member State shall **not be refused admissibility in another solely on the ground that it was obtained abroad**.[223] The provision, though concise, carries significant implications for cross-border prosecutions under Irish law. Paragraph 1 enshrines the principle of **non-discrimination of evidence on territorial grounds**: the mere fact that an item of evidence was collected outside Ireland cannot in itself justify its exclusion from Irish criminal proceedings.

cc. Cross-Border Investigations and Judicial Authorisation (Articles 30–32 EPPO Regulation)

The admissibility of evidence in **transnational proceedings** is further strengthened by Articles 30 to 32 of the EPPO Regulation. These provisions create a sui generis procedural regime for investigative measures, distinct from both the "mutual recognition" and "single legal area" models found elsewhere in EU criminal cooperation law. **37**

Article 31 para 3 directly addresses **potential conflicts between national systems** that require differing forms of judicial authorisation for investigative measures. It provides that in cross-border cases a single judicial authorisation is sufficient and must be obtained in the Member State where the measure is executed, unless such authorisation is required solely under the law of the handling EDP. This ensures procedural economy and guards against the duplication of judicial control, thereby promoting evidential admissibility across jurisdictions. **38**

Similarly, Article 32 establishes a **structured approach** to the execution of investigative measures, reflecting the tripartite logic of Article 9 para 2 of **Directive 2014/41/EU** (**European Investigation Order** Directive). The investigative act is to be carried out under the law of the executing or assisting Member State (first step), while the formalities and procedures expressly indicated by the handling EDP must be respected (second step). Such formalities may only be disregarded where they are contrary to the fundamental principles of law of the assisting State (third step). This model, while preserving national procedural autonomy, serves to mitigate the risk of evidential inadmissibility arising from procedural divergences. **39**

In Ireland, such measures would be assessed within the parameters of the Criminal Procedure Act 2010 and the Rules of the Superior Courts, ensuring conformity with Irish constitutional guarantees. **40**

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[223] From what we had in the research phase it that Irish authorities still have a problem with Art. 37 and its meaning and fear to loose capacity to handle evidence as they want and not be dictated thorugh the lens of European legislation on how to handle it, roughly speaking. Still this arguments can be challenged quite well by legal European dogmatics, as the EPPO zone ensures an own zone of admissibility rules and the ECJ will rule on certain cases.

dd. Minimum Investigative Measures and National Alignment (Article 30 EPPO Regulation)

41 Article 30 of the Regulation obliges participating Member States to make available to the EDPs a basic set of investigative tools, such as searches, seizures, production orders, freezing of assets, and interception of communications. While the level of harmonisation required is limited, it creates a baseline of procedural capacity that reduces friction between national legal systems and supports the cross-border use of evidence.

42 Under Irish law, the corresponding **investigative powers** derive from the Criminal Justice (Theft and Fraud Offences) Act 2001 (as amended by the Criminal Justice (Theft and Fraud Offences) (Amendment) Act 2021), the Criminal Justice (Corruption Offences) Act 2018, and the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010. Search and seizure powers are governed principally by the Criminal Justice Act 2007 and Criminal Procedure Act 2010. Arrest and detention for questioning are regulated by Part 4 of the Criminal Justice Act 1984 and the Bail Act 1997, which would also apply *mutatis mutandis* in cases brought before Irish courts on the basis of EPPO evidence (cf. Art. 33 EPPO Regulation).

43 For **internal interpretative guidance** on cross-border assistance under Art 31 EPPO Regulation, see EPPO, *Guidelines on the Application of Article 31* (Decision 052/2024) in *EPPO Legal Framework Handbook 2025* 220.

ee. Procedural Safeguards and EU Primary Law Constraints

44 A further safeguard supporting the admissibility of **cross-border evidence** derives from the interplay between the EPPO Regulation and EU primary law. Article 325 para 4 TFEU obliges Member States to provide for effective investigative and prosecutorial tools to protect the Union's financial interests. At the same time, Article 41 EPPO Regulation mandates that all EPPO activity must comply fully with the Charter of Fundamental Rights of the European Union. Consequently, any domestic ruling in Ireland declaring cross-border evidence inadmissible must reconcile these two fundamental obligations: the **effectiveness of EU law and the protection of defence rights**. The jurisprudence of the Court of Justice, notably *Dzivev*[224] establishes that national courts must strike a balance between procedural autonomy and the effectiveness of Union law. Future CJEU case law will likely clarify the boundaries of this equilibrium.

ff. Interaction with Irish Evidentiary Law

45 Within Ireland's common law framework, the admissibility of evidence is determined according to national procedural principles, as elaborated in the Guidelines for Prosecutors (Office of the Director of Public Prosecutions, 2022) and in judicial interpretation

[224] ECJ, C-310/16, ECLI:EU:C:2019:30.

under the Criminal Evidence Act 1992. Irish courts adhere to the **exclusionary rule** only where the admission of evidence would amount to a breach of constitutional rights, such as those guaranteed under Article 38.1 (right to fair trial) or Article 40.5 (inviolability of the dwelling) of the Constitution of Ireland.

Accordingly, under Article 37 EPPO Regulation, evidence obtained abroad in conform- **46**
ity with foreign law cannot be excluded in Ireland merely because it would have been gathered differently under Irish procedure. Exclusion is permissible only where the use of such evidence would constitute a **violation of procedural or constitutional rights** recognised under Irish law.

gg. Thoughts about Precedents: Comparative Observations from Maltese and Cypriot Participation

Comparative practice in other Member States underscores the diversity of national evi- **47**
dentiary doctrines. In Malta, courts apply a restrictive interpretation of exclusionary rules, permitting the use of evidence unless an express **breach of statutory evidential provision**s is established (cf. *Republic of Malta v Rosario* Militello, Court of Appeal (Criminal Matters) and cf. *Police v Cohen Michael*[225]*)*. In *Clive Dimech v Attorney General*[226], the Constitutional Court confirmed that procedural defects may be rectified before the conclusion of the trial, preventing premature exclusion.

In Cyprus, the Supreme Court[227] held in that evidence seized pursuant to judicial warrant **48**
under sections 32 and 33 of Cap. 155 remains admissible, reinforcing the principle that compliance with domestic procedure suffices for admissibility. Neither jurisdiction has yet faced a situation in which evidence admissible under foreign law alone was tested before the domestic courts — a scenario that may ultimately determine the precise reach of Article 37 EPPO Regulation.

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[225] See ECLI:MT:PIN:2021:128178.

[226] DIMECH CLIVE vs AVUKAT GENERALI, 27/01/2021, ECLI:MT:KOS:2021:125093, *DIMECH CLIVE vs AVUKAT GENERALI* - 175/2019/1 - KOSTITUZZJONALI, MALTA. For asset recovery see https://assetrecovery.mt/court-orders/. Reiterated in: *The Republic of Malta v Omar Bah* (Court of Criminal Appeal, Bill of Indictment No 10/2018, 4 October 2023) (Mark Chetcuti CJ, Edwina Grima J and Aaron Bugeja J): "This being said, however, the Court states that it is aware of the recent pronouncements given by the Constitutional Court where a direction was given to a Criminal Court not to consider as evidence statements that have been released without the right to legal assistance during interrogation as there is a danger that there will be a procedural defect if it is found that these would infringe the right of the accused person to a fair hearing (*Clive Dimech vs Attorney General*, the Police vs Alexander Hickey, Morgan Onuorah vs the State Attorney). That the Constitutional Court itself in all its pronouncements has clearly stated that it was premature at this stage of the proceedings to declare that any error had occurred, since the judicial process in its entirety had not yet been concluded, but it appears that as a precautionary measure due to a potential error, that Court is repeatedly directing the Criminal Court to suppress the evidence of the statement."

[227] See ECLI:CY:AD:2022:D461 (25 October 2022).

c) Irish Outlook

49 In the Irish context, the prevailing interpretation should favour the broad **admissibility of EPPO-gathered evidence**, consistent with Article 325 TFEU and Article 37 EPPO Regulation. Exclusion should arise only in exceptional circumstances where utilisation would violate constitutional rights or fair-trial guarantees. This approach aligns with both the proportionality principle and the Union's overarching aim of ensuring effective protection of its financial interests through coherent evidentiary practice.

d) EAW Framework

50 It should be mentioned, too that Ireland adheres to the EU's European Arrest Warrant Framework Decision, implemented domestically through the European Arrest Warrant Act 2003[228], facilitating arrest and extradition processes among EU Member States.[229]

51 The GIR team has analysed that authorities may request or provide **legal assistance to law enforcement** in other countries under the Criminal Justice (Mutual Assistance) Acts 2008 and 2015.

52 Therefore, Ireland imposes specific **conditions on extradition**, allowing it only when (1) the individual has been formally charged with an offense, not merely for investigative purposes; (2) the offense is not political in nature; and (3) the offense does not involve the death penalty.[230] The Irish court database concerns many cases and precedents on EAW procedures involving fraud offences.[231]

3. Rules on Arrest and Pre-Trial Detention (Art. 33 EPPO Regulation)

1 A suspect will need to be **secured for a potential** trial or to avoid that he/she hides evidence or material, which is important for the accusation of the prosecution.[232] Therefore Union law requires from EPPO Member States that they have implemented pre-trial and arrest provisions as (justified) **exceptions from personal liberty via a *habeas corpus* procedure**[233] for economic crime offences[234], such as EU frauds:

> **Art. 33 Pre-trial arrest and cross-border surrender**
> 1. The handling European Delegated Prosecutor may order or request the arrest or pre-trial detention of the suspect or accused person **in accordance with the national law applicable in similar domestic cases.**

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[228] See European Commission Service (2023) for a detailed handbook on issuing and problems of EAWs with templates and case law digest issued by the EU Commission, state of play 2022.
[229] Reynolds et al. 2024.
[230] Ibid.
[231] See https://tinyurl.com/yz3em3fb. Accessed 30 October 2025.
[232] Obtaining evidence from the suspect during detention in police custody can be the aim of this phase, see Ryan 2014, p. 87.
[233] For Ireland and constitutional safeguards see Forde and Leonard 2013, pp. 349 et seq.
[234] For a general recent overview of pre-trial detention in Ireland see Rogan 2024, pp. 101–122.

2. Where it is necessary to arrest and surrender a person who is not present in the Member State in which the handling European Delegated Prosecutor is located, the latter shall issue or request the competent authority of that Member State to issue a European Arrest Warrant in accordance with Council Framework Decision 2002/584/JHA.

a) Applicable Codes (Criminal Procedure Act 2010; Bail Act)

Criminal Justice and Fraud Offences Act 2001 as amended 2021 in combination with the Gardai Act and other Acts might apply. **2**

b) Para. 1: Provisions for Arrest and Pre-Trial Detention

aa. Arrest

E.g. in **customs duties fraud** case the customs officers have the right to arrest the relevant suspect: **3**

Power of arrest [Customs Act 2015] **4**
32. Where an officer of customs has reasonable grounds to suspect that a person is committing or has committed an offence under—
(a) section 14 or 15, or
(b) any provision of the **Taxes Consolidation Act 1997** [Revenue offences] that provides that it is an offence to assault an officer of customs, such officer may arrest that person without warrant.

Next the Criminal Justice (Theft and Fraud Offences) Act 2001 as amended 2021 offers the possibility of arrest. **5**

bb. Pre-Trial Detention

The Criminal Justice (Theft and Fraud Offences) Act 2001 as amended 2021 offers no explicit possibility in this regard. Most likely the custody of the *An Garda Síochána* Act 2005 will apply. **6**

c) Cross-Border Cases (EAW Framework)

Excerpt Criminal Justice and Fraud Offences Act 2021 **7**
Restriction on certain proceedings.
46.—(1) Where a person is charged with an offence under section 45, no further proceedings (other than a remand in custody or on bail) shall be taken except by or with the consent of the Director of Public Prosecutions.
(2) Where the Director of Public Prosecutions considers that another member state of the European Union has jurisdiction to try a person charged with an offence under section 45 , the Director shall cooperate with the appropriate authorities in the member state

concerned with a view to centralising the prosecution of the person in a single member state where possible.
(3) Proceedings for an offence to which this section applies may be taken in any place in the State, and the offence may for all incidental purposes be treated as having been committed in that place.
(4) Proceedings shall not be taken under section 38 of the Extradition Act, 1965, in respect of an act that is an offence under both that section and section 45 of this Act.

Extradition for revenue offences.
47.—For the purposes of the application in the State of Article 5.3 of the Convention, as applied by Article 12.1 of the Second Protocol, extradition for the offence of fraud against the European Communities' financial interests or money laundering shall not be refused, notwithstanding section 13 of the Extradition Act, 1965, solely on the ground that the offence constitutes a revenue offence as defined in that Act.

8 The Irish Court and Prosecution System provides for forms, that e.g. look like this:

District Court - Schedule: B - Forms in criminal proceedings
S.I. No. 260 of 2010
No. 16.2 *Schedule B*
O.16, r8
EUROPEAN ARREST WARRANT ACT 2003, Section 33 (as amended by Criminal Justice (Miscellaneous Provisions) Act 2009, Section 16)
INFORMATION FOR THE ISSUE OF A EUROPEAN ARREST WARRANT

District Court Area of

District No.

THE INFORMATION of .... of ....

who says on oath—

I am .... of .... a .... and I am making an application for the issue of a European arrest warrant pursuant to the provisions of the above-named Act. I make the application herein on behalf of the Director of Public Prosecutions having been authorised to do so .... (*state basis of authorisation) ....

I say that on the .... day of .... 20..... a domestic warrant, within the meaning of section 31 of the above-named Act, was issued for the arrest of one .... of .... by the District Court, District Court Area of .... District No. ...... I say that the said domestic warrant has not been executed up to the date of the swearing of this information by me, being the ...... day of .... 20........

I have attached hereto the said domestic warrant which I have read and considered prior to the swearing of this my information and I say that the person named in the said domestic warrant as .... of .... is the person in respect of whom I am applying for a European arrest warrant herein.

*I say that the said person would, if convicted of the offence concerned in the said domestic warrant, be liable to a term of imprisonment or detention of twelve months or more than twelve months.

*I say that a term of imprisonment or detention of not less than four months has been imposed on the said person in respect of the offence concerned in the said domestic warrant, and that the said person is required to serve all or part of that term of imprisonment or detention.

I say that I am aware of and I have provided all the information referred to in Section 33(2)(a) to (f) of the above-named Act and I have specified and set down said details in a written unsigned draft European arrest warrant.

I say further that the said draft European arrest warrant aforesaid is as far as is practicable in the form set out in the Annex to the Framework Decision and contains the information referred to in Section 33(2)(a)to(f) of the said Act and further contains such other information as is required in the form set out in the Annex to the said Framework Decision. I am aware of and I have provided the said other information.

I say that I have attached and pinned the said draft European arrest warrant to this information in writing prior to the swearing on Oath of this said information.

I say that I have read and considered the attached draft European arrest warrant prior to the swearing of this information and the information and details set down on the said draft European arrest warrant are correct within my knowledge and belief.

I hereby apply to the above-mentioned District Court, being the Court that issued the said domestic warrant, for the issue of a European arrest warrant pursuant to the provisions of Part 2, Chapter 2, Section 33 of the said Act.

Signed .... Informant

SWORN before me this ...... day of .... 20....

at ....

Signed ....

Judge of the District Court *delete where inapplicable*

An **EAW format** looks like this: **9**

District Court - Schedule: B - Forms in criminal proceedings

S.I. No. 119 of 2005

No. 16.3

Schedule *B*

O.16. r 8

European Arrest Warrant (1)

This warrant has been issued by a competent judicial authority. I request that the person mentioned below be arrested and surrendered for the purposes of conducting a criminal prosecution or executing a custodial sentence or detention order.

(a) Information regarding the identity of the requested person:

Name……………………………………………………………

Forename(s):..…………………………………………..

Maiden name, where applicable…………………..

Aliases, where applicable:………….. ……………………

Sex:……………………………………

Nationality:……………… ………………………………….

Date of birth: …………………………………………….

Place of birth:……………… ………………….……….

Residence and/or known address:……….. …………………………

Language(s) which the requested person understands (if known)

Distinctive marks/description of the requested person:

………………………………………….………………………

………………………………………….………………………

Photo and fingerprints of the requested person, if they are available and can be transmitted, or contact details of the person to be contacted in order to obtain such information or a DNA profile (where this evidence can be supplied but has not been included)

………………………………………….………………………

(b) Decision on which the warrant is based:

1. Arrest warrant or judicial decision having the same effect: ………………………..

Type: ……………………………………….

2. Enforceable judgement: ………………………………………

Reference: …………………………………………………………

10 And see for Superior Court forms online the titled **Appendix AA: European Arrest Warrant Act 2003, Extradition Acts 1965 to 2001, International Criminal Court Act 2006, Part 3,** *Appendix AA (then comprising Forms 1-13) inserted by SI 23 of 2005, effective 20 February 2005.*

4. Defence in EPPO-Related PIF Cases (access to file, trial rights, bail, EU Directives 2012/13/EU, 2013/48/EU)

1 The defence in EPPO proceedings faces **major challenges**, which are already discussed for a long time, but not solved all-together, yet despite major reform ideas.[235] The Office of the Director of Public Prosecutions states clearly an essential piece of information for each suspect or accused of a PIF crime in Ireland: "**Suspects and accused** persons will receive a **copy of these texts in custody** and/or with a **summons from An Garda Síochána**"[236] The defence rights enshrined in the Constitution, foreseeing a **right to legal representation**[237], are applicable in EPPO proceedings via Art. 41 EPPO Regulation referencing the applicable Union Directives harmonizing the rights of the suspects.[238] It is very helpful to contact the Law Society of Ireland and use the function "find a solicitor" online in case of any defence needed or an expert for a transnational investigation.[239] It is clear that "the **right to a fair trial is an integral part of the right to personal liberty**"[240].

2 **Defence and victim rights**[241] (in the area of the fight against fraud detrimental to the EU) seem to be more on the radar of the EU legislator then before.[242] Challenging the evidence in an EPPO trial before an Irish court could become a standard defence motion in future Irish PIF cases.[243]

3 The main investigation authority is An Garda Síochána (see above → "**Irish Institutions**").[244]

[235] See despite all, CCBE 2022 with some major issues.
[236] Office of the Director of Public Prosecutions, https://www.dppireland.ie/criminal-justice-system/letters-of-rights/. Accessed 30 October 2025.
[237] See Forde and Leonard 2013, pp. 439 (469 et seq.).
[238] On defence rights in general see Gless 2024, pp. 32–45.
[239] See https://www.lawsociety.ie/find-a-solicitor/: "Search for solicitors, firms, mediators, Garda station solicitors and solicitors practising through Irish."
[240] See See Forde and Leonard 2013, pp. 439.
[241] See Burchet and Weyembergh 2025.
[242] See for critical comments CCBE 2021.
[243] See Ryan 2014, pp. 82–129 on the presumption of innocence.
[244] See Conway and Daly 2023, which is highly recommended as well for EPPO situations as we guess that the editors phrase "It will also be of interest to policymakers, academics and students in criminal justice, on both a domestic and international level," will be valuable as well for PIF cases; and see Law Reform Commission. 2009; Irish Council for Civil Liberties 2021.

4 Defence lawyers[245] will be contacted either by the suspect/accused or the Gardaí or DPP Office – the actions may depend on the **category of offences** (see above → The PIF Offences in Ireland).

a) Specialised Legal Law Firms and Legal Professional Privilege

5 At the moment there are no special legal firms, yet that (only) concentrate only on PIF cases or budgetary fraud cases. All criminal lawyers might therefore be relevant partners and contact persons for potential victims as well as perpetrators. The **Law Society of Ireland** can help suspects to find the right lawyer.[246]

6 Under Irish law, the determination of the **client in a corporate setting** was addressed in *UCC v. ESB [2014] IEHC 135*.[247] The court held that when the client is a corporate entity, it must be assessed whether the individual communicating with the lawyer is authorized or employed to seek or receive legal advice on the corporation's behalf.[248]

b) Defence in the Investigation Phase

7 The defence in the investigation phase is particularly important.

aa. Access to National Case File and Right to Information in Criminal Proceedings

8 The access to the national case file is granted on the basis of an **application** that is regulated by Irish statutory laws and case law.[249] The **right to information** in criminal proceedings is e.g. enshrined in the Petty Sessions (Ireland) Act 1851 and the Courts (No. 3) Act 1986 and it was implemented within these Acts by the S.I. No. 549/2022 - European Union (Right to Information in Criminal Proceedings) Regulations 2022 that implemented Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012.

9 2. A summons issued under section 11 (2) of the Petty Sessions (Ireland) Act 1851 (14 & 15 Vict., c.93) or section 1 of the Courts (No. 3) Act 1986 (No. 33 of 1986) and served upon the person to whom it is directed shall be accompanied by the following written information on the **procedural rights of the person**:

(a) his or **her right of access to a solicitor**;
(b) his or her **entitlement to free legal advice** and the conditions for obtaining such advice;

[245] Irish Council for Civil Liberties 2021, p. 12: "Defence lawyers include solicitors, who deal directly with the client, and barristers, who represent the client in Court on instruction from their solicitor and client"
[246] See https://www.lawsociety.ie/. Accessed 30 October 2025.
[247] Reynolds et al. 2024.
[248] Ibid.
[249] See Irish Council for Civil Liberties 2021.

(c) his or her **right to interpretation and translation**.

A suspect or accused should **receive a file** stating all of the relevant information: 10

"**YOUR RIGHTS**
You have the right to know why you have been brought to this Garda station and what it is you are suspected to have done.
You have the right to legal advice and to talk to a solicitor confidentially. If you can't afford a solicitor the Gardaí will explain how a solicitor can be provided free of charge.
You have the right to an interpreter and a translation service, should you require them. This is free. The interpreter may help you to talk to your solicitor and must keep that communication confidential. If required, you may also have a right to translation of the documents in your case.
You have a right to silence.[250] You do not have to answer any question other than providing some personal information, including your name, address and date of birth. We may ask you questions about your health, but that is to ensure that you are cared for while in the station. In certain circumstances, the Gardaí may inform you that your right to silence is limited. If that happens this will be fully explained to you. Your solicitor can help you decide on that.
You have the right to have someone told you are here. If you are under the age of 18 years, this will be your parent or guardian. If you over the age of 18 years, this could be a family member or friend.
If you are **not an Irish citizen**, you have the right to contact your embassy or consulate, or if you want, we can tell them that you are detained.
You have the right to get medical care and if you feel you require it, we will ask a doctor to attend the Garda station.
You have the right to know why the Gardaí may take your photograph, fingerprints, palm prints or DNA. If your clothing is seized, then the Gardaí will provide you with replacement clothes. This is free.
You **have a right to challenge the lawfulness of your arrest and detention** in the High Court. Your solicitor can advise you how to do that.
You have the **right to apply to the court for evidence and relevant material** if you are charged with an offence. Your solicitor can advise you on how to do that.
You have the **right to know how long you can be held in custody**. The maximum time you can be held in custody before being brought before a Judge is either 24 or 48 hours,

[250] See Daly et al. 2021, pp. 19 et seq.; see as well ECJ, *DB v Commissione Nazionale per le Societa e la Borsa*, Case C-481/19 [2021] EU:C:2021:84, mn. 22 et seq.: "[This right] is infringed where persons are penalised under national law for failing to answer questions put by administrative authorities in proceedings seeking to ascertain whether an administrative offence that is punishable by penalties of a criminal nature has been committed (ECtHR, 3 May 2001, *J.B. v. Switzerland*, CE:ECHR:2001:0503JUD003182796, §§ 63 to 71"§ [...]."

unless you are charged with an offence. This will depend on what you have been arrested and detained for. An Garda Síochána or your solicitor will explain this further.
If you are not sure about any of these rights, **tell the Garda member in charge**. Please keep this information and read it as soon as possible, you should also show it to your solicitor if you are legally represented. It will help you to make decisions while you are in Garda custody."[251]

bb. Defence While Investigation is Underway and the Right to Remain Silent and Not To Incriminate Oneself (*Nemo Tenetur*)

11 The interception of telecommunication etc. under Section 9 of the Interception of Postal Packets and Telecommunications Messages (Regulation) Act, 1993[252] can be tested with an appeal and complaint.

12 *Daly* said that: "Briefly put, while the constitutional and ECHR underpinnings of the right to silence at the investigative stage in Ireland are generally respected, the free exercise of that right has been curtailed by legislative inference provisions, which have grown in their application and ambit since first introduced in the 1980s."[253]

13 Thus, a very important **right of any suspect** is the **right not to incriminate oneself**[254] and the **right to remain silent**.[255] A major landmark judgement of the supreme court in this regard is *Sweeney v. Minister for Justice, Ireland and the Attorney General*: "The case relate[d] to a man who was questioned, but not charged, in relation to a criminal investigation. When interviewed by Gardaí investigating the original case, he was cautioned that he had the right to remain silent, but he was not informed that his failure to respond to questioning could lead to a separate charge of withholding information from the Gardaí, as subsequently happened when he was charged under the Offences Against the State Acts ("the OASA"). […] The Court agreed with the **Commission's analysis** stating that: "The section is expressly aimed at witnesses to crime or those who have information about a crime and is aimed at nothing else." The Court further clarified that:

[251] Office of the Director of Public Prosecutions, https://www.dppireland.ie/criminal-justice-system/letters-of-rights/. Accessed 30 October 2025.
[252] See https://www.irishstatutebook.ie/eli/1993/act/10/section/9/enacted/en/html#sec9. Accessed 30 October 2025.
[253] Daly 2021 and see Daly et al. 2021, pp. 19 et seq.
[254] See Forde and Leonard 2013, pp. 439 (487 et seq.).
[255] Mayjor cases are Court of Cr. Appl. Attorney-General v M'Cabe, [1927] IR 129; Supreme Court, The People (DPP) v Anthony Hoey 16 December 1987, No. 245 [1987] I.L.M.R. 666; Circuit Court, Attorney General v Keogh, 19 February 1957, [1957] I.L.T.R. 103. The ECJ's jurisprudence in this area is equally important see ECJ, Judgement (Grand Chamber), Case C-481/19, 2 February 2021, *DB v Commissione Nazionale per le Società e la Borsa (Consob*). And see the literature Daly 2021. Ireland: Curtailment of the right to silence through statutory adverse inferences. New Journal of European Criminal Law, 12(3), 347–364. https://doi.org/10.1177/20322844211028308 presenting a brief history of the right to remain silent [n*emo tenetur*] in Ireland. On of the more recent cases, which is important is Supreme Court, [2018] 1 IR 1; [2017] IESC 1, which went to ECtHR, *Doyle v Ireland*, App no. 51979/17, 23 May 2019. Accessed 30 October 2025.

"Witnessing a crime is not an offence. Being at the scene of the crime or having information about a crime is not an offence."[256]

Whilst the judgment does not contain a detailed examination of the Commission's submissions about the lack of procedural safeguards, the Court recognised the importance of effective legal advice during the course of criminal investigations." **14**

Looking on Germany, who took part in the EPPO structure since 1.6.2021, it can be said it has to deal with the main problems during EPPO proceedings and the **same legal dogmatic problems** – especially if it is questionable whether the prosecution, e.g. the EPPO can use data gathered during administrative investigations either by OLAF or a national authority operating in the PIF sector.[257] **15**

Ireland, as a common-law jurisdiction, approaches the *nemo tenetur* principle[258] in a different doctrinal way most commonly framed as the **privilege against self-incrimination (PSI)**. Whereas in Germany **section 393 of the Fiscal Code (AO)**[259] sets out a central statutory duty of protection in the tax–criminal interface, Irish law is shaped more by **sector-specific statutes (Acts)** that can compel cooperation, with the limits of such compulsion developed through the case law of the **Supreme Court** and the **European Court of Human Rights** (for example, *Heaney and McGuinness v Ireland*[260]), which can constrain statutory duties where they encroach on the right not to incriminate oneself, which is not absolute and may be restricted in certain circumstances.[261] **16**

In investigations conducted by the EPPO in the EPPO zone, either in Germany, France, Italy or probably soon in Ireland, the **administrative non-criminal phase** (almost like a pre-investigative phase) within the **EU administrative law zone** frequently may or already constitutes an important **source of possible evidence** to prove potential PIF Directive 2017/1371 crimes and derived and harmonized national offences protecting with their criminal sanctions the EU's financial interests.[262] Pursuant to e.g. Article 24 of the EPPO Regulation and national law as well as Article 12e of the OLAF Regulation, the **17**

[256] Irish Human Rights and Equality Commission, Supreme Court reaffirms the right to silence and fundamental privilege against self-incrimination, 28/05/2019, Commission Exercised Amicus Curiae Role in Case. Further information as well on https://legalguide.ie/. Accessed 30 October 2025. See Daly et al. 2021, pp. 19 et seq.

[257] The German Federal Criminal Court recognizes the *nemo tenetur* principle as a highly important matter and the question whether administrative findings can be used in criminal proceedings has been part of dogmatic disputes for a long time, see BGH 5 StR 587/00, Beschluss v. 26.04.2001, HRRS-Datenbank; still not all questions are solved.

[258] *Woolmington v The DPP* [1935] AC 462; see Farrel 2007.

[259] See in the German EPPO/OLAF CNP Volume, Art. 29, mn. 21, pp. 340 et seq.

[260] *Heaney v. Ireland* (2001) 33 EHRR 264; Ashworth 2009 pp 751 (771 et seq.) Ashworth argues that the ECtHR had in former days developed the privilege against self-incrimination in a pragmatic but doctrinally unstable way sometimes protecting it as a fundamental fair-trial right, but at other times allowing exceptions driven by policy concerns. His message was already back then that the privilege should be treated as a core component of the presumption of innocence, not subject to broad balancing against public interest.

[261] *Murray v United Kingdom* (1996) 23 EHRR 2.

[262] de Angelis F 2022, pp 13–27 on the journey, which took almost 30 years; and Rizzo 2022, pp 28–36.

EPPO may or already relies extensively on information gathered by administrative authorities[263] under **statutory powers of compulsion to provide e.g. documents or statements** (within the administrative phase). In practice, the EPPO often accesses such material before the suspect is even aware that criminal proceedings are underway.[264]

18 During administrative procedures, individuals may be under **legal duties to cooperate truthfully** for example, in administrative tax, customs, subsidy, or regulatory investigations under Irish statutes.[265] Once directly or later indirectly transmitted to the EPPO, these statements and documents can be potentially transformed into evidence for criminal proceedings under Article 37 of the EPPO Regulation. This certain administrative vs. criminal phases dynamic gives rise to the classic *nemo tenetur se ipsum accusare* conflict[266]: if an individual exercises the **right to remain silent** in the **administrative process** or chooses to **not freely disclose any conduct** relevant for administrative assessments, even if it is secret normally, such as tax secrets apply, freely, they **may face penalties for not complying** with the administrative authorities requests, e.g. in Germany under s. 328 of the Federal German Tax Code[267] and in Ireland under s. 900 para 4, 901 Taxes Consolidation Act[268] or severe economic consequences (such as loss of subsidies, adverse tax assessments, or regulatory sanctions, e.g. by OLAF reports or recommendations of OLAF to national authorities)[269]; if they cooperate, they (may) risk providing the evidential basis for a criminal prosecution.

19 From a methodological perspective, it is analytically precise to approach the issue from the **evidential needs of the EPPO**. Because the EPPO must secure **admissible evidence** for an eventually possible formal trial phase (Article 36 EPPO Regulation), the administrative sphere comprising OLAF (see below Part F.) and national authorities operates almost like a "feeder system" for criminal proceedings. This structural interaction may

[263] These authorities can be very different as they operate in all sectors in which EU money is distributed or collected or followed, e.g. ERASMUS +, direct payments to farmers, subsidies to economic operators and so on.
[264] Naming the EPPO's perspective and shortcomings Venegoni 2024.
[265] See e.g. Richter 2016, § 39 on the situation in Germany, which can equally exist in Ireland, see below in the table; see as well Altenhoff 2005, passim.
[266] See Hellmann 2008, pp 143–159.
[267] See for Germany Hellmann 2008, p. 143: „Self-incrimination risks in relation to a tax offence arise from the fact that, once criminal investigations for tax evasion have been initiated, the tax assessment procedure concerning the relevant tax is generally pursued or resumed, since the State seeks to recover the tax that was understated or the tax advantage that was wrongly obtained. Because the tax assessment procedure entails duties to cooperate that are enforceable by administrative coercive measures (sections 328 et seq. of the Fiscal Code), and because the tax-relevant facts form the core of the criminal tax investigation, the person concerned must be protected against the erosion of their rights as a suspect in criminal proceedings—particularly the right to remain silent and the privilege against compelled participation—through cooperation that is compelled, or at least capable of being compelled, in the tax procedure."
[268] See Irish Tax and Duty Manual https://tinyurl.com/ytmem5bw "A penalty of €4,000 is provided for the refusal or failure by a person to comply with a notice under this section or for failure to give the assistance provided for in this section. [Subsection (7)".
[269] See Beckemper 2012, pp 221–227 on the situation under German law; see Rudolph, pp 243–257; on OLAF cases see European Commission 2014b.

enable **the direct or indirect circumvention** of ***nemo tenetur*** **protections**[270], insofar as the EPPO can rely on "administrative truth" obtained under statutory duties of cooperation to overcome procedural safeguards that would otherwise apply in criminal procedure.[271]

Ireland, as a common-law jurisdiction, addresses these tensions through the **doctrine of the privilege against self-incrimination**[272], grounded primarily in constitutional principles rather than a single coordinating statute.[273] Unlike systems that codify the interface between administrative duties and criminal proceedings in a comprehensive provision, Irish law is characterised by sector-specific statutes that confer extensive investigative powers, with constitutional and judicial oversight acting as the principal constraint. 20

The result is a **fragmented framework of legal duties to cooperate and statutes** in which the legal-dogmatic problem administrative compulsion versus the privilege against self-incrimination arises across multiple regulatory domains relevant to PIF offences. 21

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[270] Vezzani 2022 pp 37–53 opting on fundamental rights in the proceedings.

[271] Vezzani 2022 pp 37 et seq.; Hellmann 2008, pp 143–159.

[272] Farrel 2007, passim.

[273] *Sweeney v Ireland*, [2019] IESC 39 (28 May 2019), mn. 31: "A suspect in a crime, to take the most obvious example, enjoys under Article 6 a right to silence and the privilege against self- incrimination. This requires further consideration as to its interaction with any obligation of cooperation with the criminal justice system."; mn. 68 "[...] . It is submitted that the right may more correctly be grounded, in Irish constitutional law, in Article 38.1 rather than exclusively as a corollary to the freedom of expression guarantee in Article 40.6.1 as set out in the ratio of O'Flaherty J in Heaney"; 83–84: "83. In this context, the right to silence is considered in the context of the privilege against self-incrimination. The Court in Ibrahim emphasised that what is "crucial" in these cases was "the use to which evidence obtained under compulsion is put in the course of the criminal trial." It referred to Heaney and McGuinness in which the Court observed at paragraph 57 that the public interest 'cannot be relied on to justify the use of answers compulsorily obtained in a non-judicial investigation to incriminate the accused during the trial proceedings.' Similarly in Jalloh , the Court stated at paragraph 97 that 'public interest concerns cannot justify measures which extinguish the very essence' of the rights guaranteed by Article 6, including the privilege against self- incrimination. In Funke v France [1993] 1 CMLR 897, for example, it was found that the very essence of the privilege against self-incrimination was destroyed where criminal proceedings were brought against the applicant by customs authorities in an attempt to compel him to provide evidence of offences allegedly committed by him. 84. Furthermore, the Court has identified at least three kinds of situations which can lead to a finding of a breach by a Member State of the right not to self-incriminate. The first is where a suspect is obliged to testify under threat of sanctions and testifies as a result, such as in Saunders where evidence which had been obtained under compulsion from the applicant in company insolvency procedures was used against him in a prosecution; see also Brusco v France [2010] ECHR 1 621. A breach may also be found where an applicant refuses to give information against themselves and is subsequently sanctioned; such as in Heaney and McGuinness and Weh v Austria (2004) 40 EHRR 37. The second situation is where physical or psychological pressure, which may also lead the Court finding a breach of Article 3 which prohibits torture and inhuman or degrading treatment or punishment, is exerted on the applicant in order to obtain a statement or evidence; see *Jalloh and Gäfgen v Germany* [2009] 48 EHRR 253. The third type of case is where the authorities resort to subterfuge to get the information that they were unable to obtain during questioning; Allan v United Kingdom (2003) 36 EHRR 12. An example of that would be a statement by interviewing police officers who falsely state that the arrested person's fingerprint has been found at the scene or untruthfully claim that another participant in the offence has confessed and placed the suspect as acting in concert with him or her.

22 *Table 8 Legal and Statutory Duties to Cooperate in OLAF/EPPO Proceedings*

Investigation Area	**PIF Offence (Irish Statutes)**	**Admin. Duty (Legal Basis)**	**Type of Compulsion / Sanction**	**Existing Solution / Protective Provision**	**Research** *de lege ferenda*
Revenue / VAT	Criminal Justice (PINS) Act 2011 / Taxes Consolidation Act	Taxes Consolidation Act (TCA) 1997, esp. Sect. 900, 901	Monetary Penalties (€4,000), Estimation, Unannounced Search[274]	Sect. 931L TCA: Limited protection for privileged communications (Legal Privilege)	Codification of a prohibition on evidence use analogous to § 393 para 2 AO.[275]
Customs / Own Resources	Customs Act 2015	Customs Act 2015, Sect. 25–28 (Duty to provide info)	Seizure of goods, Indictable Offences for non-compliance	Common Law: PSI (Privilege against Self-Incrimination)	Legislative clarification on the scope of PSI regarding OLAF/EPPO inquiries.
Agriculture (Agrarfonds)	Euro. Communities (Late Payment in Agri) Regs	Agriculture Appeals Act 2001 & EU Regulations	Exclusion from payments, Admin. Penalties	Art. 38.1 Bunreacht na hÉireann: Right to a fair trial	-
Corruption Offences	Criminal Justice (Corruption Offences) Act 2018	Sect. 15–18 PINS Act 2011 (Production Orders)	Imprisonment (up to 12 months), "Class A Fine"	Sect. 15(4) PINS Act: Statutory "Use Immunity"	Harmonisation

[274] Code of Practice for Revenue Compliance Interventions, Sektion 3.7.
[275] Hellmann 2008, pp. 145: "The risk of compelled self-incrimination namely self-incriminating statements made under the pressure of the criminal sanction attached to the offence of tax evasion in relation to a non-tax offence is addressed by section 393(2) sentence 1 of the Fiscal Code through an exclusionary rule in criminal procedure. This rule prohibits the use of facts and evidence from the tax files which the taxpayer disclosed to the tax authorities, prior to the initiation of criminal proceedings or without knowledge of such initiation, in fulfilment of their tax obligations."

Investigation Area	**PIF Offence (Irish Statutes)**	**Admin. Duty (Legal Basis)**	**Type of Compulsion / Sanction**	**Existing Solution / Protective Provision**	**Research** *de lege ferenda*
Corporate / **EU Funds**	Companies Act 2014, Sect. 795	Sect. 795 Companies Act (ODCE/CEA Investigation)	“Contempt of Court”, Prosecution for refusal	Sect. 800 Companies Act: Admissibility barrier for statements	Extension of “Admissibility” protection to all administrative PIF audits?

Source: Own Compilation

Recently *nemo tenetur* protection in investigations in Ireland became again a court discussion in *Poptoshev v Director of Public Prosecutions* (Supreme Court, 24 November 2025) Record No 30/2025. It can be said that it is already now a landmark **Supreme Court decision on digital search powers** during serious theft and fraud investigations.[276]

In January 2024, Gardaí obtained a District Court warrant under **s 48** of the **Criminal** 23
Justice (Theft and Fraud Offences) Act 2001 to search Mr Poptoshev’s home and seize computers for evidence of serious economic crimes. When asked to provide the passcodes under **s 48(5)(b)(i)**, he refused and was charged under **s 49(1)(c)** for non-compliance.[277]

The Supreme Court held that compelling a suspect to disclose a password **does engage** the **privilege against self-incrimination**, but the **statute is constitutional** because the **act of disclosure cannot be used as evidence** against the suspect only the **pre-existing data** on the device may be relied upon. The Court emphasised that this power is tightly confined to **judicially authorised warrants**, serious offences, and proportionality as required by **Quirke**. The appeal was dismissed and the validity of ss 48–49 confirmed and former case law cited[278].

[276] The Director of Public Prosecutions, the Commissioner of An Garda Síochána, Ireland, and the Attorney General On appeal from: [2024] IEHC 721 Judgment delivered on 24 November 2025 [2025] IESC 47, see https://tinyurl.com/mpcrv39c; for an equal debate in Germany see Schrott 2024, pp. 286–303.

[277] See https://www.irishlegal.com/articles/supreme-court-constitutionality-of-legislation-prescribing-offence-of-failure-to-provide-passwords-or-biometric-data-for-seized-digital-devices-upheld.

[278] See *Entick v Carrington* (1765) 95 ER 807 (KB); *People (DPP) v Quirke* [2023] IESC 5, [2023] 1 ILRM 225; *Heaney v Ireland* [1996] 1 IR 580, [1997] 1 ILRM 117; *Re National Irish Bank Ltd (No 1)* [1999] 3 IR 145, [1999] 1 ILRM 321; *DPP v Gormley* [2014] IESC 17, [2014] 2 IR 591; most influential *Saunders v United Kingdom* (1997) 23 EHRR 313; *Funke v France* (1993) 16 EHRR 297; *JB v Switzerland* (2001) 36 EHRR 34; *Quinn v Ireland* (2001) 33 EHRR 264; *Ferreira v Levin and Others* 1996 (1) BCLR 1 (CC) (South Africa); *R v Kearns* [2001] 1 WLR 2815 (CA); *R v S(F)* [2009] 1 All ER 716 (CA).

24 From **our point-of-view** this ruling effectively validates one of the core investigative tools listed in **Art 30** of the **Regulation (EU) 2017/1939** (search, seizure, access to stored computer data) for the Irish legal order. The types of offences under investigation here serious theft, fraud, financial documentation, digital records are the **same evidential patterns** seen in **Art 3 PIF and therefore potential EPPO investigation** cases (false documents, VAT/customs fraud, procurement fraud, misapplication of EU funds), where evidence is today overwhelmingly digital and password-protected.

Investigative measure and legal basis were judicial search warrant based on s 48(2) 2001 Act (requiring reasonable grounds, sworn information) and the power to require passwords is regulated by s 48(5)(b)(i) and it is an offence for refusal, as stipulated by s 49(1)(c). The Arrest power derived from s 49(2).

We can say that this is a **precedent for investigators and defence in EPPO cases as well as** investigators now have Supreme Court authority that, in serious fraud/PIF-type cases, they may lawfully compel access to encrypted devices once a warrant issues. Defence lawyers, however, gain the equally important safeguard that **the compelled act itself is inadmissible**, preserving the right to silence while allowing the State to use independently existing digital evidence.

cc. Defence in Indictment Phase and the Trial Phase

25 For the trial phase it is important to make sure that the right court handles the case. Any error in this regard might be challenged as well as that the court's judges are not disqualified according to s. 14 et seq. of the Irish CPC.

dd. The Irish Courts and Court System

26 Art. 34 of the Constitution contains the structure and the relevant courts:

THE COURTS
ARTICLE 34
1 Justice shall be administered in courts established by law by judges appointed in the manner provided by this Constitution, and, save in such special and limited cases as may be prescribed by law, shall be administered in public.
2 The Courts shall comprise:
i Courts of First Instance;
ii a Court of Appeal; and
iii a Court of Final Appeal.
3 1° The Courts of First Instance shall include a High Court invested with full original jurisdiction in and power to determine all matters and questions whether of law or fact, civil or criminal.

2° Save as otherwise provided by this Article, the jurisdiction of the High Court shall extend to the question of the validity of any law having regard to the provisions of this Constitution, and no such question shall be raised (whether by pleading, argument or otherwise) in any Court established under this or any other Article of this Constitution other than the High Court, the Court of Appeal or the Supreme Court.
3° No Court whatever shall have jurisdiction to question the validity of a law, or any provision of a law, the Bill for which shall have been referred to the Supreme Court by the President under Article 26 of this Constitution, or to question the validity of a provision of a law where the corresponding provision in the Bill for such law shall have been referred to the Supreme Court by the President under the said Article 26.
4° The Courts of First Instance shall also include Courts of local and limited jurisdiction with a right of appeal as determined by law.
4 1° The Court of Appeal shall–
i save as otherwise provided by this Article, and
ii with such exceptions and subject to such regulations as may be prescribed by law,
have appellate jurisdiction from all decisions of the High Court, and shall also have appellate jurisdiction from such decisions of other courts as may be prescribed by law.
2° No law shall be enacted excepting from the appellate jurisdiction of the Court of Appeal cases which involve questions as to the validity of any law having regard to the provisions of this Constitution.
3° The decision of the Court of Appeal shall be final and conclusive, save as otherwise provided by this Article.
5 1° The Court of Final Appeal shall be called the Supreme Court.
2° The president of the Supreme Court shall be called the Chief Justice.
3° The Supreme Court shall, subject to such regulations as may be prescribed by law, have appellate jurisdiction from a decision of the Court of Appeal if the Supreme Court is satisfied that–
i the decision involves a matter of general public importance, or
ii in the interests of justice it is necessary that there be an appeal to the Supreme Court.
4° Notwithstanding section 4.1° hereof, the Supreme Court shall, subject to such regulations as may be prescribed by law, have appellate jurisdiction from a decision of the High Court if the Supreme Court is satisfied that there are exceptional circumstances warranting a direct appeal to it, and a precondition for the Supreme Court being so satisfied is the presence of either or both of the following factors:
i the decision involves a matter of general public importance;
ii the interests of justice.
5° No law shall be enacted excepting from the appellate jurisdiction of the Supreme Court cases which involve questions as to the validity of any law having regard to the provisions of this Constitution.
6° The decision of the Supreme Court shall in all cases be final and conclusive.

6 1° Every person appointed a judge under this Constitution shall make and subscribe the following declaration:
"In the presence of Almighty God I do solemnly and sincerely promise and declare that I will duly and faithfully and to the best of my knowledge and power execute the office of Chief Justice (or as the case may be) without fear or favour, affection or ill-will towards any man, and that I will uphold the Constitution and the laws. May God direct and sustain me."
2° This declaration shall be made and subscribed by the Chief Justice in the presence of the President, and by each of the other judges of the Supreme Court, the judges of the Court of Appeal, the judges of the High Court and the judges of every other Court in the presence of the Chief Justice or the senior available judge of the Supreme Court in open court.
3° The declaration shall be made and subscribed by every judge before entering upon his duties as such judge, and in any case not later than ten days after the date of his appointment or such later date as may be determined by the President.
4° Any judge who declines or neglects to make such declaration as aforesaid shall be deemed to have vacated his office.

ee. Bail in Case of Arrest

27 Bail is regulated by the Bail Act 1997. The Bail Act allows to **request bail in certain cases**, **e.g. if someone is pursued for a corruption offence** (see above → PIF Acquis Offences in Ireland). Bail might be **refused on the grounds** in section 2 of the Bail Act 1997.

28 **[Statement by applicants for bail charged with serious offences.**
1A.— (1) A person who is charged with **a serious offence** and **applies for bail** (in this section referred to as 'the **applicant**') shall, subject to subsections (4) and (5)(c), furnish to the prosecutor a written statement duly signed by the applicant and containing the following information relating to the applicant:
(a) his or her name and any other name or names previously used;
(b) his or her current occupation and any previous occupation or occupations within the immediately preceding 3 years;
(c) his or her source or sources of income within the immediately preceding 3 years;
(d) his or her property, whether wholly or partially owned by, or under the control of, the applicant and whether within or outside the State;
(e) any previous conviction or convictions of the applicant for a serious offence;
(f) any previous conviction or convictions of the applicant for an offence or offences committed while on bail;

(g) any previous application or applications by the person for bail, indicating whether or not it was granted and, if granted, the conditions to which the recognisance was subject.
(2) The statement shall be in the prescribed form or a form to the like effect.
(3) The statement shall be furnished to the prosecutor—
(a) where written notice of the application for bail is not required, as soon as reasonably practicable before the application is made, or
(b) where such notice is required, on service of the notice.
(4) The requirement in subsection (1) to furnish a statement may be dispensed with where—
(a) the prosecutor states an intention to consent to the grant of bail, or
(b) the applicant and prosecutor consent to dispensing with the requirement.
(5) The court may by order:
(a) extend the period for production by the applicant of the statement;
(b) adjourn the hearing of the application pending production of the statement;
(c) dispense with the need to comply with subsection (1) if satisfied that there is good and sufficient reason for doing so;
(d) impose such conditions as it considers just in any order made by it under this section.
(6) The statement shall be received in evidence without further proof in proceedings under this section if it purports to be signed by the applicant.
(7) In proceedings under this section any witness may, with the leave of the court, be examined on the content of the statement.
(8) No information relating to the statement or any part of it shall be published in a written publication available to the public or be broadcast, unless the court otherwise directs.
(9) The court may, if it considers that publication of any examination of the applicant in relation to the statement or any part of it or of any submissions made to the court may prejudice the applicant's right to a fair trial, by order direct that no information relating to the examination or submissions be published in a written publication available to the public or be broadcast.
(10) The court, when making an order under subsection (9), may specify the duration of the order and may at any time vary or set aside the order.
(11) An applicant who knowingly gives false or misleading information or conceals any material fact, either in the statement or in evidence in proceedings under this section, is guilty of an offence and liable on summary conviction to a fine not exceeding €5,000 or imprisonment for a term not exceeding 12 months or both.
(12) Any information contained in the statement is not admissible in evidence in any other proceedings or matter, except in proceedings against the applicant under subsection (11).

(13) The court may consider an application for bail, notwithstanding a failure by the applicant to furnish the statement.
(14) Nothing in this section limits the jurisdiction of a court to grant bail.
(15) Subsection (2) of section 4 applies in relation to the hearing of evidence in relation to the statement and subsections (4) to (7) of that section apply in relation to a contravention of subsection (8) or (9) of this section, in each case with the necessary modifications.
(16) In this section 'property' means—
(a) cash, money in an account in a financial institution, cheques, bank drafts and transferable securities (including shares, warrants and debentures),
(b) land,
(c) mechanically propelled vehicles, and
(d) any other asset exceeding €3,000 in value.]

Schedule (Excerpt)

[Corruption Offences]
39. Any offence under the Prevention of Corruption Acts 1889 to 2010.

40. An offence under any section, other than section 18(1), of the Criminal Justice (Corruption Offences) Act 2018.]

c) Appeal in Criminal Cases

29 Appeals in criminal cases in EPPO cases, which are *de facto* PIF offences cases can be a possible legal way for any defence lawyer of ch**allenging the judgement(s) of a competent Irish court**[279] dealing with the EPPO or DPP indictment, e.g. in a VAT tax evasion case or a corruption or money laundering case as well as extradition cases under Art. 33 para 2 EPPO Regulation. **Ireland can take insights** and prepare by analysing potential **EPPO vs. suspect conflicts** by studying examples from Malta or e.g. Germany, which have already cases, which have been decided by the Highest Criminal Courts.[280]

[279] Criminal trials have normaly a finality, see *The People (DPP) v. Collins* [2011] IECCA 64, which focused on the exceptional nature of revisiting legal issues post-voir dire but there are expections.

[280] BGH, Urt. v. 27.06.2023, Az. 1 StR 374/22 (Lower court: Munich I Regional Court, case no. 5 KLs 501 Js 2/22), ECLI:DE:BGH:2023:270623U1STR374.22.0 (Judgment concerning tax criminal proceedings); BGH, Urt. v. 16.04.2024, Az. 1 StR 204/23 (Lower court: Munich I Regional Court, case no. 12 KLs 501 Js 2/23), ECLI: DE:BGH:2024:160424U1STR204.23.0 (Judgment concerning aiding and abetting tax evasion); BGH, Beschl. v. 09.04.2025, Az. 1 StR 83/24 (Lower court: Osnabrück Regional Court, case no. 2 KLs 302 Js 2/21 (2/22)), ECLI:DE:BGH:2025:090425B1STR83.24.0 (Decision concerning commercial tax receiving, commercial and organised smuggling, inter alia); BGH, Beschl. v. 07.08.2025, Az. 1 StR 155/25 (Lower court: Munich I Regional Court, case no. 5 KLs 504 Js 2/23), ECLI:DE:BGH:2025:070825B1STR155.25.0 (Decision concerning tax evasion, inter alia). We recommend to future Irish EDPs to request the judgements and decisions via the EPPO's Legal

In Irish criminal proceedings, decisions of the District Court may be appealed to the Circuit Court[281], which conducts a full rehearing of the case. 30

31

A **charge sheet** looks like this:

District Court - Schedule: B - Forms in criminal proceedings No. 17. 1 (page 1) *O.17, r.1 (1)* District Court Area of District No. **Charge Sheet** .... Garda Síochána Station Charge Sheet No. of 20 *Prosecutor *Compliant .... *Accused *Defendant .... address .... In private prosecutions .... address .... signature and address of person making complaint, **Delete words inapplicable*

32

Convictions or sentences from the Circuit Court, the Central Criminal Court[282], and the Special Criminal Court may be appealed to the Court of Appeal (Criminal Division), which generally reviews points of law on the basis of the trial transcript and legal submissions, with witnesses only rarely reheard. The Court of Appeal may uphold or quash a conviction, vary the sentence, or order a retrial. A further appeal to the Supreme Court is available only exceptionally where a question of law of general public importance arises.[283]

Unit if they are of interest for a certain case and we recommend to any defence lawyer in the EU and operating in the EPPO zone, to request a German colleague to get access to these final decisions via either openjur or Beck.online (guest account).

[281] See District Court Rules, Schedule: B - Forms in criminal proceedings.

[282] Form forms see https://highcourtsearch.courts.ie/superior-court-forms.

[283] See Order 86C Appeals and other Applications to the Court of Appeal in Criminal Proceedings https://highcourtsearch.courts.ie/rules/appeals-and-other-applications-court-appeal-criminal-proceedings. See under most common forms https://highcourtsearch.courts.ie/content/most-common-forms.

33 A **typical form** is presented on the **Websites of the Irish Court System**. An appeal may be filed like this:

No. 9

COURT OF APPEAL

CRIMINAL

Court of Appeal Record number: XXX

Bill number: XXX

O. 86C, r. 3(1)

NOTICE OF APPEAL

______

The People at the suit of the Director of Public Prosecutions

v.

…………………………………

To the Registrar of the Court of Appeal.

I, ..., having been convicted of the offence of [*state offence shortly*] and being now a prisoner in .... [*or,* now living at ....], do hereby give you notice of appeal to the Court of Appeal against my said conviction and/or sentence on the following grounds:

Dated

(Signed)

[*or* mark]

Appellant.

Signature and address of witness attesting mark.

Particulars of trial and conviction

Date of trial

In what Court

Sentence

Grounds of appeal

Note: The appellant should answer the following question: Does the appellant desire to be present at the hearing of his appeal?[284]

[284] See Appendix U: Court Of Appeal, https://highcourtsearch.courts.ie/content/court-appeal#_ewe9.

F. OLAF Regulation (EU, Euratom) No. 883/2013 (as amended), Notes on Ireland from a Statutory Perspective

I. General Introduction: Investigation Powers and National Law Related to OLAF in Ireland (Art. 3–8 OLAF Regulation)

OLAF has been often compared to the EPPO in the past, but *de facto* it is clear it has longer lasting reputation and a clearly defined role as it must focus on **administrative investigations** creating investigation files feasible for **recommendations** and internal decisions either in the Member States or the EU institutions. It must hereby ensure that its investigative actions align with the principles of legality, proportionality, and respect for procedural guarantees within the framework established by Regulation (EU) No 883/2013 and 2020/2223 and the "**variable geometry of 27 different national enforcers under a common hat**"[285] as titled recently precisely scholarly writers; i.e. goals are checked by the **Supervisory Committee**. This special body (see Art. 15 OLAF Regulation for its history) has repeatedly underlined the importance of maintaining OLAF's **independence**, particularly in complex or politically sensitive cases. As highlighted recently in Opinion No 4/2024, OLAF's authority to investigate members of EU institutions must be carefully exercised in line with the principles of due process and institutional integrity[286]. 1

1. General Remarks

Equally critical is the **adherence to procedural safeguards** during the investigative process. Opinion No 3/2024 sets out expectations regarding legality checks, internal reviews, and **respect for the rights of persons concerned**[287]. Investigators are encouraged to refer to these guidelines, especially when planning and executing case actions that might involve interviews, digital forensics, or cooperation with national authorities. Collaboration between OLAF and the EPPO introduces another layer of operational complexity. Complementary roles require clearly **delineated boundaries and proactive coordination**. Opinion No 1/2024 provides essential insights into how investigators should structure communication and avoid duplication or jurisdictional conflict[288]. Past experiences demonstrate that inadequate **follow-up to OLAF's recommendations** can undermine the Office's impact. The Supervisory Committee's analysis in Opinion No 1/2021 sheds **light on systemic gaps in follow-up by national authorities** and the need for stronger legal anchors[289]. This is particularly relevant in cross-border cases or when judicial cooperation proves challenging. Furthermore, efficient working arrangements 2

[285] See Łazowski 2024, p 515 and see the whole book with the enforcement analysis.
[286] Supervisory Committee of OLAF (2024) Opinion No 4/2024.
[287] Supervisory Committee of OLAF (2024) Opinion No 3/2024.
[288] Supervisory Committee of OLAF (2024a) Opinion No 1/2024.
[289] Supervisory Committee of OLAF (2021) Opinion No 1/2021a.

between OLAF and EPPO remain central to operational success. Opinion No 2/2021 proposes practical structures for shared responsibility, especially in pre-trial assessments and evidence handling[290].

3 Finally, the ability to ensure meaningful **oversight of OLAF's investigations** – especially those exceeding 12 months – is essential for maintaining credibility and accountability. Investigators must be aware of the issues raised in Opinion No 3/2021, which stresses the importance of timely and well-documented investigations, as well as internal planning mechanisms[291].

a) OLAF's Task and Role

4 OLAF's task and role as well as it actions are **determined primarily by Union law**. The history of OLAF can be traced back to the early 2000s and its predecessor UCLAF.[292] OLAF has a renewed role within the changed anti-fraud architecture of the Union in the 2020s and is an important actor against fraud within the multi-annual framework legislation and the Union's policies, which depend on the action of the Member States and the agreements concluded on the political levels.

b) OLAF's Work Specifications, Soft Law, Guidelines

5 In addition to that OLAF and its investigators shall follow **internal guidelines**[293], manuals on procedures[294] reports and **working arrangements** with union partners[295] as well as **Administrative Cooperation Agreements** (ACAs) with national partners, EU external actors[296]. OLAF issues compendia, researches itself, organises meetings and conferences and workshops for its national partners. All of these non-binding guides and

[290] Supervisory Committee of OLAF (2021) Opinion No 2/2021b.
[291] Supervisory Committee of OLAF (2021) Opinion No 3/2021c.
[292] See EU Fraud Commentary, Chronology Part 3 and 4 as well as the Commentary on Art. 1 OLAF Regulation.
[293] Supervisory Committee of OLAF (2024) Opinion No 3/2024; OLAF Guidelines on Data Protection for Investigative Activities, Ref(Ares) 2021, 7266396 – 25/11/2021; EU Commission (OLAF), Guidelines on Digital Forensic Procedures for OLAF Staff 15 February 2016, online: https://anti-fraud.ec.europa.eu/system/files/2021-07/guidelines_en_bb84583638.pdf. See all Translations: https://anti-fraud.ec.europa.eu/guidelines-investigations-olaf-staff_en. Accessed 30 June 2025.
[294] Brüner et al. 2009, whereby it is unclear if investigators and the Office staff still use certain Manuals.
[295] OLAF, Working Arrangement between EPPO & OLAF, Point 4: "Exchange of information", 4.5 and 4.6 (cross double check between the databases for a PIF offence action), 5 ("Mutual Reporting and transmission of potential cases"), 5.1, 5.1.1.European Commission – "Agreement establishing the modalities of cooperation between the European Commission and the European Public Prosecutor's Office" 18 June 2021, Art 5 para 1, 4, 5 ("Reporting by the Commission") in combination with Annex I Contact points: "information will be transmitted via the head of OLAF to the head of operation at EPPO/central office", Annex III.A ("Information on the Initiation of an Investigation – template").
[296] Prosecution Office of Hungary and OLAF. See State of Play – July 2022 Administrative Cooperation Arrangements (ACAs) with partner authorities in non-EU countries and territories and counterpart ad-ministrative investigative services of International Organisations, online: https://anti-fraud.ec.europa.eu/system/files/2022-07/list_signed_acas_en.pdf. Accessed 30 June 2025.

handbooks might be useful in the course of investigations.[297] The statistics on latest actions and the past year can be deduced from the OLAF Reports, equal to the new EPPO's annual report and the PIF Report, which is issued by the EU Commission in close cooperation with OLAF, IBOAs and the EPPO as well as the input from ECA and national AFCOS, governments and researchers.

c) OLAF Within the EU's Anti-Fraud Architecture

OLAF is well accommodated in the **Union anti-fraud architecture** these days (see → EU Fraud Commentary, Art. 1 PIF Directive) and the academic research is extensive and long lasting since the 2000s.[298] Last decade's landmark judgement "*Sigma Orionis SA vs European Commission*", decided by the European General Court[299] and clarified the application of national law and Union law[300] in relation to external investigations of OLAF.[301] In the light of this jurisprudence the **resistance to the actions of OLAF**, in order to awaken national law, might be a defence strategy that economic operators use. If this is the case, OLAF must **rely on national homologue investigators** and thus as well limitations, thresholds and conditions of national law i.e., investigative powers in various areas of budget spending and structural funds (direct management) and revenue-related obligations (indirect management).

d) OLAF's Changing Role: Current Debates Since 2020

Current debates evolve around the **effectiveness of investigations** regarding **digital evidence in administrative investigations** by virtue of the Regulation 2185/96, which stems in parts from a more analogue society.[302] More and more it becomes clear the **analogue society**, which is **still present in law enforcement** and the area of criminal justice in many countries at the beginning of the 2020s is a major concern and a real problem if the digital age crashes in and the analogue structures are obstacles to effective investigations. The **access to bank accounts and registers** if incredibly important for OLAF investigators as well as their national homologues. The relationship to the EPPO, especially the regional centres of the EDPs in the present country should be close. In

[297] See European Commission 2011, onlinehttps://sfc.ec.europa.eu/sites/default/files/DE-TRA-General%20Guidelines%20on%20National%20Anti-Fraud%20Strategies.pdf. Accessed 30 June 2025; EU Commission 2017; EU Commission (OLAF), Detection of forged documents in the field of structural actions A practical guide for managing authorities elaborated by a group of Member States' experts coordinated by OLAF's unit D2- Fraud Prevention, https://iate.europa.eu/entry/result/3643408/en-lv. EU Commission (DG regional Policy) 2009; EU Commission (DG Policy, U 2) 2017.

[298] Brüner 2001, pp 17–26; Brüner 2009; Brüner 2008, pp 859–872; Gellert 2009, pp 85–88.

[299] GC (aka CFI), Case T-48/16, 3.5.2018, *Sigma Orionis SA v. Commission*, paras. 70 et seq., 80–81 published in the electronic Reports of Cases (Court Reports - general) and in the OJ, 01/06/2018.

[300] See De Bellis 2021, pp 431 et seq.; Herrnfeld (n.d.), pp 426 et seq.; recently Wouters 2020, pp 132 et seq.

[301] De Bellis 2021, pp 431 et seq.; see OLAF Website, List of rulings of the Court of Justice of the EU concerning OLAF.

[302] See Carrera et al. 2021.

addition to that the external investigations require a good coordination, which shall be governed by the relevant AFCOS (see below Art. 12a OLAF Regulation).

e) The Relevance of the OALF Report

6 Another question and debate have ever since existed concerning the reports of OLAF (cf. Art. 11), which can and **shall constitute evidence** – even – in national criminal trials. They concern EPPO cases (see Art. 23–28 EPPO Regulation) or cases below the thresholds for which the EDPs could exercise their competence and jurisdiction on behalf of the EPPO. This area has been professionally researched by *Luchtman/Vervaele/Ligeti and others* in OLAF studies from the last decade, which we can refer to.[303]

f) Structure of Part C

7 Compendium Part C alike to Part B on the EPPO and its investigative powers, gives a bilingual **collection of the (national) laws relevant to OLAF Units and staff and relevant OLAF laws** – including the recently adopted on-the-spot checks laws (in relation to Regulation (EC) 2185/96) of certain countries – in relation to investigations and investigative powers as well as examples from case law and trials, which relied upon evidence gathered by OLAF.

g) Content of the Compendium

8 Part F, alike to the first Part A to E on the EPPO and its investigative powers, contains a **collection of the relevant laws** in relation to investigations and investigative powers as well as examples from case law and trials, which relied upon evidence gathered by OLAF. In addition to the analysis parts of this chapter mentioned above the national authorities and the **role of AFCOS** (e.g. in Germany the AFCOS is part of the Federal Ministry of Finance, Referat E6a like in Ireland) is explained below. **Irish Manuals**, like e.g. the Tax and Duty Manual **should be contacted as well** or the Notes for guidance for the Taxes Consolidation Act 1997 (Finance Act 2022 edition).[304]

2. Article 1 Objectives and Tasks

1. In order to step up the fight against fraud, corruption and any other illegal activity affecting the financial interests of the European Union and of the European Atomic Energy Community (hereinafter referred to collectively, when the context so requires, as ‘the Union’), the European Anti-Fraud Office established by Decision 1999/352/EC,

[303] See Luchtman and Vervaele 2017.
[304] See https://www.revenue.ie/en/tax-professionals/tdm/income-tax-capital-gains-tax-corporation-tax/part-37/37-00-02.pdf. Accessed 30 October 2025. See https://www.revenue.ie/en/tax-professionals/legislation/notes-for-guidance/taxes-consolidation-act-tca.aspx. Accessed 30 October 2025.

ECSC, Euratom ('the Office') shall exercise the powers of investigation conferred on the Commission by:
(a) the relevant Union acts; and
(b) the relevant cooperation and mutual assistance agreements concluded by the Union with third countries and international organisations.
2. The Office shall provide the Member States with assistance from the Commission in organising close and regular cooperation between their competent authorities to coordinate their action aimed at protecting the financial interests of the Union against fraud. The Office shall contribute to the design and development of methods of preventing and combating fraud, corruption and any other illegal activity affecting the financial interests of the Union. The Office shall promote and coordinate, with and among the Member States, the sharing of operational experience and best procedural practices in the field of the protection of the financial interests of the Union and shall support joint anti-fraud actions undertaken by Member States on a voluntary basis.
3. This Regulation shall apply without prejudice to:
(a) Protocol No 7 on the privileges and immunities of the European Union attached to the Treaty on European Union and to the Treaty on the Functioning of the European Union;
(b) the Statute for Members of the European Parliament;
I the Staff Regulations;
(d) Regulation (EC) No 45/2001.
4. Within the institutions, bodies, offices and agencies established by, or based on, the Treaties ('institutions, bodies, offices and agencies'), the Office shall conduct administrative investigations for the purpose of fighting fraud, corruption and any other illegal activity affecting the financial interests of the Union. To that end, it shall investigate serious matters relating to the discharge of professional duties constituting a dereliction of the obligations of officials and other servants of the Union liable to result in disciplinary or, as the case may be, criminal proceedings, or an equivalent failure to discharge obligations on the part of members of institutions and bodies, heads of offices and agencies or staff members of institutions, bodies, offices or agencies not subject to the Staff Regulations (hereinafter collectively referred to as 'officials, other servants, members of institutions or bodies, heads of offices or agencies, or staff members').
5. For the application of this Regulation, competent authorities of the Member States and institutions, bodies, offices or agencies may establish administrative arrangements with the Office. Those administrative arrangements may concern, in particular, the transmission of information and the conduct of investigations.

3. Article 2 Definitions

9 The (legal) definitions[305] are regulated by Art. 2 OLAF Regulation:

For the purposes of this Regulation:
(1) **'financial interests of the Union'** shall include revenues, expenditures and assets covered by the budget of the European Union and those covered by the budgets of the institutions, bodies, offices and agencies and the budgets managed and monitored by them;
(2) **'irregularity'** shall mean 'irregularity' as defined in article 1(2) of Regulation (EC, Euratom) No 2988/95;
(3) 'fraud, corruption and any other illegal activity affecting the financial interests of the Union' shall have the meaning applied to those words in the relevant Union acts and the notion of 'any other illegal activity' shall include irregularity as defined in article 1(2) of Regulation (EC, Euratom) No 2988/95;
(4) **'administrative investigations'** ('investigations') shall mean any inspection, check or other measure undertaken by the Office in accordance with articles 3 and 4, with a view to achieving the objectives set out in article 1 and to establishing, where necessary, the irregular nature of the activities under investigation; those investigations shall not affect the powers of the EPPO or of the competent authorities of Member States to initiate and conduct criminal proceedings;
(5) **'person concerned'** shall mean any person or Economic Operator suspected of having committed fraud, corruption or any other illegal activity affecting the financial interests of the Union and who is therefore subject to investigation by the Office;
(6) **'Economic Operator'** shall have the meaning applied to that term by Regulation (EC, Euratom) No 2988/95 and Regulation (Euratom, EC) No 2185/96;
(7) **'administrative arrangements'** shall mean arrangements of a technical and/or operational nature concluded by the Office, which may in particular aim at facilitating the cooperation and the exchange of information between the parties thereto, and which do not create additional legal obligations;
(8) **'member of an institution'** means a member of the European Parliament, a member of the European Council, a representative of a Member State at ministerial level in the Council, a member of the Commission, a member of the Court of Justice of the European Union (CJEU), a member of the Governing Council of the European Central Bank or a member of the Court of Auditors, with respect to the obligations imposed by Union law in the context of the duties they perform in that capacity.

[305] For the important role of "legal definitions" in EU legal frameworks see only Robertson and Aodha 2023, pp 244–270.

4. Art. 3 External Investigations and References to National Law

On-the-spot checks have been discussed in the last decade quite thoroughly[306], but not enough for all countries. For Ireland, it is worth taking a closer look at the applicable provisions. **10**

Article 3 External investigations
[…] 2. The Office shall ***carry out on-the-spot checks and inspections in accordance with this Regulation and, to the extent not covered by this Regulation, in accordance with Regulation (Euratom, EC) No 2185/96.***
4. Where, in accordance with para 3 of this Article, the ***Economic Operator concerned submits*** to an on-the-spot check and inspection authorised pursuant to this Regulation, Article 2(4) of Regulation (EC, Euratom) No 2988/95, the third subpara of Article 6(1) of Regulation (Euratom, EC) No 2185/96 and Article 7(1) of Regulation (Euratom, EC) No 2185/96 ***shall not apply insofar as those provisions require compliance with national law*** and are capable of restricting access to information and documentation by the Office to the same conditions as those that apply to national administrative inspectors.
5. At the request of the Office, the ***competent authority of the Member State*** concerned shall, without undue delay, provide the staff of the Office with the assistance needed in order to carry out their tasks effectively, as specified in the written authorisation referred to in Article 7(2).
The ***Member State concerned shall ensure***, in accordance with Regulation (Euratom, EC) No 2185/96, that the ***staff of the Office are allowed access to all information, documents and data relating to the matter under investigation which prove necessary in order for the on-the-spot checks and inspections to be carried out effectively and efficiently, and that the staff are able to assume custody of documents or data to ensure that there is no danger of their disappearance.*** Where privately owned devices are used for work purposes, those devices may be subject to inspection by the Office. The Office shall subject such devices to inspection only under the same conditions and to the same extent that national control authorities are allowed to investigate privately owned devices and where the Office has reasonable grounds for suspecting that their content may be relevant for the investigation.
6. Where the staff of the Office find that an ***Economic Operator resists*** an on-the-spot check and inspection authorised pursuant to this Regulation, namely where the Economic Operator refuses to grant the Office the necessary access to its premises or any other areas used for business purposes, conceals information or prevents the conduct of any of the activities that the Office needs to perform in the course of an on-the-spot check and inspection, the ***competent authorities, including, where appropriate, law en-***

[306] See Bovend'Eerdt 2018.

forcement authorities of the Member State concerned shall afford the staff of the Office the necessary assistance so as to enable the Office to conduct its on-the-spot check and inspection effectively and without undue delay.

Article 2(4) of Regulation (EC, Euratom) No 2988/95

Subject to the Community law applicable, the procedures for the application of Community checks, measures and penalties shall be governed by the laws of the Member States.

the third subpara of Article 6(1) of Regulation (Euratom, EC) No 2185/96

~~On-the-spot checks and inspections shall be carried out on the Commission's authority and responsibility by its officials or other servants, duly empowered, hereinafter called 'Commission inspectors'. Persons placed at the disposal of the Commission by the Member States as national experts on secondment may assist in such checks and inspections.~~

~~Commission inspectors shall exercise their powers on production of a written authorization showing their identity and position, together with a document indicating the subject-matter and purpose of the on-the-spot check or inspection.~~

Subject to the Community law applicable, they shall be required to comply, with the rules of procedure laid down by the law of the Member State concerned.

Article 7(1) of Regulation (Euratom, EC) No 2185/96

Commission inspectors shall have access, under the same conditions as national administrative inspectors and in compliance with national legislation, to all the information and documentation on the operations concerned which are required for the proper conduct of the on-the-spot checks and inspections. They may avail themselves of the same inspection facilities as national administrative inspectors and in particular copy relevant documents.

On-the-spot checks and inspections may concern, in particular:

—professional books and documents such as invoices, lists of terms and conditions, pay slips, statements of materials used and work done, and bank statements held by Economic Operators,

—computer data,

—production, packaging and dispatching systems and methods,

—physical checks as to the nature and quantity of goods or completed operations,

—the taking and checking of samples,

—the progress of works and investments for which financing has been provided, and the use made of completed investments,

—budgetary and accounting documents,

—the financial and technical implementation of subsidized projects.]

When providing assistance in accordance with this para or with para 5, the competent authorities of Member States ***shall act in accordance with national procedural rules***

applicable to the competent authority concerned. If such assistance requires authorisation from a judicial authority in accordance with national law, such authorisation shall be applied for.

10. As part of its investigative function, the Office shall carry out the checks and inspections provided for in Article 9(1) of Regulation (EC, Euratom) No 2988/95 and in the sectoral rules referred to in Article 9(2) of that Regulation in Member States and, ***in accordance with cooperation and mutual assistance agreements and any other legal instrument in force***, in third countries and on the premises of international organisations.

12. Without prejudice to Article 12c(1), where, before a decision has been taken whether or not to open an external investigation, the Office handles information which suggests that there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union, it may inform the competent authorities of the Member States concerned and, where necessary, the institutions, bodies, offices and agencies concerned.

Without prejudice to the sectoral rules referred to in Article 9(2) of Regulation (EC, Euratom) No 2988/95, the competent authorities of the Member States concerned shall ensure that appropriate action is taken, in which the Office may take part, ***in accordance with national law***. Upon request, the competent authorities of the Member States concerned shall inform the Office of the action taken and of their findings on the basis of information referred to in the first subpara of this para.

Nota bene: This section analyses according to the **mini table of contents** for this chapter Article 3 OLAF Regulation on OLAF's external investigations by moving from the Union-law framework to its practical operation under Irish law. It first explains the **scope of OLAF's on-the-spot checks**, inspections, and access powers, including the interaction with **Regulations 2185/96 and 2988/95**. It then examines how references to national law shape OLAF's investigative activity in Ireland, before **addressing sector-specific (investigation) powers**, confidentiality rules, cooperation duties, follow-up mechanisms, bank-account access, and investigative missions beyond the EU. The analysis hereby traces how Irish administrative, tax, customs, data-protection, and confidentiality rules support or limit OLAF's activity, with e.g. relevant ECJ case law used where necessary to clarify the Union-law standard.

a) External Investigations – On-the-Spot Checks (Alignment with Irish Administrative, Tax and Customs Law) – Para. 2, 4

The national law is renounced if the economic operator, the beneficiary, the grant recipient etc. submits to the investigation of the Office. In this case Union law applies. **11**

b) Assistance Needed, Competent Authorities and Access to Information (AFCOS; Revenue; GNECB; CBI)

Even in the case that Union law applies, OLAF may need the help and information from national authorities in the Member states (managing authorities, control bodies, customs, and tax offices, etc.). **12**

c) Resistance by the Economic Operator vs. Law Enforcement and Effective Investigations, Para. 6 or the New Model and the Relevance of Resistance or Conformity of the Economic Operator

If the economic operator, the beneficiary, the grant recipient etc. resists this conduct influences the applicability of law. The ECJ rules in *Sigma Orionis* that national law applies in the case of resistance, which means that the investigations need to be in conformity with the national law applicable in similar national investigations. **13**

d) The Basic Principle of Conformity to Regulations 2185/96 and 883/2013

aa. Submission: Compliance with Union Law

In the case of compliance of an Irish Economic Operator Union law applies, thus the Regulation allows OLAF officials to conduct on-the-spot checks without prior information of national authorities. **14**

bb. Resistance: Assistance in Conformity with National Procedural Rules Applicable

15 Does the participant, the personal or economic operator concerned resist, the Regulation indicates that OLAF must follow national law and inform national authorities that can aid in conformity with national procedural rules applicable:

16 "Finally, it should be noted that, according to the rules applicable to the actions carried out by OLAF, the requirement to obtain a judicial authorisation, if provided for by national law, only applies in the case of an objection raised by the economic operator and that OLAF must then have recourse to national police forces which, according to the rules applicable to them, must comply with national law."[307]

e) Investigative Partners' Powers (Revenue; Customs; CBI AML Supervision; Sectoral Agencies)

17 The table below shows non-extensively the **most important competent authorities**, which need to be contacted if the Economic operator resists and thus national law applies if OLAF wants to conduct investigations into irregularities:

18 Who is **responsible depends on which area is affected** (direct or shared management) and which type of irregularity or fraud is suspected, as well as in which payment (expenditure) or payment (revenue) area a suspicion arouses. Generally speaking the authorities in the next table act most frequently within OLAF operations:

19 *Table 9: Competent Authorities acc. to Art. 3 OLAF Regulation*

Authority/Authorities	**Task**
Ministries of the Irish State as Payment Agencies under the respective Union Regulation (e.g. in the area of Structural Funds)	Manages EU money, distributes it, informs recipients and beneficiaries and may provide information to OLAF of any irregularity
a Department of State, including, as respects any particular Department of State, any office or body not otherwise standing specified in or under this Schedule in relation to which functions are vested in the Minister of the Government having charge of that Department of State; the Office of the President	Manages EU money Manages EU money
the Office of the Tánaiste	Manages EU money

[307] ECJ, Case T-48/16 *Sigma Orionis v the Commission*, Margin Number 112.

the Office of the Attorney General	Can receive OLAF Reports (see below → Art. 11 OLAF Regulation).
the Office of the Comptroller and Auditor General	Controls the distribution of EU money
Revenue Commissioner	Revenue
VAT Offices	Revenue
the Office of the Director of Public Prosecutions the Office of the Ombudsman the Houses of the Oireachtas Service the Courts Service	Can receive OLAF Reports (see below → Art. 11 OLAF Regulation). May control the Government's Strategy in fighting EU frauds, corruption, Money Laundering etc. Drafts EU Legislation – including Directive and Regulation follow-ups. May receive information from OLAF or Investigator within a proceeding (see below → Art. 11, 12 OLAF Regulation)
all local authorities (municipalities, mayors…)	Implement EU Legislation and can obtain EU money and may as well distribute and manage EU resources.
the Garda Síochána	May investigate due to an OLAF Report (see below → Art. 11 OLAF Regulation).
the Garda Síochána Inspectorate	May investigate due to an OLAF Report (see below → Art. 11 OLAF Regulation).
the Policing Authority	
the Criminal Assets Bureau	May investigate due to an OLAF Report (see below → Art. 11 OLAF Regulation).
the National Asset Management Agency the Irish Human Rights and Equality Commission	May investigate due to an OLAF Report (see below → Art. 11 OLAF Regulation).
the Office of the Director of Corporate Enforcement	May submit information to the Office (see below → Art. (OLAF Regulation), may provide assistance;

	May investigate due to an OLAF Report (see below → Art. 11 OLAF Regulation).

20 A further **directory of Irish agencies and departments** can be accessed here: https://www.gov.ie/en/help/departments/. Accessed 30 October 2025. Especially the local authorities can be found here, e.g. if they are competent to act as a designated body for a report on duties etc.

f) National Law and "Checks and Inspections" of OLAF in Ireland

21 The national law for checks and inspections of OLAF in Ireland is primarily determined by the Taxes Consolidation Act,

22 The **Revenue Report 2021**[308] outlined in great detail the Mutual assistance and the actions of OLAF and the Irish customs. This analysis and the actions taken can as well be important for the legal scenery of EPPO actions in Ireland: "Additionally, we received **42 Assistance Mutuelle** (AM) communications from the European Anti-Fraud Office (OLAF). Many of the requests received relate to a specific Customs risk concerning classification, valuation or origin." p. 41 VAT fraud EPPO part "Bilateral cooperation with Member States on cross border fraudulent VAT activities is an important element in managing risk. We continue to develop measures to **combat the risk of VAT fraud** and engage with international agencies and fora including EUROFISC and the International Organisation of Tax Administrations (IOTA) to share information regarding emerging trends and best practice."[309]

23 In the report it was said, too that: "We **work closely with An Garda Síochána**, particularly the Garda National Drugs and Organised Crime Bureau, in joint investigations and operations. During 2021, we participated in 45 controlled deliveries of drugs which lead to 30 arrests, as well as 11 joint international operations with the Garda National Drugs and Organised Crime Bureau. We also work closely with the Health Products Regulatory Authority, the Irish Naval Service, and international bodies such as the Maritime Analysis Operations Centre-Narcotics (MAOC-N) in Lisbon, Europol, Interpol, the World Customs Organisation (WCO) and law enforcement agencies in other countries. During 2021, we made over 21,000 drugs seizures, totalling 5,741kgs with an estimated value of almost €115 million (Table 18)."[310]

[308] See https://www.revenue.ie/en/corporate/press-office/annual-report/2021/ar-2021.pdf, pp. 41–46. Accessed 30 October 2025.
[309] See https://www.revenue.ie/en/corporate/press-office/annual-report/2021/ar-2021.pdf, pp. 41–46. Accessed 30 October 2025.
[310] See https://www.revenue.ie/en/corporate/press-office/annual-report/2021/ar-2021.pdf, pp. 41–46. Accessed 30 October 2025.

The **self-analysis** by the Irish body shows that it is open to **closer cooperation** with its partners: “Much of this type of criminal activity has a transnational and cross border dimension and, in addition to our on-going cooperation with An Garda Síochána in this field, we work closely with our counterparts in other jurisdictions and bodies **including the European Commission’s Anti- Fraud Office (OLAF)**, Europol and the World Customs Organisation (WCO). In 2021, our targeted actions led to the seizure of over 60 million illicit cigarettes with a value of €43.5 million (Table 19). This represents an increase of 26% in the quantity of illicit cigarettes seized in 2020. We also seized over 38,000 kgs of tobacco with a value of €24.1 million, representing an increase of 431% in the quantity of illicit tobacco seized in 2020. These seizures are a result of continued cooperation and intelligence-sharing with other national and international law enforcement agencies and our advanced profiling and detection methods”[311] **24**

aa. Administrative Procedure and Administrative Justice System in Ireland in General

The administrative procedures in Ireland concerning the **allocation of EU funds** to e.g. farmers have evolved significantly since 2005, aiming to enhance transparency, fairness, and compliance with both national and EU regulations. Historically, Ireland lacked a cohesive **administrative law system**, resulting in a fragmented approach to public administration. However, reforms have been implemented to address these challenges. **25**

The Irish Administrative Justice System is **derived from the common law system**.[312] The written constitution from 1922 plays a role for the structure of the state and its relationship to its citizens.[313] **26**

“**Administrative law is not a cohesive system in Ireland**. The reason for this lies in British history. By the 17th century a system had begun to evolve built around the Council which advised the King – the *Privy Council* - for the supervision of the operation of the lower courts. The Judicial Committee of the Privy Council – eventually called the Star Chamber – did, however, become the focus of revolutionary anger. Thus, when the parliamentarians won the Civil War, the Star Chamber and any prospect of a system of administrative courts was set aside. **27**

Subsequently, Professor Dicey - a very respected legal commentator - reported on the French system of droit administrative in such negative terms that any prospects for the development of administrative law in the UK in the 19th century were defeated.[314]

[311] See https://www.revenue.ie/en/corporate/press-office/annual-report/2021/ar-2021.pdf, pp. 41–46. Accessed 30 October 2025.
[312] See Fitz Gerald 2005.
[313] Ibid, p. 2.
[314] However, see Brown and Bell 1998, p. 4.

[…] What we now have is a patchwork of administrative justice, drawn from the sources I have mentioned – the Constitution, legislation, and judge made law. Until recently issues have been addressed as they have arisen. Recent reform of the public service, however, have been aimed at improving the balance of rights between individuals and the State authorities.

2.5 European law

2.5.1 European law is given **supremacy by the Constitution**[315] Our Constitution provides that where an act is done or measure adopted which is necessitated by an obligation of membership of the European Union or of the Communities, no provision of the Constitution can be used to seek to invalidate such laws, acts or measures. This means, in effect, that the Constitution is suspended when it comes to EC law and to legislation implementing EC law. […]

The Public Service Management Act was introduced in 1997 to give statutory basis to some of the changes envisaged. This Act introduced the requirement for Ministers and the Heads of their Departments – known in Ireland as Secretaries General - to agree the "statement of strategy" I have mentioned at regular intervals and also when the Government changes. The "statement of strategy" is intended effectively to constitute a contract between the Minister and the head of the Department setting out how Government policies will be implemented over the period covered by the statement of strategy. In addition the **Public Service Management Act** requires each Department to produce a document showing the delegation of responsibility within the Department. Statements of strategy are published and the delegation authorisations are available under the Freedom of Information Act (see below).

3.2.2 The **Ethics Acts** – which comprise the Ethics in Public Office Act, 1995 and the Standards in Public Office Act, 2001 – are an important element of the response by the Legislature to the public demand for transparency in public life. The intention behind the legislation is to assure the public that those participating in public life are not seeking to derive personal advantage from the outcome of their actions. The legislation puts in place a **statutory code for the voluntary disclosure of interests by members of Parliament, office holders and senior civil servants** and provides for a sanction in the event of contraventions. […]

5. JUDICIAL REVIEW OF ADMINISTRATIVE ACTIONS

5.1 Introduction

5.1.1 **As I have already explained, administrative law in Ireland has, for historical reasons, developed in a very haphazard way. We do not have statutes which set out**

[315] Article 29.4.10.

the procedures applicable to administrative decisions and a generalised system of appeals from administrative decisions. Nor do we have a system of administrative courts and a cohesive jurisprudence.

When we legislate and thereby establish a tribunal – say an appeals tribunal for a decision covered in the legislation - the legislation provides an individual system of procedures. As a result there a plethora of different mechanisms for administrative procedures and appeals.

Further, there are no established mechanisms for bodies which are not created by statute or which would apply where the statute fails to designate procedures and appeal mechanisms. Not only is the system somewhat unstructured, there are also areas which are not covered by statute."[316]

The cited part from *Gerald* has shown that the Irish judiciary has played a pivotal role **28** in shaping administrative procedures related to EU farm subsidies. Notably, the High Court has addressed cases where **procedural fairness** was questioned. In one instance, a farmer's appeal against the Department of Agriculture's decision to refuse an EU farming subsidy was upheld. The court found that the appeals officer failed to address substantive legal issues and did not adhere to fair procedures, underscoring the necessity for transparency and due process in administrative decisions[317]

As one can summarize that *de facto* the **Irish Constitution grants supremacy** to Euro- **29** pean law, ensuring that EU regulations are effectively integrated into national procedures. This integration mandates that administrative actions, especially those involving EU funds, comply with EU standards, reinforcing the importance of adherence to both national and EU legal frameworks.[318]

Taking this statement and analysis into account it has to be pointed out that this lack of **30** a central, structured framework for administrative decisions might present challenges for OLAF when it needs to rely on **national administrative powers for enforcement actions**, such as on-the-spot checks or inspections, as it might be more difficult to navigate through such a fragmented system. OLAF's reliance on national authorities, particularly in the case of resistance, could face complications if Irish authorities are not equipped with a well-defined and unified administrative law system.

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316 See Fitz Gerald 2005, pp. 5–6.
317 See Fitzharris 2025.
318 Gourdet, pp. 77–78 pointing out that: "Despite this supposedly clear regulation [for supremacy], there are two potential limitations to the claim to priority under EU law: firstly, domestic implementing acts must be "necessary", which leaves room for interpretation; secondly, the validity of EU law is based on the Irish EU Act of 1972, which presupposes the "necessity" of this law. In the Society for the Protection of Unborn Children case before the Irish Supreme Court, there was a possibility of a conflict between Irish constitutional law and EU law, which was avoided after a preliminary ruling procedure, with some judges expressing the view that, despite all the openness to EU law, the Supreme Court alone was responsible for the final interpretation of the constitution."

31 Historical development of administrative law in Ireland showed it stems from British influence and the same reason exists for the absence of a tradition of administrative courts, which has led to a system that **lacks a general administrative procedure law** or cohesive appeals process. This creates difficulties for OLAF in Ireland, as national authorities might not have clearly defined mechanisms for dealing with administrative infringements or enforcement actions, potentially complicating OLAF's ability to enforce measures like administrative fines or sanctions.

32 From the **point-of-view of any defence lawyer** such a "fragmented" system is a real problem as the legal pathways for contesting OLAF's actions could vary significantly across different national authorities, potentially affecting the effectiveness and consistency of OLAF's investigations.

33 According to Article 3 of the OLAF Regulation (see above → Art. 3), OLAF can rely on the administrative powers of national authorities, including conducting on-the-spot checks and inspections.

34 However, in countries like Ireland, like the citation shows, where the administrative law system is described as unstructured and fragmented, **OLAF encounters some challenges in enforcing its powers through national authorities**. This is another argument for defence lawyers, which might context OLAF's powers by proposing any defendant to resist so that national law applies eventually.

35 The emphasis on transparency in public service, as seen in the Public Service Management Act and the Ethics Acts, should provide OLAF with tools for greater scrutiny of public officials.

36 Despite these **reforms, challenges apparently persist**. Recent inquiries, such as the EU Ombudsman's investigation in 2024 into the **legality of changes to farming subsidies**, highlight ongoing concerns about the balance between rapid policy adjustments and adherence to legal standards.[319] These developments emphasize the need for continuous evaluation and improvement of administrative procedures to ensure they meet evolving legal and ethical standards.

37 In might therefore be concluded that while Ireland has made **significant steps in reforming its administrative procedures** concerning the allocation of EU funds to farmers, ongoing vigilance and adaptation are essential to maintain transparency, fairness, and compliance with both national and EU laws. Last but not least the fact that OLAF's powers under **EU law supersede national constitutional provisions** can be clearly drawn as an interpretation. OLAF has a legal basis to override any national resistance in enforcing laws, ensuring that OLAF's investigative and enforcement activities can be

[319] See Reuters 2024.

carried out in Ireland, despite the country's less formalized approach to administrative law.

bb. Special Administrative Areas

Even if Ireland has no special administrative statues like most continental EU Member States, it has a **common practice of common law traditions** and it has specialized de facto administrative laws for various areas, such as VAT, Taxes, Customs and Structural Funds. All of these special areas shall be explored now in a short manner. 38

(1) General Definition of Common Terms

The duties in the area of certain levies, duties, taxes and other measures is e.g. defined by the S.I. No. 353/2009 - European Communities (Mutual Assistance For the Recovery of Claims Relating To Certain Levies, Duties, Taxes and Other Measures) Regulations 2009: 39

Interpretation. 40
2. (1) In these Regulations—
"claim" means a claim referred to in Regulation 3;
"claimant" means the competent authority of a Member State which makes a request for assistance concerning a claim;
"Council Directive" means Council Directive 2008/55/EC of 26 May 20081;
"excise duties" means any excise duty in a Member State on—
(a) manufactured tobacco,
(b) alcohol and alcoholic beverages, or
(c) mineral oils;
"export duties" means—
(a) customs duties and charges having equivalent effect on exports, and
(b) export charges laid down within the framework of—
(i) the common agricultural policy, or
(ii) specific arrangements applicable to certain goods resulting from the processing of agricultural products,
which are imposed by, or apply within, a Member State;
"import duties" means—
(a) customs duties and charges having equivalent effect on imports, and
(b) import charges laid down within the framework of—
(i) the common agricultural policy, or
(ii) specific arrangements applicable to certain goods resulting from the processing of agricultural products,
which are imposed by, or apply within, a Member State;

"Member State" means a Member State of the European Communities other than the State;
"taxes on income and capital" means those taxes set out in Article 1(3) of Council Directive 77/799/EEC of 19 December 1977 2 (as last amended by Council Directive 2006/98/EC of 20 November 2006 3) read in conjunction with Article 1(4) of that Directive which are imposed by, or apply within, a Member State;
"taxes on insurance premiums" means those taxes set out in Article 3(6) of the Council Directive, read in conjunction with the final paragraph of Article 2 of the Council Directive which are imposed by, or apply within, a Member State;
"value-added tax", in relation to a Member State, means the tax referred to in Council Directive 2006/112/EC of 28 November 2006 4 .
(2) A word or expression that is used in these Regulations and that is also used in the Council Directive has, unless the contrary intention appears, the same meaning in these Regulations as it has in the Council Directive.
(3) A word or expression that is used in these Regulations and that is also used in the Tax Acts has, subject to paragraph (2) and unless the contrary intention appears, the same meaning in these Regulations as it has in the Tax Acts.
Claims to which Regulations apply.
3. These Regulations apply to a claim made by a claimant relating to—
(a) refunds, interventions and other measures forming part of the system of total or partial financing of the European Agricultural Guarantee Fund (EAGF) and the European Agricultural Fund for Rural Development (EAFRD), including funds to be collected in connection with these actions;
(b) levies and other duties provided for under the common organisation of the market for the sugar sector;
(c) import duties;
(d) export duties;
(e) value-added tax;
(f) excise duties;
(g) taxes on income and capital;
(h) taxes on insurance premiums;
(i) interest, administrative penalties and fines, and costs incidental to a claim relating to claims referred to in paragraphs (a) to (h), with the exclusion of any fine or penalty imposed in respect of any matter which would constitute a criminal offence if committed in the State.

(2) Customs Act Area

41 The administrative rules in the area of customs are stipulated by the Customs Act 2015. The Customs Control may lead to the suspicion for an irregularity.

Information are inserted into the Automated Entry Processing (AEP), which handles the validation, processing, duty accounting and clearance of customs declarations. 42

The AEP trader guides and appendices are accessible.[320] 43

(3) VAT Act Area

The definitions concerning VAT are to be found in Section 2 of The VAT Act 1972[321] as amended: Fraud or Irregularities are often committed if exemptions for VAT exist and the fraudsters try to "use" these exemptions and claim back money that they never paid or for which they never used an invoice: 44

Exemptions. 45
The law on exemptions is to be found in Section 6 of The VAT Act 1972 as amended[322]

Registration.
The law on registration is to be found in Section 9 of The VAT Act 1972 as amended[323]

46
The **economic operators** have certain conditions or **legal duties to fulfil**, such as keeping the invoices and receipts for an audit. This falls under Sections 16[324] and 17[325] of the VAT Act 1972 as amended.

(4) Structural Funds Area

The **Department of Public Expenditure**, NDP Delivery and Reform of Ireland explains on a Website in detail what EU Funds are and how they can be obtained in Ireland and it offers information, which funds can still be received in Ireland: 47

"There are five Funds under the **umbrella of the European Structural and Investment Funds**: 48

- the European Regional Development Fund
- the European Social Fund
- the European Agricultural Fund for Rural Development
- the European Maritime and Fisheries Fund
- the Cohesion Fund

[320] See https://tinyurl.com/y8z5van7. Accessed 30 October 2025.
[321] See https://www.irishstatutebook.ie/eli/1972/act/22/section/2/enacted/en/html#sec2. Accessed 30 October 2025.
[322] See https://www.irishstatutebook.ie/eli/1972/act/22/enacted/en/print#sec6. Accessed 30 October 2025.
[323] See https://www.irishstatutebook.ie/eli/1972/act/22/enacted/en/print#sec9. Accessed 30 October 2025.
[324] See https://www.irishstatutebook.ie/eli/1972/act/22/enacted/en/print#sec16. Accessed 30 October 2025.
[325] See https://www.irishstatutebook.ie/eli/1972/act/22/enacted/en/print#sec17. Accessed 30 October 2025.

49 Ireland receives EU money from the **first four funds** listed. As Ireland is a Member State with a more developed economy, it is **no longer eligible to receive money from the Cohesion Fund**."[326]

50 The bodies, which mention the four founds, which are still paid to beneficiaries in Ireland are the following:

51 *Table 10: Structural Funds Authorities (Management in Ireland)*

Competent Body/Authority	**Management by**
European Regional Development Fund	The Southern Regional Assembly manages the funding programme for the Southern and Eastern Region[327] The Northern and Western Regional Assembly manages the programme in the Border, Midland and Western Region.[328]
European Social Fund programme	Department of Further and Higher Education, Research, Innovation and Science[329]
European Maritime and Fisheries Fund	Seafood Development Programmes Division of the Department of Agriculture, Food, and the Marine.
Rural Development Programme	Rural Development Division of the Department of Agriculture, Food and the Marine.[330]
Fund for European Aid to the Most Deprived	managed by the Department of Social Protection.[331]

Source: https://www.gov.ie/en/publication/be1e0-european-structural-and-investment-funds/. Accessed 30 October 2025.

[326] See https://www.gov.ie/en/publication/be1e0-european-structural-and-investment-funds/. Accessed 30 October 2025.
[327] See http://www.southernassembly.ie/. Accessed 30 October 2025.
[328] See https://www.nwra.ie/. Accessed 30 October 2025.
[329] See https://www.gov.ie/en/organisation/department-of-higher-education-innovation-and-science/. Accessed 30 October 2025.
[330] See https://www.gov.ie/en/publication/f898d-european-maritime-and-fisheries-fund/. Accessed 30 October 2025.
[331] See https://www.gov.ie/en/publication/59373-fund-for-european-aid-to-the-most-deprived/. Accessed 30 October 2025.

cc. Principle of Investigation

The administration Authorities act upon an application and if they consider an audit necessary (see below), they act on the basis of plans and risk analysis. 52

dd. External Audit (General Tax Code, Customs Code)

Audits (Interventions) are potential tools to discover irregularities and frauds.[332] 53

> "Types of Revenue Interventions
> Audit and other Compliance Interventions undertaken by Revenue fall broadly into the following categories:
>
> • Revenue Non-Audit Compliance Interventions
> (Mainly Assurance Checks, Aspect Queries and Profile Interviews)
> The taxpayer is entitled to make an 'Unprompted Qualifying Disclosure'
> • Revenue Audit
> The taxpayer is entitled to make a 'Prompted Qualifying Disclosure' before examination of the books and records starts
> • Revenue Investigation
>
> The taxpayer may make a disclosure but is not entitled to make any type of 'Qualifying Disclosure'
> Where a taxpayer makes a 'qualifying disclosure' in relation to undisclosed tax or duty liabilities, the settlement is not published in the List of Tax Defaulters and Revenue will not initiate an investigation with a view to prosecution of the taxpayer in relation to the matter disclosed. A taxpayer may be investigated with a view to prosecution where a disclosure of tax defaults is not a 'qualifying disclosure' or where no 'qualifying disclosure' is made. Paragraphs 3.6 to 3.13 of this Code of Practice outline the full requirements under tax legislation for the making of a 'qualifying disclosure'"[333]

The **Audits of Irish Authorities** are based on **risk analysis**: 54

"Real-Time Risk Analytics – VAT, PAYE and Customs

Real-time risk analytics **involves integrating predictive models and associated business rules** into Revenue systems to ensure that transactions entering the systems, through any channel, are risk assessed at the time transactions are made. The VAT Real

[332] See Revenue, Code of Practice for Revenue Audit and other, Compliance Interventions, https://h7.cl/1knC6. Accessed 30 October 2025.
[333] See Revenue, Code of Practice for Revenue Audit and other, Compliance Interventions, https://tinyurl.com/czsabyw9. p. 24. Accessed 30 October 2025.

Time Risk Framework (VAT RTRF) identifies potential VAT fraud at the earliest possible opportunity. The VAT RTRF applies to both VAT repayable as well as VAT payable returns."[334]

55 The Criminal Justice Fraud Offences Act refers in the **reporting section to audits**. Audits are mainly regulated by the VAT Act and the Customs Act as well as the Finance Act and the Revenue Act as well as the Taxes Consolidation Act.

56 The Customs Code provides for the so-called **customs control procedure**:

57 **PART 2 Customs Act 2015 as amended**

Customs Controls
6. Customs ports and airports
7. Approval of places within customs ports and airports
8. Customs control of movement of vessels into and out of State
9. Report inwards and outwards of vessels
10. Customs control of movement of aircraft into and out of State
11. Report inwards and outwards of aircraft
12. Control of persons and their baggage
12A. Customs control at customs ports
12B. Procedures for goods entering or departing the State by ferry (from or to a place outside the customs territory of the Union)
13. Control of postal traffic

ee. Tax and Customs Investigation

58 The VAT Act 2010 puts the administration of VAT into the hands of the Revenue Commissioners (see section 106). The Revenue Intervention Teams can plan and exercise investigations and interventions.

Case Study 1: Investigations Overview taken from Irish Revenue Report 2021

Case-Study (taken from Irish Revenue Report 2021)

The Revenue Report even presented details on the operations, which were carried out in 2021:

"We undertake investigations where we discover cases of serious tax and duty evasion and fraud, seeking to apply the full legal sanctions available that reflect the seriousness of the evasion involved. In 2021, we referred 6 cases of suspected serious evasion

[334] See Revenue, Code of Practice for Revenue Audit and other, Compliance Interventions, https://tinyurl.com/czsabyw9p, 24. Accessed 30 October 2025.

> to the Director of Public Prosecutions (DPP) for consideration of criminal proceedings. In the same period the DPP directed that criminal proceedings be initiated in 6 cases. Additionally, 9 convictions for serious tax and duty evasion were secured before the Courts:
>
> • 5 convictions for serious tax offences. Custodial sentences ranging from 18 months to 3 years were imposed in 4 cases, 3 of these were fully suspended while 1 case resulted in a full custodial sentence of 2 years. A fine of €5,000 was imposed in 1 case.
>
> • 4 convictions for serious duty offences. Custodial sentences ranging from 12 months to 18 months were imposed in 3 cases, all of which were fully suspended. 240 hours of community service was imposed in 1 case. At the end of 2021, there were 57 cases of serious evasion or fraud under investigation and a further 49 cases are currently before the courts (Table 22)."[335]

g) Investigative Powers of OLAF's Partners

Investigative powers are **essential to uncover irregularities** and fraud, corruption and other offences damaging the EU budget, but they cannot be exercised by OLAF officials if the *Sigma Orionis* Case-law applies (see above); Thus OLAF has to rely again on the powers of its national partners (for the competent authorities, see above). **59**

This means that e.g. if a person should be arrested, the doctrine of *habeas corpus* applies. **60** The Irish Constitution from 1922 foresees that an **arrest**, especially only in the area of administrative action of the state is **only possible if there are serious grounds**.

In the administrative area it is important to mention that the **proportionality principle** **61** must obeyed – despite the fact that this Principe was imported to Ireland, when Ireland decided to be part of the EU:

"5.13 **Proportionality** **62**

5.13.1 Another concept which has **come to us from continental Europe** is that of proportionality.

In fact, this concept **sits very well with** our **constitutional tradition**. However, the Supreme Court in Ireland has been unwilling to say that the principle applies as a basis for challenging administrative decisions but has viewed the principle effectively as a form of "reasonableness"

[335] See https://www.revenue.ie/en/corporate/press-office/annual-report/2021/ar-2021.pdf, p. 48. Accessed 30 October 2025.

test. 5.13.2 An interesting case in this context is that of ***Bosporus Hava Yollari v. The Minister for Transport***[336] in which the court struck down a decision by the Minister to impound an aircraft pursuant to EC regulation introducing sanctions on Serbia. The evidence showed that the aircraft, owned by Yugoslavia Airlines, had been leased to a Turkish airline. The lease was bona fide and the court struck down the Minister's action on the grounds of proportionality. In fact, the question was then referred to the European Court of Justice which had no difficulty in finding that the Minister's action in interfering with the airline operator's property rights was entirely proportionate. The case is awaiting hearing before the Strasbourg Court."[337]

63 Nowadays the principle is **fully recognized by Irish courts**, as the Supreme Court has decided in *Meadows v Minister for Justice, Equality and Law Reform*[338]. It shall be applied as a real proportionality test and used when reviewing administrative actions that implicate fundamental rights.[339] Thus it can be summarized that this principle in administrative law evaluates whether the effects of a decision are appropriate and necessary to achieve its objectives, particularly when fundamental rights are at stake. In this context, it requires a **balance between the public interest and the individual's rights**. The courts must determine if a decision disproportionately affects the individual relative to its goals.

aa. Investigative Powers in the Area of Customs Duties and VAT

64 First of all the Gardai have the power to stop and search a person under various pieces of legislation in Ireland, which includes the customs laws and the powers listed below.

65 *Table 11 Customs Investigations Measures*

	Measures
Customs Act 2015 as amended	
PART 4	
Powers of Officers of Customs	
25. Power to enter, inspect and patrol certain places	
26. Power to stop conveyances	
27. Power to board and search conveyances	
28. Power to examine goods	
29. Power to search premises or land	
30. Power to search persons	

[336] [1994] 2 ILRM 551.
[337] See Fitz Gerald 2005, pp. 28–29.
[338] Irish Supreme Court, *Meadows v Minister for Justice, Equality and Law Reform*, [2010] 2 IR 701 (Meadows).
[339] Ibid.

31. Powers relating to persons entering or leaving State 32. Power of arrest 33. Power to detain goods and conveyances 34. Power to seize goods and conveyances 35. Power to deal with seizures, before and after condemnation

The Code of Practice of the Revenue Audits contains information about the exercise of these investigative powers.[340] **66**

Under the VAT Act Inspections (in other words Interventions, Audits and Investigations) are possible as well: **67**

Table 12 Powers of an Revenue Commissioner officer under VAT Act 2010

	Measures VAT Act 2010
VAT Act 2010 **108.**—(1) In this section— “authorised officer” means an officer of the Revenue Commissioners authorised by them in writing for the purposes of this section; “records” means any document, or any other written or printed material in any form, including any information stored, maintained or preserved by means of any mechanical or electronic device, whether or not stored, maintained or preserved in a legible form, which a person is required to keep, retain, issue or produce for inspection or which may be inspected under any provision relating to tax. (2) For the purposes of this Act and regulations, **an authorised officer may at all reasonable times enter any premises or place where he or she has reason to believe that business is carried on or anything is done in connection with business and**— (a) may require the person carrying on the business, or any person on those premises or in that place who is employed by the person carrying on the business or who is associated with that person in the carrying on of the business, to produce any books, records, accounts or other documents relating to the business or to any other business which the authorised officer has reason to believe may be, or have been, connected with such business or have, or have had, trading relations with such business, (b) may, if the authorised officer has reason to believe that any of the books, records, accounts or other documents which he or she has required to be produced to him or	

[340] See Revenue, Irish Tax and Customs 2023b.

her under this subsection have not been so produced, search in those premises or that place for those books, records, accounts or other documents,
(c) may, if the authorised officer has reason to believe that a person is carrying or has in that person's possession any records which may be required as evidence in criminal proceedings in accordance with section 1078 of the Taxes Consolidation Act 1997 in relation to the tax, request the person to produce any such records, and if that person should fail to do so, the authorised officer or a member of the Garda Síochána may search that person, provided that—
(i) the officer or the member of the Garda Síochána conducting the search ensures, as far as practicable, that the person understands the reason for the search,
(ii) the search is conducted with due regard to the privacy of that person,
(iii) the person being searched is not searched by an officer or member of the Garda Síochána of the opposite sex, and
(iv) the person being searched is not requested to remove any clothing other than headgear or a coat, jacket, glove or a similar article of clothing,
(d) may, in the case of any such books, records, accounts or other documents produced to or found by the authorised officer, take copies of or extracts from them and remove and retain them for such period as may be reasonable for their further examination or for the purposes of any proceedings in relation to tax,
(e) may, if the authorised officer has reason to believe that goods connected with taxable supplies, intra-Community acquisitions or importations are held on those premises or in that place and that particulars of such goods have not been kept and retained, as required by this Act or by regulations, in the books, records, accounts or other documents of the business or of any other business similarly required to keep and retain particulars of those goods, search those premises or that place for those goods and, on their discovery, examine and take particulars of them,
(f) may require the person carrying on the business, or any person on those premises or in that place who is employed by the person carrying on the business or who is associated with that person in the carrying on of the business, to give the authorised officer all reasonable assistance, including providing information and explanations and furnishing documents in connection with the business, as required by the authorised officer.
(3) Nothing in subsection (2) shall be construed as requiring any person carrying on a profession, or any person employed by any person carrying on a profession, to produce to an authorised officer any documents relating to a client, other than such documents as are material to the tax affairs of the person carrying on the profession and, in particular, any such person shall not be required to disclose any information or professional advice of a confidential nature given to a client.

(4) An accountable person shall, on request from an authorised officer, furnish to that officer, in respect of a specified period, the following information:
(a) the name and address of each of his or her customers;
(b) the total consideration payable in respect of supplies of goods and services made by him or her to each such customer and the tax thereon;
(c) the value and description of any gifts or promotional items given by him or her to any person in connection with such supplies or any other payments made by him or her to any person in connection with such supplies;
(d) the name, address and registration number of each of his or her suppliers;
(e) the total consideration payable in respect of goods and services supplied to him or her from each supplier and the tax thereon.
(5) A person shall not wilfully obstruct or delay an authorised officer in the exercise of his or her powers under this section.
(6) Where, in pursuance of this section, an authorised officer enters any premises, carries out any search or requests production of any documents, he or she shall, on request, show his or her authorisation for the purpose of this section to the person concerned

bb. Investigative Powers in the Area of Structural Funds and Internal Policies

The Gardai have the power to **stop and search** a person under various pieces of legislation in Ireland. One such example is Section 30 of the Offences against the State Act, 1939. **68**

cc. Investigative Powers in the Area of Common Market Organisations

Common market organisations (CMOs) were created to manage the production and trade of most of the EU's agricultural sector in which Irish farmers are involved. The **Gardai have the power to stop and search a person** under various pieces of legislation in Ireland. The European Communities (Common Organisation of Markets in Fishery and Aquaculture Products) (Financial Compensation For Withdrawal and Carry-Over Aid) Regulations 2004 applies still. **69**

dd. Investigative Powers in the Area of Direct Expenditure

In the area of direct expenditure the **direct management**, i.e. the control and managing by one main authority (mainly the Commission itself) is the main source of money transfer. If it is mainly the European Commission, its agencies and delegations that manage the EU budget in this are, they are competent to supervision the accounting of projects in this area. The EU Commission runs e.g. the **Funding and Tenders Portal** (SEDIA) for this special area. The whole direct expenditure **area is not immune to fraud**. It can **70** be said that it is prone to procurement, or procurement related fraud (causing damage to the expenditure side of the budget).[341]

71 OLAF describes and displays investigations in this area as follows:

72 "**Direct expenditure**
Accounting for 14% of the EU budget, this is expenditure allocated and directly managed by EU institutions, bodies, agencies alone (not jointly with national authorities, as with the structural funds). Beneficiaries are generally located in EU countries.

73 It includes expenditure in, among others, the following areas:

- research and innovation (e.g. Horizon Europe programme)
- education, training and mobility of young people (e.g. ERASMUS+ programme)
- supporting the competitiveness of industry and in particular of micro, small and medium-sized enterprises (e.g. Single Market programme)
- environment and climate action (LIFE programme)
- improving the capacity of the EU to face security threats (Internal Security Fund)
- European public administration.

74 As a rule, national authorities are not involved in investigating fraud affecting direct expenditure."[342] In the area of direct expenditure beneficiaries **subject themselves often under the regime of civil and administrative anti-fraud clauses**, which are usually enshrined in the contract between the recipient and the monitoring payment office.

75 *Examples*: The EU Commission supports large infrastructure projects. A recent example is the financing of the Dublin port: "**Dublin Port's MP2 Project** awarded €73.8 million

[341] See OECD 2019, pp. 7, 14: "The implementation stage of the project cycle brings with it numerous fraud and corruption risks due to the number of actors potentially involved in project implementation and the complexity of some of the processes at this stage. For projects with high investment value, such as large-scale infrastructure projects, this stage becomes even more vulnerable to fraud and corruption. Furthermore, tenders put out either directly by the MA or beneficiary are common during the implementation stage, and procurement processes are notoriously prone to fraud and corruption. As shown in the illustrated schemes in the final part of the guide, there are a number of procurement specific risks that occur at this stage. For example, members of an MA or beneficiary may tailor tender specifications or leak commercially sensitive tender information to favour one particular company or individual. Companies or contractors may also take part in collusive bidding schemes to manipulate competitive procedures. Responses from an OECD survey that was distributed to programme authorities show that procurement-related fraud and corruption risks at the level of beneficiaries are sometimes overlooked in risk analysis activities. In addition, some MAs generally base the identification of fraud risks on their own experience, without any additional input from other knowledgeable actors8 . Outside of the procurement process, perpetrators employ other tactics to siphon off funds and defraud the EU budget. For example, a beneficiary may fabricate fictitious works, services or activities, or inflate labour costs. In attempt to cover up fraudulent or corrupt behaviour or to justify non-eligible expenditure, perpetrators may manipulate documents and submit fictitious invoices. In some cases, perpetrators may even attempt to bribe officials or staff within programme authorities to conceal the scheme.

[342] OLAF, Information on Investigations related to EU expenditure, https://ec.europa.eu/anti-fraud/investigations/investigations-related-eu-expenditure_hr. Accessed 30 October 2025.

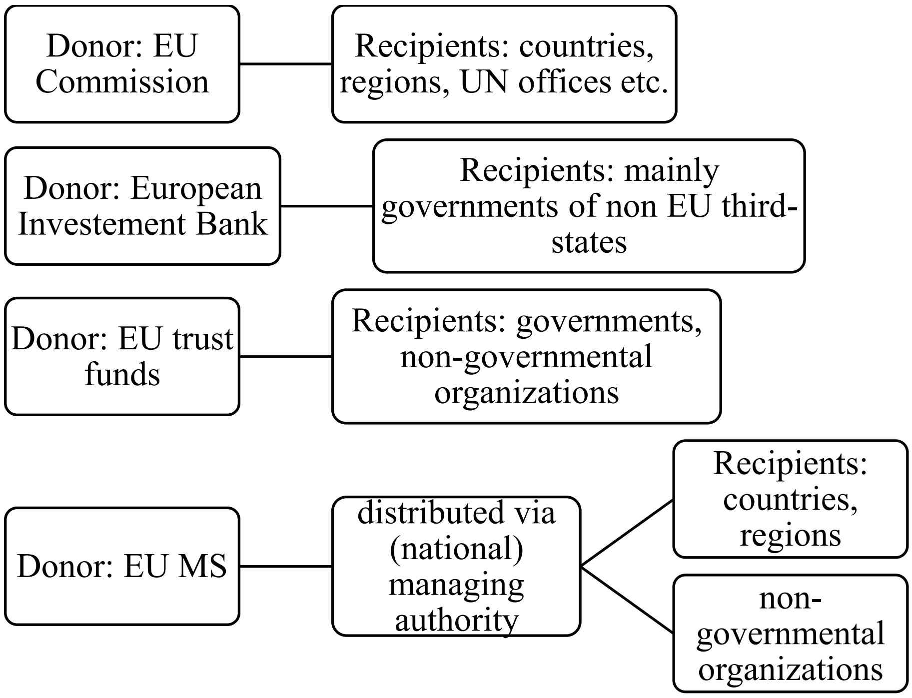
in funding from the EU's Connecting Europe Facility for Transport. Dublin Port Company's MP2 Project has been awarded EUR73. 8 million in funding from the EU's CEF Transport (Connecting Europe Facility for Transport) programme."[343]

OLAF has a **special unit**, which is competent to investigate and detect irregularities in the area of direct expenditure: Direct Expenditure - Operations and Investigations (OLAF.A.2) Rue Joseph II 30 / Josef II-straat 30, 1000..[344] **76**

ee. Provisions in the Area of External Aid = Expenditure

In the area of indirect management the budget is implemented by various actors that have to carry out delegated tasks, which the Commission carries out itself in the area of direct management.[345] The **EU Aid explorer** can be used to discover beneficiaries and funding schemes.[346] A common fraud scheme in this area is the "manipulation of tender processes".[347] **77**

Figure 7: EU External Aid/Expenditure (Indirect Management) **78**



Source: EU Commission.

343 Dublin Port, 17 July 2024. https://h7.cl/1fwLR. Accessed 30 October 2025.
344 EU, WHOisWHO, https://op.europa.eu/en/web/who-is-who/organization/-/organization/OLAF/COM_CRF_230282. Accessed 30 October 2025.
345 EU Commission, Funding by management mode, https://ec.europa.eu/info/funding-tenders/find-funding/funding-management-mode_en. Accessed 30 October 2025.
346 EU external aid explorer, https://euaidexplorer.ec.europa.eu/index_en. Accessed 30 October 2025.
347 OLAF 2022b.

h) Protection of Information (TCA 1997 Tax Secrecy; Data Protection Act 2018; Banking Secrecy Limits)

79 The **right to not incriminate oneself** applies as well under Irish criminal procedural and Irish administrative law. It is recognized by the Supreme Court in various decisions. The obligation to offer inspectors or state authorities information can be in conflict with the *nemo tenetur* principle, which is a fundamental human right. Therefore it is worth to take a closer look at statutory laws, which OLAF needs to respect conducting on-the-spot-checks:

aa. Tax Confidentiality (Taxes Consolidation Act 1997)

80 The Taxes Consolidation Act 1997 contains important provisions, which applies in the area of tax investigations. The Tax Guidance for the Taxes Consolidation Act stipulates:

81 "**851A Confidentiality of Taxpayer Information Summary**
This section formalises taxpayer confidentiality and provides a specific tax related provision which will reassure taxpayers that personal and commercial information revealed to Revenue for tax purposes is protected against unauthorised disclosure.
In relation to a registered farm partnership, provision is made to allow disclosure, to the Minister for Agriculture, Food and the Marine, of information relating to failure to maintain the conditions for registration.
The section also provides for the imposition of fines on Revenue officers or any persons engaged by or on behalf of the Revenue Commissioners found guilty under this section of a breach of confidentiality."[348]

82 Some information might be disclosed to certain authorities as is described in the **Tax and Duty Manual**. The citation highlights the provisions under Irish law that permit **the disclosure of taxpayer information** to the Department of Finance and the EU Commission, ensuring compliance with fiscal policy formulation and EU obligations. Taxpayer data may be shared for evaluating State Aid rules under the TFEU, particularly in relation to agricultural subsidies, film tax relief, and de minimis schemes. S. 851A of the Irish Tax Acts governs these disclosures, emphasizing transparency while aligning with EU requirements for reporting and oversight. This **balance between confidentiality and regulatory compliance** showcases Ireland's commitment to meeting both national and EU obligations:

83 "4.8. Disclosure to the Department of Finance
Section 851A (8)(g) authorises the disclosure of taxpayer information to an official of the Department of Finance solely for the purposes of the formulation or evaluation of

[348] See https://www.revenue.ie/en/tax-professionals/documents/notes-for-guidance/tca/part37.pdf. Accessed 30 October 2025.

fiscal policy. Section 851A (8)(n) authorises the disclosure of taxpayer information to an official of the Department of Finance solely in connection with the State's compliance with EU related obligations and investigations. See also section 4.10 below. See also section 4.7 above in relation to the disclosure of information required by Freedom of Information legislation by an officer of the Department of Finance to the Information Commissioner.

4.10. Disclosure to the EU Commission Certain taxpayer information may need to be provided to the EU Commission in connection with its functions under the Treaty on the functioning of the European Union (TFEU) and in ensuring compliance with its State Aid rules. Section 851A (8)(m), (n) and (o) authorise the disclosure of taxpayer information in this regard. Section 851A(8)(m) authorises the disclosure of taxpayer information to the Minister for Agriculture, Food and the Marine solely to comply with EU Regulation 1408/2013 of 18 December 2013, which applies State Aid rules in relation to small amounts of grant aid or tax relief in the agricultural sector (known as 'de minimis' schemes). This disclosure relates to relief granted under – section 81D (leasing of farmland) Stamp Duties Consolidation Act 1999, or section 667C (registered farm partnerships). Section 851A(8)(n) authorises the disclosure of taxpayer information to an official of the Department of Finance solely in relation to requirements to provide the EU Commission with particular information in relation to the TFEU; i.e. for compliance with the State's obligations under Article 108 or under regulations made pursuant to Article 109, or for the preparation of a response to the EU Commission when exercising its functions under Articles 107 to 109 or regulations made pursuant to Article 109. Section 851A(8)(o) authorises the disclosure of taxpayer information directly to the EU Commission (rather than via the Department of Finance as in paragraph (n)) in relation to compliance with the State's obligations under Article 108 of the TFEU or under regulations made pursuant to Article 109. Section 851A (8A) allows the disclosure of specified taxpayer information relating to a company in receipt of tax relief for the production of a 'qualifying film' under section 481. Such disclosure is required to meet Ireland's EU State Aid obligations under the 'Communication from the EU Commission on State Aid for films and other audiovisual works'. The specified information is to be published on the Revenue website."[349]

And be aware that: **84**
Section 851A(6)(a) *expressis verbis* permits Revenue (authorities) to disclose taxpayer information where a Revenue officer has a suspicion that a criminal offence has been committed but only to an investigation authority.

[349] See https://www.revenue.ie/en/tax-professionals/tdm/income-tax-capital-gains-tax-corporation-tax/part-37/37-00-02.pdf. Accessed 30 October 2025.

bb. Data Secrecy (Data Protection Laws)

85 The **Data protection Act 2018** ensures the data secrecy in certain cases that lead to a criminal suspicion. If an OLAF Investigator suspects a criminal offence, the processing of data might fall under the Data Protection Act and the national authority cooperating with OLAF will be bound by Chapter 2 of this Act, which contains the following sections:

86 **Chapter 2 Processing of special categories of personal data**
45. Processing of special categories of personal data
46. Processing of special categories of personal data for purposes of employment and social welfare law
47. Processing of special categories of personal data for purpose of legal advice and legal proceedings
48. Processing of personal data revealing political opinions for electoral activities and functions of Referendum Commission
49. Processing of special categories of personal data for purposes of administration of justice and performance of functions
50. Processing of special categories of personal data for insurance and pension purposes
51. Processing of special categories of personal data and Article 10 data for reasons of substantial public interest
52. Processing of special categories of personal data for purposes of Article 9(2)(h)
53. Processing of special categories of personal data for purposes of public interest in the area of public health
54. Processing of special categories of personal data for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes
55. Processing of personal data relating to criminal convictions and offences

87 Section 851B of the Taxes Consolidation Act contains a similar provision.

i) Investigation Reports and Follow-Up (Transmission to ODPP / GNECB / CAB)

88 Investigation reports are important for OLAF and the person investigated. OLAF will possibly base its own report on information contained in a report of a partner:

j) Support to the Inspectors (VAT Act 2010)

89 VAT Act requests support from the economic operators to the inspectors:

108.—(1) In this section—
(2) For the purposes of this Act and regulations, an authorised officer may at all reasonable times enter any premises or place where he or she has reason to believe that business

is carried on or anything is done in connection with business and—
(a) may require the person carrying on the business, or any person on those premises or in that place who is employed by the person carrying on the business or who is associated with that person in the carrying on of the business, to produce any books, records, accounts or other documents relating to the business or to any other business which the authorised officer has reason to believe may be, or have been, connected with such business or have, or have had, trading relations with such business,
(b) may, if the authorised officer has reason to believe that any of the books, records, accounts or other documents which he or she has required to be produced to him or her under this subsection have not been so produced, search in those premises or that place for those books, records, accounts or other documents.

k) Access to Bank Accounts

In the case where OLAF seeks access to a national **economic operator's bank accounts** in Ireland and the operator resists OLAF's request, OLAF's ability to access such information relies on both Union law and national law. The specific statutory provisions and relevant Irish authorities that can assist OLAF in this matter have been studied. **90**

First of all, to enforce OLAF's **request for access to a bank account** in Ireland, the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010[350] and the **Criminal Justice Act 1994** might apply – the first one being obsolete as long as a fraud or irregularity is not connected to terrorism. However, OLAF cannot directly seize or access bank account details without the involvement of national authorities under the domestic legal framework. In Ireland, **OLAF** can rely on national judicial and administrative authorities to help **enforce its request**, e.g. the Irish Financial Intelligence Unit (FIU)[351], located within An Garda Síochána could be contacted. The Ministry of Finance (AFCOS Department) might provide assistance but no legal analysis in this regard. **91**

Additionally, certainly the Revenue Commissioners or the Central Bank of Ireland could assist in providing access to financial records or facilitating investigations because the Revenue Commissioners (see s. 1020 of the Taxes Consolidation Act 1997) rules on assistance in cases related to tax fraud and economic irregularities. Under this section, the Revenue Commissioners have the power to request and receive information from financial institutions and assist in investigations. **92**

[350] Meighan 2026, pp. 137 et seq. explaining the legal framework.
[351] Meighan 2026, pp. 129 et seq. assessing "questions of the suitability of the [scil. any?] FIU to handle crypto-laundering"; p. 135 on the structure of the FIU; pp. 138 questioning an important problem, i.e. the lack of autonomy of FIU Ireland: "This presents an obvious issue for FIU Ireland as it is almost totally reliant on An Garda Síochána for its allocation of human, IT, and financial resources. Can it be said that any organisation is autonomous where they have no financial autonomy?"

93 Next, s. 5 of the Criminal Justice (Mutual Assistance) Act 2008 provides the statutory law for the enforcement of EU requests, including requests for the disclosure of financial records in cases of fraud and other criminal activities.

94 While researching case-law on this matter, we found the following **legal dispute**, which shall be **summarized as an example** as it shows that baka cess is often needed to locate assets

OLAF is mentioned EU case-law in relation to the respondents' claims about their rights under European law, which should apply for banking accounts, too, specifically regarding the **right of defence and the obligation to state reasons in any decision concerning the access to accounts**.[352] In a decision from the ECJ the court annulled decisions by OLAF because the applicant had not fully been given an opportunity to exercise their rights of defence before the contested decisions were adopted.[353]

95

l) Investigative Missions in Third Countries

96 Irish authorities, e.g. Irish Tax and Customs can carry out, either together with OLAF officials or on their own under an international agreement or a special agreement of the Irish Government, investigative missions in third countries.

m) Cooperation and Mutual Assistance Agreements

97 The **competent authorities of the customs sector**, which are defined in Article 2(2) of Council Regulation (EC) 515/97 of 13 March 1997 on **mutual assistance** between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters[354] can cooperate together. This includes Irish Tax and Customs, which is the competent authority to deal with revenue obligations and other duties.

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[352] ECJ, T-320/09, Judgment of the General Court (Eighth Chamber), 22 April 2015, *Planet AE v European Commission*.

[353] See ECJ, T-320/09, Judgment of the General Court (Eighth Chamber), 22 April 2015, *Planet AE v European Commission*, ECLI:EU:T:2015:223. ECLI:EU:T:2015:223See mn. 77: "It must also be recalled that, in accordance with a consistent body of case-law, the purpose of the obligation to state the reasons on which an act adversely affecting an individual is based, which is a corollary of the principle of respect for the rights of the defence, is, first, to provide the person concerned with sufficient information to make it possible to ascertain whether the act is well founded or whether it is vitiated by a defect which may permit its legality to be contested before the European Union judicature and, second, to enable that judicature to review the legality of that act (see judgments of 2 October 2003 in *Corus UK* v *Commission*, C-199/99 P, ECR, EU:C:2003:531, paragraph 145; of 28 June 2005 in *Dansk Rørindustri and Others* v *Commission*, C-189/02 P, C-202/02 P, C-205/02 P to C-208/02 P and C-213/02 P, ECR, EU:C:2005:408, paragraph 462; and of 29 September 2011 in *Elf Aquitaine* v *Commission*, C-521/09 P, ECR, EU:C:2011:620, paragraph 148)."

[354] See OJ L 082, 22 March 1997, as amended.

5. Article 4 Internal Investigations

1. Investigations within the institutions, bodies, offices and agencies in the areas referred to in Article 1 shall be conducted ***in accordance with this Regulation and with the decisions adopted by the relevant institution, body, office or agency*** ('internal investigations').
8. Without prejudice to Article 12c(1), where, before a decision has been taken whether or not to open an internal investigation, the Office handles information which suggests that there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union, it may inform the institution, body, office or agency concerned. Upon request, the institution, body, office or agency concerned shall inform the Office of any action taken and of its findings on the basis of such information. Where necessary, the Office shall also inform the ***competent authorities of the Member State concerned***. In this case, the procedural requirements laid down in the second and third subparagraphs of Article 9(4) shall apply. If the competent authorities decide to ***take any action on the basis of the information transmitted to them, in accordance with national law***, they shall, upon request, inform the Office thereof.

Art. 4 has the function not to create a national criminal investigation, but to allow OLAF, as an independent Union administrative investigation office, to examine suspected fraud, corruption or other illegal activity affecting the Union's financial interests inside the Union administration itself. Thus, internal investigations of OLAF can lead to **repercussions at national level** i.e. the level of the authorities that cooperate with OLAF and which e.g. employed the economic operator, managed his funds etc. or who are responsible for disciplinary actions for officials that work at Union level or as a national expert for OLAF (corruption cases).[355] De jure and judging from the wording they may concern EU officials, other servants, members of institutions, heads of agencies, seconded national experts or other staff whose conduct may also give rise to the already mentioned disciplinary or criminal consequences. The relationship of national disciplinary, union disciplinary proceedings and national criminal proceedings is highly important.[356] OLAF's Unit for internal, solemnly EU IBOA cases will examine fraud, corruption, irregularities or serious professional misconduct. Important is that the Regulation expressly distinguishes this EU administrative investigation from any follow-up action at national level. This distinction is particularly important for Ireland, as Ireland is not (yet) a participating Member State in the EPPO zone system, so suspected criminal 98

[355] See Supervisory Committee of OLAF 2024d for the status quo.
[356] See ECJ, Research Note, Impact of ongoing criminal proceedings on the conduct of disciplinary proceedings, https://curia.europa.eu/jcms/upload/docs/application/pdf/2022-09/ndr_2020_001_neutralisee_en.pdf. Accessed 30 October 2025.

conduct affecting the Union's financial interests cannot simply be transferred to an EDP in Ireland (see Part D and E above in this compendium).

99 Before an internal investigation is formally opened, OLAF may handle preliminary information suggesting potential fraud or corruption.

100 If such information implicates Irish interests, irregularities etc., OLAF is authorized to notify the relevant EU institution or body and, where necessary, the competent Irish authorities (e.g., the Department of Finance, An Garda Síochána, or the Revenue Commissioners, see above → Institutions).

101 Irish authorities are nevertheless required to **inform OLAF about actions taken or findings based on the information provided**, which is a coordinated approach to investigations and compliance with the Regulation. For an example one might come up with a case of **misrepresentation of eligibility for EU grants** (e.g., Horizon 2020, CAP funds). In such a case the Irish authorities, such as the Department of Agriculture or Enterprise Ireland, would collaborate with OLAF in investigating the misuse of funds – depending on the conduct of the economic operator (see above → Art. 3 OLAF Regulation). An Garda Síochána or the Office of the Director of Public Prosecutions (DPP) would typically handle the criminal aspects as the EPPO is not competent to act in Ireland at the moment. In an Irish Ministry is involved disciplinary actions might be initiated on the national level. The same would apply in case of irregularities concerning Irish-managed Union funds, an Irish public authority, an EU body located in Ireland, or an Irish official or national expert connected to the facts. The **reference to action "in accordance with national law"** is crucial. It means that, once OLAF transmits information to Irish authorities, any coercive or prosecutorial steps are governed by Irish law, not by OLAF's administrative powers. OLAF may collect and transmit information, but Irish authorities must **decide under Irish law** whether to open a criminal investigation, use national investigative powers, commence disciplinary proceedings, recover funds or prosecute. Irish substantive criminal law is now shaped by the implementation of Directive (EU) 2017/1371, the PIF Directive. The Criminal Justice (Theft and Fraud Offences) (Amendment) Act 2021 amended Irish law to cover fraud affecting the financial interests of the European Union, including misuse or wrongful retention of EU funds and related conduct. It also introduced offences concerning misappropriation by public officials and corporate liability in this field. Corruption-related conduct may additionally fall under the Criminal Justice (Corruption Offences) Act 2018.[357]

[357] See O'Neil, in: Agranovska, Saamut 2020, pp. 177,l 191 et seq. on the situation of the PIF implementation and transposition in 2020. The situation has changed again partly in the last 5 years, see above Introduction and Parts D, E above.

6. Article 5 Opening of Investigations

[…] 5. If the Director-General decides not to open an investigation, he or she may without delay send any relevant information, as appropriate, to the ***competent authorities of the Member State concerned*** for appropriate ***action to be taken in accordance with Union and national law*** or to the institution, body, office or agency concerned for appropriate action to be taken in accordance with the rules applicable to that institution, body, office or agency. The Office shall agree with that institution, body, office or agency, if appropriate, on suitable measures to protect the confidentiality of the source of that information and shall, if necessary, ask to be informed of the action taken.

When the OLAF Director-General decides **not to open an investigation** but forwards relevant information to national authorities, Ireland's competent authorities and national legal framework come into play. Below is an overview of the relevant authorities and legal provisions. 1

The mentioned competent authorities of Ireland, which the **Director General needs to inform**, if he/she decides not to open an investigation are most presumably: An Garda Síochána (Ireland's National Police Service), which handles cases there is a need for investigating criminal offenses, including fraud, corruption, and other illegal activities affecting the EU's financial interests. The **DPP** has special divisions including the **Economic Crime Bureau** and the **Anti-Corruption Unit** for these matters. If the Garda is not involved the Office of the Director of Public Prosecutions (DPP) decides whether to prosecute offenses based on evidence provided by An Garda Síochána or other authorities. 2

Next, the **Revenue Commission** take a detailed look at tax compliance of economic operators, customs enforcement at the ports of Ireland, and investigation of VAT fraud or other irregularities involving EU funds. The Irish Ministries have an important role as managing authorities for EU Money. E.g. the Department of Agriculture, Food, and the Marine handles investigations into irregularities related to EU agricultural subsidies and de minimis aid under EU State Aid rules. 3

The Standards in Public Office Commission (SIPO) might be involved if there is a problem to investigate allegations of corruption, particularly involving public officials or misuse of public funds, which may intersect with EU-funded programs 4

OLAF may **transmit details of suspected irregularities to Irish authorities** for follow-up action in accordance with Irish law. OLAF's internal rules apply. 5

The Director-General's decision to forward information ensures that no relevant case remains unaddressed, even if it falls outside OLAF's direct investigatory remit. 6

7 The **Data Protection Act 2018** applies in case of confidentiality issues when handling personal or sensitive information, in line with GDPR requirements, particularly for protecting the source of information provided by OLAF.

7. Article 7 Investigations Procedure

[…] 3. The competent authorities of Member States shall give the necessary assistance to enable the staff of the Office to fulfil their tasks in accordance with this Regulation effectively and without undue delay. When providing such assistance, the competent authorities of Member States shall ***act in accordance with any national procedural rules applicable to them***.
3a. At the request of the Office, which shall be explained in writing, in relation to matters under investigation, the relevant competent authorities of the Member States shall***, under the same conditions as those that apply to the national competent authorities***, provide the Office with the following:
(a) information available in the centralised automated mechanisms referred to in Article 32a(3) of Directive (EU) 2015/849 of the European Parliament and of the Council (4);

(b) where strictly necessary for the purposes of the investigation, the record of transactions.
The request of the Office shall include a justification of the appropriateness and proportionality of the measure with regard to the nature and gravity of the matters under investigation. Such request shall refer only to information referred to in points (a) and (b) of the first subparagraph.
Member States shall notify to the Commission the relevant competent authorities for the purposes of points (a) and (b) of the first subparagraph.
6. Where investigations show that it might be appropriate to take precautionary administrative measures to protect the financial interests of the Union, the Office shall without delay inform the institution, body, office or agency concerned of the investigation in progress. The information supplied shall include the following:
(a) the identity of the official, other servant, member of an institution or body, head of office or agency, or staff member concerned and a summary of the facts in question;
(b) any information that could assist the institution, body, office or agency concerned in deciding on the appropriate precautionary administrative measures to be taken in order to protect the financial interests of the Union;
(c) any special measures of confidentiality recommended, in particular in cases entailing the use of investigative measures falling within the competence of a national judicial authority or, in the case of an external investigation, within the competence of a national authority, ***in accordance with the national rules applicable to investigations***.

The institution, body, office or agency concerned may at any time consult the Office with a view to taking, in close cooperation with the Office, any appropriate precautionary measures, including measures for the safeguarding of evidence. The institution, body, office or agency concerned shall inform the Office without delay about any precautionary measures taken.
7. Where necessary, it shall be for the ***competent authorities of the Member States***, at the Office's request, to take the ***appropriate precautionary measures under their national law***, in particular measures for the safeguarding of evidence.

Table 13: Art. 7 OLAF Regulation

Para 3	Article 7 para 3 requires Ireland to provide OLAF with necessary assistance during investigations. This assistance must align with national procedural rules (see above EPPO Part as well and Statutes List at the beginning of the volume), to support OLAF do not override domestic legal protections or procedural safeguards. For example, when OLAF requests access to financial data, surveillance records, or transaction histories, Irish authorities are expected to facilitate such access but must do so following their laws. This includes observing safeguards related to data protection, judicial oversight, and procedural rights, as laid out in statutes like Ireland's Criminal Justice (Surveillance) Act 2009 or data-sharing provisions under the Data Protection Act 2018.
Para 3a	OLAF can request specific information from Ireland, such as data from centralized automated mechanisms (e.g., bank account registries under Directive (EU) 2015/849) or transaction records. Requests must meet criteria of appropriateness and proportionality and must be substantiated in writing. The main investigative authorities, which can be contacted by OLAF can be found above (see → Art. 3, and Introduction to Part A). And this includes authorities managing the EU's structural funds in Ireland are listed above (see above → Structural Funds Area). Finally, if OLAF requests information about financial transactions, the Revenue Commissioners or An Garda Síochána must assess the legality of the request under Irish law. Access to such data might require judicial authorization or other procedural steps outlined in Irish legislation.
Para 6c	When OLAF recommends administrative actions to protect the EU's financial interests, it must provide the institution or Member State with: identity of the individuals or entities involved; summary of the

	investigation's findings and last but not least recommendations for confidentiality measures, especially when actions require judicial authorization under national law. All of this applies particularly to investigative measures falling under national judicial authorities or other bodies with enforcement powers. For instance, safeguarding evidence in Ireland might involve judicially authorized searches or seizures under the Criminal Justice (Theft and Fraud Offenses) Act 2001 or Customs Act 2015.
Para 7	The Criminal Evidence Act 1992 applies for the area of criminal law. The main investigative authorities, which can be contacted by OLAF can be found above (see → Irish Institutions). The main authorities managing the EU's structural funds in Ireland are listed above (see above → Structural Funds Area).

8. Article 8 (Duty to Inform the Office)

[…] 2. The institutions, bodies, offices and agencies and, unless ***prevented by national law***, the ***competent authorities of the Member States*** shall, at the request of the Office or on their own initiative, transmit without delay to the Office any document or information they hold which relates to an ongoing investigation by the Office. […]
3. The institutions, bodies, offices and agencies and, unless ***prevented by national law***, the ***competent authorities of Member States*** shall transmit without delay to the Office, at the request of the Office or on their own initiative, any other information, documents or data considered pertinent which they hold, relating to the fight against fraud, corruption and any other illegal activity affecting the financial interests of the Union.

A **report obligation** can at least be determined from the **principle of sincere cooperation** with Union bodies, cf. Art. 4 para 3 TEU. This principle applies in all areas of potential irregularities and frauds (for the typology of EU frauds see Hauck 2025b, in the EU Fraud Commentary on the PIF Directive and see above Art. 26 EPPO Regulation, where the material scope of the EPPO is determined). Additionally cf. Art. 12a in combination with **Art. 8 para 2 and 3** OLAF Regulation 883/2013, which obliges the **AFCOS** of the present Member State **to report to OLAF any of the requested material**. The obligations exist throughout the different areas of irregularities (tax revenue related, customs revenue related; tax expenditure related i.e. structural funds area, direct grants etc.) and are therefore **enshrined in different national laws**. The competent authorities of the Member States are either the same that can conduct external investigations (in cases of resistance, *Sigma Orionis*[358]) or those that must be informed by the

[358] See Art 3 OLAF Regulation above in this Chapter.

Director General if he/she decides not open a case according to Art. 5 para 5 OLAF Regulation No 883/2013 as amended 2020/2223.

Irish authorities might be e.g. prevented to inform OLAF about certain information e.g. due to restrictions by the Data Protection Act 2018, which implements the Union GDPR Regulation or any information from ongoing national investigations of Gardaí or cases of DPP.

II. References to National Law in the OLAF Regulation (Arts 10–17)

As OLAF investigations can have elements of both national punitive, **administrative and EU administrative law**, and their findings may lead to criminal proceedings at the national level, fair proceedings that are compliant with procedural guarantees need to be installed and respected.[359] Hereby it is ensured that the acceptance of OLAF final reports as evidence in national courts is made stronger. Without adequate safeguards, courts may refuse to admit these reports, leading to inefficiencies and requiring national authorities to repeat investigative steps.[360] *Bovend'Eerdt* rightly points at the fact that there is a **two-folded situation** with regard to procedural guarantees: a) the rights established and codified by Art. 9 – *Ligeti* pointed out that these are *de facto* general Europeanised defence rights – must be respected in any OLAF investigation b) during on-the-spot checks OLAF must according to the "**yield-rule**" in Art. 3 para 3 respect as well national procedural rights ("in compliance with the rules and practices of the Member State concerned").[361] 1

Only in the absence of Europeanised defence rights, the national rights will apply and then then need to meet the requirements of the assimilation rule. *Bovend'Eerdt*[362] discusses the use of "will-dependent" evidence, such as a witness statement offered to an OLAF investigator as an example of an evidence gathering action of OLAF during on-the-spot checks, which is a good example for the present discussion of the applicable laws, which will now follow: 2

1. Confidentiality and Data Protection (Art. 10; GDPR; DPA 2018)

[…] 3. The institutions, bodies, offices or agencies concerned shall ensure that the confidentiality of the investigations conducted by the Office is respected, together with the

[359] See in-depth with further references only precisely Ligeti 2017, pp. 27 et seq.
[360] Bovend'Eerdt 2024, pp. 140 et seq. ; see Supervisory Committee of OLAF 2024c.
[361] Ibid, p. 141.
[362] Ibid, p. 144: "Is this an EU power or can OLAF only exercise these powers on the basis of the principle of assimilation? For the person concerned, even if he has familiarised himself with the 'yield rule', this is problematic. He must be able to know what it is that Union law regulates to get a sense of the role left to be played by national law. How can a person know the scope of his private sphere or how interferences therewith may take place if he cannot know whether it is Union or national law that applies in a specific instance?"

legitimate rights of the persons concerned, and, where judicial proceedings have been initiated, that ***all national rules applicable to such proceedings*** have been adhered to. […]

National rules to such proceedings might be either contained in the relevant statue, which allows the investigation or in general laws, such as the **Data Protection Acct 2018**. As OLAF operates many databases, e.g. within the customs sector many data is processed by OLAF and the Union bodies.[363] If any judicial proceedings is started all rights of the persons must be respected. This data protection requirement continues on the national level.

2. Investigation Report and Action to Be Taken Following Investigations (Art. 11; Evidential Use Domestically)

[…] 2. In drawing up the reports and recommendations referred to in paragraph 1, account shall be taken of the relevant provisions of Union law and, in so far as it is applicable, ***of the national law of the Member State concerned***.
Reports drawn up on the basis of the first subparagraph, together with all evidence in support and annexed thereto, shall constitute admissible evidence:
(a) in judicial proceedings of a non-criminal nature before national courts and in administrative proceedings in the Member States;
(b) in ***criminal proceedings of the Member State*** in which their use proves necessary in the ***same way and under the same conditions*** as administrative reports drawn up by ***national administrative inspectors*** and shall be subject to the ***same evaluation rules as those applicable to administrative reports drawn up by national administrative inspectors*** and shall have the same evidentiary value as such reports;
(c) in judicial proceedings before the CJEU and in administrative proceedings in the institutions, bodies, offices and agencies.
Member States shall notify to the Office ***any rules of national law relevant*** for the purposes of point (b) of the second subparagraph.
With regard to point (b) of the second subparagraph, Member States shall, upon request of the Office, send to the Office the ***final decision of the national courts*** once the ***relevant judicial proceedings*** have been finally ***determined*** and the final court decision has become ***public***.
The power of the CJEU and national courts and competent bodies ***in administrative and criminal proceedings to freely assess the evidential value*** of the reports drawn up by the Office shall not be affected by this Regulation. […]

[363] See https://anti-fraud.ec.europa.eu/olaf-and-you/data-protection/olaf-privacy-notices-relating-olaf-data-processing-operations_en. Accessed 30 October 2025.

3. Reports and recommendations drawn up following an external investigation and any relevant related documents shall be sent to the ***competent authorities of the Member States*** concerned in accordance with the rules relating to external investigations and, if necessary, to the institution, body, office or agency concerned. The competent authorities of the Member State concerned and, if applicable, the institution, body, office or agency shall take such action as the results ***of the external investigation warrant and shall report thereon to the Office within*** a time limit laid down in the recommendations accompanying the report and, in addition, at the request of the Office. Member States may notify to the Office the relevant national authorities competent to deal with such reports, recommendations and documents.

An OLAF Report may result in **national follow-up**. As Ireland is not part of the EPPO, many political observers see a chance for effective anti-fraud investigations in Ireland by keeping an eye on the reports, which OLAF issues concerning irregularity investigations on Irish territory (for examples of EU irregularities see e.g. the tobacco or fuel smuggling in the customs sector, the management of EU funds etc.). The person concerned has various rights during an OLAF investigation. The OLAF report, which will be accompanied by recommendations need to be compliant to the **rights of the rights of the person**[364] inspected. OLAF has **various duties to report to the competent authorities** and will send information to them afterwards for action, which an external investigation warrants. **1**

Any report related to a VAT fraud irregularity may e.g. result in actions of the Revenue Offices. The state that they can do the following: **2**

“VAT fraud

There are consequences to becoming involved in a set of transactions connected with a Value Added Tax (VAT) fraud. This applies, even if the transactions in which you are involved are not themselves unlawful.

Revenue will **apply penalties**, where appropriate, and you may:

- **lose your entitlement to reclaim VAT**
- **become liable** for Irish VAT on previously zero-rated intra-Community supplies where the related transactions are connected with fraud.”[365]

[364] See Ligeti 2017.
[365] See https://www.revenue.ie/en/vat/what-is-vat/what-is-vat-fraud.aspx. Accessed 30 October 2025.

a) References to National Law

3 *Sources & national sections 1:*

Para 2	- The national law, which can become relevant in an OLAF investigation is quite wide: - Criminal Justice Act 1984 (Treatment of Persons in Custody in Garda Siochana Stations) (Amendment) Regulations 2023. - European Arrest Warrant Act 2003 Revised Updated to 3 May 2023[366] - S.I. No. 38/2022 - European Union (Criminal Justice (Mutual Assistance) Act 2008) (Amendment) Regulations 2022 - S.I. No. 549/2022 - European Union (Right to Information in Criminal Proceedings) Regulations 2022 - S.I. No. 470/2019 - European Union (Freezing and Confiscation of Instrumentalities and Proceeds of Crime) Regulations 2019 - Data Protection Act 2018 - S.I. No. 565/2013 - European Communities Act 1972 (Interpretation and Translation in Criminal Proceedings) Regulations, 2013. - S.I. No. 509/2011 - European Union (International Criminal Tribunal for the former Yugoslavia (ICTY)) (Financial Sanctions) Regulations 2011. - S.I. No. 73/1980 - European Communities (Agriculture and Customs) (Mutual Assistance As Regards The Recovery of Claims) Regulations, 1980. - S.I. No. 334/1978 - European Communities (Mutual Assistance in The Field of Direct Taxation) Regulations, 1978. - S.I. No. 406/1980 - European Communities (Value-Added) (Mutual Assistance As Regards The Recovery of Claims) Regulations, 1980. - S.I. No. 407/1980 - European Communities (Mutual Assistance in The Field of Value-Added Tax) Regulations, 1980. The enumeration of Acts is not exhaustive.
Para 2 (a)	The **VAT Act** presents such proceedings: **Appeals.** 25.—(1) Any person aggrieved by a determination of the Revenue Commissioners in relation to—

[366] See https://revisedacts.lawreform.ie/eli/2003/act/45/revised/en/html. Accessed 30 October 2025.

(a) a liability to tax under subsection (5) or (6) of section 17,
(b) a charge of tax in accordance with regulations, or
(c) a claim for repayment of tax,
against which an appeal to the Appeal Commissioners is not otherwise provided for under this Act may, on giving notice in writing to the Revenue Commissioners within twenty-one days after the notification to the person aggrieved of the determination, appeal to the Appeal Commissioners.

(2) The provisions of the Income Tax Acts relating to—
(a) the appointment of times and places for the hearing of appeals;
(b) the giving of notice to each person who has given notice of appeal of the time and place appointed for the hearing of his appeal;
(c) the determination of an appeal by agreement between the appellant and an inspector of taxes or other officer appointed by the Revenue Commissioners in that behalf;
(d) the determination of an appeal by the appellant giving notice of his intention not to proceed with the appeal;
(e) the hearing and determination of an appeal by the Appeal Commissioners, including the hearing and determination of an appeal by one Appeal Commissioner;
(f) the determination of an appeal through the neglect or refusal of a person who has given notice of appeal to attend before the Appeal Commissioners at the time and place appointed;
(g) the extension of the time for giving notice of appeal, and the readmission of appeals by the Appeal Commissioners;
(h) the rehearing of an appeal by a judge of the Circuit Court and the statement of a case for the opinion of the High Court on a point of law;
(i) the payment of tax in accordance with the determination of the Appeal Commissioners notwithstanding that an appeal is required to be reheard by a judge of the Circuit Court or that a case for the opinion of the High Court on a point of law has been required to be stated or is pending;
(j) the payment of tax which is agreed not to be in dispute in relation to an appeal; and
(k) the procedures for appeal,

shall, with any necessary modifications, apply to a claim under section 22 or an appeal under section 23 or this section as if the claim or appeal were an appeal against an assessment to income tax.

Penalties generally.

26.—(1) A person who does not comply with section 9 (2), 11 (7), 13, 16, 17, 18 or 19 or any provision of regulations in regard to any matter to which the foregoing sections relate shall be liable to a penalty of £20, together with, in the case of a continuing non-compliance, a penalty of the like amount for every day on which the non-compliance is continued.

(2) A person who is not a registered person and who, on or after the specified day, otherwise than under and in accordance with section 13, issues an invoice in which an amount of tax is stated shall be liable to a penalty of £20.

(3) Where a person mentioned in subsection (1) or (2) is a body of persons, the secretary shall be liable to a separate penalty of £20.

(4) All penalties under this section may, without prejudice to any other method of recovery, be proceeded for and recovered summarily in the same manner as in summary proceedings for recovery of any penalty under any Act relating to the excise, and, notwithstanding section 10 (4) of the Petty Sessions (Ireland) Act, 1851 , summary proceedings under this section may be instituted within three years from the date of the incurring of the penalty.

(5) Where—

(a) a person does not comply with section 9 (2), 18 (2) or 19 (3),

(b) compliance is required within a particular period, and

(c) the person continues, during a further period of two or more days, not to furnish the particulars or return concerned or produce for inspection or permit the removal of the documents concerned,

the non-compliance shall be regarded, for the purposes of subsection (1), as a non-compliance continuing on every day, other than the first, of the further period.

(6) In proceedings for recovery of a penalty under this section—

(a) a certificate signed by an officer of the Revenue Commissioners which certifies that he has inspected the relevant records of the Revenue Commissioners and that it appears from them that, during a stated period, stated particulars or stated returns were not furnished by the defendant shall be evidence until the contrary is proved that

the defendant did not, during that period, furnish the particulars or return,
(b) a certificate signed by an officer of the Revenue Commissioners which certifies that he has inspected the relevant records of the Revenue Commissioners and that it appears from them that a stated document was duly sent to the defendant on a stated day shall be evidence until the contrary is proved that that person received that document in the ordinary course,
(c) a certificate signed by an officer of the Revenue Commissioners which certifies that he has inspected the relevant records of the Revenue Commissioners and that it appears from them that a stated notice was not issued by them to the defendant shall be evidence until the contrary is proved that the defendant did not receive the notice in question,
(d) a certificate certifying as provided for in paragraph (a), (b) or (c) and purporting to be signed by an officer of the Revenue Commissioners may be tendered in evidence without proof and shall be deemed, until the contrary is proved, to have been signed by an officer of the Revenue Commissioners.
(7) Subject to this section, the rules of the court concerned for the time being applicable to civil proceedings shall apply to proceedings pursuant to this section.

Fraudulent returns, etc.
27.—(1) Where a person fraudulently or negligently, for the purposes of this Act or of regulations, produces, furnishes, gives, sends or otherwise makes use of, any incorrect return, invoice, credit note, debit note, receipt, account, voucher, bank statement, estimate, statement, information, book, document, record or declaration, he shall, subject to subsection (2), be liable to a penalty of—
(a) £100, and
(b) the amount, or, in the case of fraud, twice the amount of the difference between the amount of tax paid by such person for the period in question and the amount of tax properly payable by him if the said return, invoice, credit note, debit note, receipt, account, voucher, bank statement, estimate, statement, information, book, document, record or declaration had been correct.
(2) Where a person mentioned in the foregoing subsection is a body of persons—

(a) the reference in paragraph (a) of that subsection to £100 shall be construed as a reference to £500, or, in the case of fraud, £1,000, and
(b) the secretary shall be liable to a separate penalty of £100, or, in the case of fraud, £200.
(3) Where any such return, invoice, credit note, debit note, receipt, account, voucher, bank statement, estimate, statement, information, book, document, record or declaration as is mentioned in subsection (1) was made or submitted by a person neither fraudulently nor negligently and it comes to his notice (or, if he has died, to the notice of his personal representative) that it was incorrect, then, unless the error is remedied without unreasonable delay, the return, invoice, credit note, debit note, receipt, account, voucher, bank statement, estimate, statement, information, book, document, record or declaration shall be treated for the purposes of this section as having been negligently made or submitted by him.
(4) If a person, in a case in which he represents that he is a registered person or is a manufacturer of certain goods or uses a registration number allotted under section 9, improperly procures the importation of goods without payment of tax in circumstances in which tax is chargeable, he shall be liable to a penalty of £500, and, in addition, he shall be liable to pay to the Revenue Commissioners the amount of any tax which should have been paid on importation.
(5) A person who fraudulently or negligently—
(a) issues an invoice in which an amount of tax is stated, in such circumstances that the said amount does not represent the amount of tax which becomes due by him in respect of the transaction to which the invoice relates, or
(b) issues a credit note showing an amount of tax other than that properly applicable to the transaction to which the credit note relates, shall be liable to a penalty of £100 in addition to his liability under section 17 (5) in respect of the issue of any such invoice or credit note.
(6) Notwithstanding anything in section 30, proceedings for the recovery of any penalties under this section shall not be out of time by reason that they are commenced after the time allowed by the said section 30.
(7) For the purposes of this section, any return, invoice, credit note, debit note, receipt, account, voucher, bank statement, estimate, statement, information, book, document, record or declaration submitted on behalf of a person shall be deemed to have been submitted by that

person unless he proves that it was submitted without his consent or knowledge.

(8) Any reference in the foregoing subsections to an amount of tax includes a reference to interest payable in the case in question under section 21.

Assisting in making incorrect returns, etc.

28.—Any person who assists in or induces the making or delivery, for the purposes of tax, of any return, invoice, credit note, debit note, receipt, account, voucher, bank statement, estimate, statement, information, book, document, record or declaration which he knows to be incorrect shall be liable to a penalty of £500.

Nota bene: This liability is a kind of complicity.

Proceedings in High Court in respect of penalties.

29.—(1) Without prejudice to any other mode of recovery of a penalty under this Act, an officer of the Revenue Commissioners, authorised by them for the purposes of this subsection, may sue in his own name by civil proceedings for the recovery of the penalty in the High Court as a liquidated sum and the provisions of section 94 of the Courts of Justice Act, 1924 , shall apply accordingly.

(2) If an officer who has commenced proceedings pursuant to this section, or who has continued the proceedings by virtue of this subsection, dies or otherwise ceases for any reason to be an officer authorised for the purposes of subsection (1) of this section—

(a) the right of such officer to continue the proceedings shall cease and the right to continue them shall vest in such other officer so authorised as may be nominated by the Revenue Commissioners,

(b) where such other officer is nominated under paragraph (a) of this subsection, he shall be entitled accordingly to be substituted as a party to the proceedings in the place of the first mentioned officer, and

(c) where an officer is so substituted, he shall give notice in writing of the substitution to the defendant.

(3) In proceedings pursuant to this section, a certificate signed by a Revenue Commissioner certifying the following facts, namely, that a person is an officer of the Revenue Commissioners and that he has been authorised by them for the purposes of subsection (1), shall be evidence until the contrary is proved of those facts.

(4) In proceedings pursuant to this section, a certificate signed by a Revenue Commissioner certifying the following facts, namely, that

the plaintiff has ceased to be an officer of the Revenue Commissioners authorised by them for the purposes of subsection (1), that another person is an officer of the Revenue Commissioners, that such other person has been authorised by them for the purposes of subsection (1) and that he has been nominated by them in relation to the proceedings, for the purposes of subsection (2), shall be evidence until the contrary is proved of those facts.

(5) In proceedings pursuant to this section, a certificate certifying the facts referred to in subsection (3) or (4) and purporting to be signed by a Revenue Commissioner may be tendered in evidence without proof, and shall be deemed, until the contrary is proved, to have been so signed.

(6) Subject to this section, the rules of the High Court for the time being applicable to civil proceedings shall apply to proceedings pursuant to this section.

Time limits.

30.—(1) Subject to subsection (3) and sections 26 (4) and 27 (6), proceedings for the recovery of any penalty under this Act may be commenced at any time within six years next after the date on which it was incurred.

(2) Where the person who has incurred any penalty has died, any proceedings under this Act which have been or could have been commenced against him may be continued or commenced against his personal representative and any penalty awarded in proceedings so continued or commenced shall be a debt due from and payable out of his estate.

(3) Proceedings commenced by virtue of subsection (2) may be begun at any time not later than three years after the expiration of the year in which the deceased person died in a case in which the grant of probate or letters of administration was made in that year and at any time not later than two years after the expiration of the year in which such grant was made in any other case, but the foregoing provisions of this subsection shall have effect subject to the proviso that where the personal representative lodges a corrective affidavit for the purpose of assessment of estate duty after the year in which the deceased person died, the proceedings may be begun at any time before the expiration of two years next after the end of the year in which the corrective affidavit was lodged.

(4) (a) An estimation of tax under section 22 or 23 may be made at any time not later than ten years after the end of the taxable period to which the estimate relates or, where the period in respect of which the estimate is made consists of two or more taxable periods, after the end of the earlier or earliest taxable period comprised in such period: Provided that in a case in which any form of fraud or neglect has been committed by or on behalf of any person in connection with or in relation to tax, an estimation as aforesaid may be made at any time for any period for which, by reason of the fraud or neglect, tax would otherwise be lost to the Exchequer.
(b) In this subsection "neglect" means negligence or a failure to give any notice, to furnish particulars, to make any return or to produce or furnish any invoice, credit note, debit note, receipt, account, voucher, bank statement, estimate, statement, information, book, document, record or declaration required to be given, furnished, made or produced by or under this Act or regulations:
Provided that a person shall be deemed not to have failed to do anything required to be done within a limited time if he did it within such further time, if any, as the Revenue Commissioners may have allowed; and where a person had a reasonable excuse for not doing anything required to be done, he shall be deemed not to have failed to do it if he did it without unreasonable delay after the excuse had ceased.
(5) (a) Where a person dies, an estimation of tax under section 22 or 23 (as the case may be) may be made on his personal representative for any period for which such an estimation could have been made upon him immediately before his death, or could be made upon him if he were living, in respect of tax which became due by such person before his death, and the amount of tax recoverable under any such estimation shall be a debt due from and payable out of the estate of such person.
(b) No estimation of tax shall be made by virtue of this subsection later than three years after the expiration of the year in which the deceased person died in a case in which the grant of probate or letters of administration was made in that year and no such estimation shall be made later than two years after the expiration of the year in which such grant was made in any other case, but the foregoing provisions of this paragraph shall have effect subject to the proviso that where

	the personal representative lodges a corrective affidavit for the purposes of assessment of estate duty after the year in which the deceased person died, such estimation may be made at any time before the expiration of two years after the end of the year in which the corrective affidavit was lodged.
Para 2 (b)	The rules that apply in this regard are regulated in the Criminal Justice Fraud Offences Act 2001 as amended 2021, the Taxes Consolidation Act, the Customs Act and the Finance Act as well as the VAT Act.
Para 2 (c)	-

Source: The authors.

b) National Authority, Para. 3

4 The **authorities**, **which take actions**, which an OLAF report about external investigations warrants might be the Irish Tax and Customs and the Revenue Authorities acting on the basis of the Customs Legislation (Customs Act 2015, Union Customs Code, Decrees by the Revenue Commissioner), the Tax Authorities (by the Taxes Consolidation Act, Decrees of the Minister of Finance), the Union Legislation in the Area of VAT, the Laws on Election, the Legislative Organs e.g. Parliament, or the Bodies, which receive EU Funding e.g. Universities. Thus all the Acts and Statues on which these authorities base their actions apply, such as:

- Criminal Justice (Corruption Offences) Act 2018
- Local Government Act 2001
- European Parliament Elections Act 1997
- Seanad Electoral (Panel Members) Act 1947
- Seanad Electoral (University Members) Act 1937

5 If OLAF has recommended actions to the Board of Prosecutors and a person has been convicted **following a report of OLAF to Irish authorities**, this authority must e.g. report the action taken to OLAF. A confiscation order issued according to the **Criminal Justice Act 1994** might be such a measure:

6 **Confiscation orders: offences other than drug trafficking offences.**

9. (1) Where a person has been sentenced or otherwise dealt with in respect of an offence, other than a drug trafficking offence, of which he has been convicted on indictment, then, if an application is made, or caused to be made, to the court by the Director of Public Prosecutions the court may, subject to the provisions of this section, make a confiscation order under this section requiring the person concerned to pay such sum as the court thinks fit.

(2) An application under this section may be made if it appears to the Director of Public Prosecutions that the person concerned has benefited from the offence of which he is convicted or from that offence taken together with some other offence (not being a drug trafficking offence) of which he is convicted in the same proceedings or which the court has taken into consideration in determining his sentence.
(3) An application under subsection (1) of this section may be made at the conclusion of the proceedings at which the person is sentenced or otherwise dealt with or may be made at a later stage.
(4) For the purposes of this Act, a person benefits from an offence other than a drug trafficking offence if he obtains property as a result of or in connection with the commission of that offence and his benefit is the value of the property so obtained.
(5) Where a person derives a pecuniary advantage as a result of or in connection with the commission of an offence, he is to be treated for the purposes of this section as if he had obtained as a result of or in connection with the commission of the offence a sum of money equal to the value of the pecuniary advantage.
(6) The amount to be recovered by an order under this section shall not exceed—
(a) the amount of the benefit or pecuniary advantage which the court is satisfied that a person has obtained, or
(b) the amount appearing to the court to be the amount that might be realised at the time the order is made,
whichever is the less.
(7) The standard of proof required to determine any question arising under this Act as to—
(a) whether a person has benefited as mentioned in subsection (2) of this section, or
(b) the amount to be recovered in his case by virtue of this section,
shall be that applicable in civil proceedings.

Another measure, which an external investigation warrants might be the winding up of a company under the **Company Act 2014**. In Part 11 the Winding-up is regulated in detail. **7**

PART 11
WINDING UP
CHAPTER 1
Preliminary and interpretation
559. Interpretation (Part 11)
560. Restriction of this Part
561. Modes of winding up, general statement as to position under Act
562. Types of voluntary winding up, general statement as to position under Act
563. Provisions apply to either mode of winding up unless the contrary appears
564. Jurisdiction to wind up companies and rules of court

565. Powers of court cumulative
566. Court may have regard to wishes of creditors or contributories
567. Application of certain provisions to companies not in liquidation

3. Article 12a AFCOS (Irish Contact Point and Procedures)

1. Each Member State shall, for the purposes of this Regulation, designate a service (the 'anti-fraud coordination service') to facilitate effective cooperation and exchange of information, including information of an operational nature, with the Office. Where appropriate, ***in accordance with national law***, the anti-fraud coordination service may be regarded as a competent authority for the purposes of this Regulation. […]

a) Definition and History

1 Cooperation, Coordination and Facilitation are **buzz words in anti-fraud literature**.[367] Anti-fraud coordination services are known worldwide and exist in many international organisations and cooperate with nation states.[368] In the EU the term "AFCOS" has a *very special meaning* as it means the *Anti-fraud coordination services created on behalf of the European Anti-fraud Office* for the **facilitation of interactions with the national Member States of the EU** (see recitals below).[369] The obligation to designate these services runs and derives from primary Union law. Art. 325 TFEU (ex-Art. 280 TEC) requests the Union *and* the Member States to fight fraud (together). The history of these services, adapted to the financial and budgetary law sector and set-up in the Member States' internal justice and financial systems **dates back to the early 2000s**.[370] Historically, the coordinating bodies emerged primarily in the new Member States that were awaiting accession.

2 The European Parliament has already in 2010 called for the **AFCOS to be set up as independent bodies in the MS**. Today one could not be further from this idea than ever,

[367] Kuhl 2019, pp. 135 (160 et seq.); Wells 2014; Spink 2019; Saporta and Maraney 2022; U.S. Department of Justice 2022, online: https://www.eca.europa.eu/Lists/ECADocuments/JOURNAL22_01/JOURNAL22_01.pdf. (Accessed 30 October 2025); Malan 2022, pp. 135–139; focusing on the customs area van der Paal et al. 2019; de Vries 2022; House of Lords 2013, pp. 32 et seq.

[368] Bartsiotas and Achamkulangare 2016; See World Customs Organization, http://www.wcoomd.org/en/about-us/partners/international_organizations.aspx. Accessed 30 October 2025; see UNDOC, https://www.unodc.org/unodc/en/corruption/COSP/session9-resolutions.html, focusing on the designation of anti-corruption bodies. Accessed 30 October 2025. They exist even on national level and are especially common in federal state systems, see Austria, which was special "Betrugsbekämpfungskoordinator" https://www.bmf.gv.at/en/topics/combating-fraud/anti-fraud-units/anti-fraud-coordinators.html: "In each office there is an Anti-Fraud Coordinator (AFC; in German: Betrugsbekämpfungskoordinator, BBKO) for the individual sectors and regional customs units. They are members of the management and communicate in their function at management level and with each other. The AFC is the point of contact for all anti-fraud matters at the local level, within the department for other organisational units, as well as externally for institutions and public authorities. They also act as an information hub to the outside world, for example when it comes to external information exchange or cooperation with external institutions and authorities." Accessed 30 October 2025.

[369] Kuhl 2019, pp.135 (164).

[370] Quirke 2015.

since the AFCOS are mostly subordinated deep in the structure of a Financial or Treasury Department/Ministry, Financial Inspections Services of the Treasury Department/Ministry, the Department of Commerce or the Ministry/Department of the Interior. The **simplicity of the coordination from** within a ministry and the size of the administrative apparatus certainly speak in favour of this, but the interconnectedness is also problematic from the point of view of efficiency (states with political goodwill coordinate very easily and others are politically manoeuvrable):

"***Friday 24 April 2009 Protection of the Communities' financial interests and the fight against fraud – Annual Report 2007 P6_TA(2009)0315 European Parliament resolution of 24 April 2009 on the protection of the Communities' financial interests and the fight against fraud - Annual Report 2007 (2008/2242(INI)) 2010/C 184 E/14 The European Parliament,"***
68. points out that the Anti-Fraud Coordination Units (AFCOS) set up for OLAF in the Member States that joined the European Union after 2004 are very important sources of information and contact points for OLAF; points out, however, ***that the functional added value of these offices (in particular in terms of reporting irregularities to the Commission) is minimal as long as they are not independent from national administrations***; therefore calls on the Commission to submit a proposal to Parliament's competent committee on how the work of these offices could be made more useful and considers it necessary to improve cooperation with the candidate countries." [371]

At least there is legal and technical oversight of the areas of administration in most states **3**
and nowadays the AFCOS are implemented at the highest level.[372]

However, the existing Member States are also **aware of weaknesses in the fight against** **4**
fraud. Only since 2010 and in the last decade has more attention been paid to these coordination points. They have become a *sine qua non* in the EU's fight against fraud and it seems that they are becoming more and more the **"eyes and ears" of OLAF in the Member States**. They only have their own investigative skills, which would make them an "extended arm" of OLAF in the member states, if at all, e.g. in Bulgaria or Italy. On the other hand, in Germany and France, they are more active in the background and

[371] See OJ, 8.7.2010, CE 184/72 Freitag, 24. April 2009 Schutz der finanziellen Interessen der Gemeinschaften und Betrugsbekämpfung - Jahresbericht 2007 P6_TA(2009)0315 Entschließung des Europäischen Parlaments vom 24. April 2009 zu dem Schutz der finanziellen Interessen der Gemeinschaften und der Betrugsbekämpfung – Jahresbericht 2007 (2008/2242(INI)) 2010/C 184 E/14 68. The European Parliament, points out that the Anti-Fraud Coordination Services (AFCOS), which were established for OLAF in the Member States that joined the European Union after 2004, are very important sources of information and contact points for OLAF; notes, however, that as long as they are not independent from the national administrations, the functional added value of these offices, particularly as regards the reporting of irregularities to the Commission, remains minimal; therefore calls on the Commission to submit to Parliament's competent committee a proposal on how the work of these offices could be made more useful, and considers it necessary to improve cooperation with the candidate countries; [...].
[372] Byrne 2018, p. 13.

do not appear too clearly. Activity reports may also have to be requested by the Commission, i.e. the responsible departments of OLAF.

aa. Legislative Developments

5 The Commission has evaluated the **impact of the AFCOS in the past decade**.[373] Recent changes at the beginning of the 2020s have enlarged the competences of the AFCOS. These are now even allowed to cooperate with each other and not only with OLAF in Luxembourg alone, which was the case prior to the amendments of the Regulation (EU) 2020/2223.

6 The recent changes describe the **role of the AFCOS**:

7 (23) The Office is able, under Regulation (EU, Euratom) No 883/2013, to enter into administrative arrangements with ***competent authorities of Member States***, such as anti-fraud coordination services, and institutions, bodies, offices and agencies, in order to specify the arrangements for their cooperation under that Regulation, in particular ***concerning the transmission of information, the conduct of investigations and any follow-up action***.
(30) Due to the large diversity of national institutional frameworks, Member States should, on the basis of the principle of sincere cooperation, ***have the possibility to notify to the Office the authorities that are competent to take actions upon recommendations of the Office***, as well as the authorities that need to be informed, such as for financial, statistical or monitoring purposes, for the performance of their relevant duties. Such authorities ***may include national anti-fraud coordination services***. In accordance with the settled case-law of the CJEU, the Office recommendations included in its reports have no binding legal effects on such authorities of Member States or on institutions, bodies, offices and agencies.
(37) The anti-fraud coordination services of Member States were introduced by Regulation (EU, Euratom) No 883/2013 to facilitate an effective cooperation and exchange of information, including information of an operational nature, between the Office and Member States. The Commission evaluation report concluded that they have contributed positively to the work of the Office. The Commission evaluation report also identified the ***need to further clarify the role of those anti-fraud coordination services*** in order

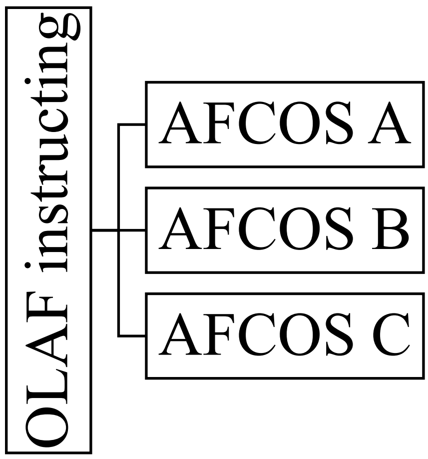
[373] COMMISSION STAFF WORKING DOCUMENT EVALUATION of the application of Regulation (EU, EURATOM) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 Accompanying the document Commission report to the European Parliament and the Council., pp. 3, 12, 72.
The Commission document was accompanied by a Report (called ICF Report 2017), which resulted from an external study: European Commission, European Anti-Fraud Office, Evaluation of the application of Regulation No 883/2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF): final report, Publications Office, 2017, https://data.europa.eu/doi/10.2784/281658. Accessed 30 October 2025.

to ensure that the Office is provided with the necessary assistance to ensure that its investigations are effective, while leaving the organisation and powers of the anti-fraud coordination services to each Member State. In that regard, the anti-fraud coordination services should be able to provide or coordinate the ***necessary assistance*** to the Office ***to carry out its tasks effectively, before, during or at the end of an external or internal investigation***.

(40) It should be possible for the anti-fraud coordination services in the context of coordination activities to provide assistance to the Office, as well as for the anti-fraud coordination services ***to cooperate among themselves***, in order to further reinforce the available mechanisms for cooperation in the fight against fraud.

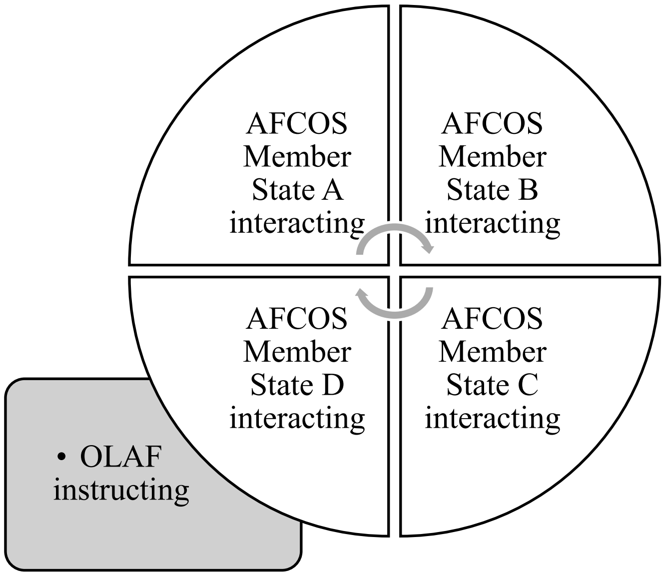
bb. Visualisation of Old (Prior to 2020) vs. New (Since 2020) Cooperation and Role of the AFCOS

Figure 8: Visualization of the old cooperation by virtue of Regulation No. 883/2013 8



Source: Own Compilation.

Figure 9: Visualisation of the new cooperation by virtue of Regulation No. 883/2013 (as amended 2020/2223)



b) The Irish AFCOS

9 The Irish AFCOS is located within the Ministry of Finance of the Republic of Ireland.

"In terms of my Department's role in protecting the financial interests of the EU, the EU Budget Unit of the Department of Finance was appointed, in December 2014, as Ireland's Anti-Fraud Coordination Service (AFCOS) in accordance with Article 12a of Regulation 883/2013 to facilitate effective cooperation and exchange of information, including information of an operational nature, with the EU Anti-Fraud Agency (OLAF)."[374]

10 The budgetary process is quite complicated and covers different steps.[375]

[Article 12b–12d omitted]

4. Article 12e Support to the EPPO (OLAF–EPPO De-confliction)

1. In the course of an investigation by the EPPO, and at the request of the EPPO in accordance with Article 101(3) of Regulation (EU) 2017/1939, the Office shall, in accordance with its mandate, support or complement the EPPO's activity, in particular by:
(a) providing information, analyses (including forensic analyses), expertise and operational support;

[374] Minister of Finance 2023, online: https://www.oireachtas.ie/en/debates/question/2023-10-24/199/#pq-answers-199. Accessed 30 October 2025.
[375] It can be retrieved from here: An Roinn Airgeadais Foilsithe 3 Eanair 2018, An t-eolas is déanaí 18 Feabhra 2019 https://www.gov.ie/. Accessed 30 October 2025.

(b) facilitating coordination of specific actions of ***the competent national administrative authorities*** and bodies of the Union; […].

OLAF can at the moment provide no support to the EPPO if it comes to the status of Ireland as a non-participating country but it can at least provide contact information to the relevant, competent national administrative authorities in Ireland.

[Article 12f–g omitted]

5. Article 13 Co-operation with Eurojust and Europol

1. […] Where this may support and strengthen coordination and cooperation between ***national investigating and prosecuting authorities,*** or where the Office has forwarded to the competent authorities of the Member States information giving grounds for suspecting the existence of fraud, corruption or any other illegal activity affecting the financial interests of the Union in the form of serious crime, it shall transmit relevant information to Eurojust, within the mandate of Eurojust. […]

For the participation of Ireland in the Union's Justice and Police Cooperation Bodies, see above → Institutions and C. II. And C. III. Cross-border criminal justice requires liaison offices and staff, which is qualified in cooperation matters.[376]

[Article 14–16 omitted]

6. Article 17 Director-General

4. The Director-General shall report regularly, and at least annually, to the European Parliament, to the Council, to the Commission and to the Court of Auditors on the findings of investigations carried out by the Office, the action taken and the problems encountered, whilst respecting the confidentiality of the investigations, the legitimate rights of the persons concerned and of informants, and, where appropriate***, national law applicable to judicial proceedings***. Those reports shall also include an assessment of the actions taken by the ***competent authorities of Member States*** and the institutions, bodies, offices and agencies, following reports and recommendations drawn up by the Office.
7. The Director-General shall put in place an internal advisory and control procedure, including a legality check, relating, inter alia, to the respect of procedural guarantees and fundamental rights of the persons concerned and ***of the national law of the Member States concerned***, with particular reference to Article 11(2). The legality check shall be carried out by Office staff who are experts in law and investigative procedures. Their opinion shall be annexed to the final investigation report.

[376] Davies 2021, 77–97.

1 As an EU Member State, Ireland's competent authorities (e.g., An Garda Síochána, Revenue Commissioners) could be involved in OLAF investigations (see above → Art. 3 OLAF Regulation). The report, which is requested by Art. 17 OLAF Regulation must **cover the actions taken by Ireland's authorities** in response to OLAF's findings and recommendations, along with an assessment of how well the Irish authorities cooperated with OLAF's investigation.

2 OLAF's Director-General must implement an internal advisory and control procedure to ensure that investigations follow legal standards. This includes typically a **legality check to verify compliance with fundamental rights** (such as the right to a fair trial, the right to privacy, etc.), procedural guarantees, and national law of the Member States, including Ireland. It must be carried out by OLAF staff with the help of mini-country profiles and other information from experts in law and investigative procedures, ensuring that OLAF's actions do not violate national laws or international standards.

3 In the end it should review how well Ireland's national legal system aligns with the OLAF investigation. For example, checking whether Irish procedural law must be followed during investigations, including searches, seizures, and interviews, and ensuring that individuals' rights are not violated.

4 OLAF must also ensure that during investigations in Ireland, the fundamental rights of individuals are respected, including: right to a fair trial, the right to privacy and confidentiality and protection against unlawful actions.

The right to a fair trial is e.g. enshrined in Article 38 of the Irish Constitution ("*Bunreacht na hÉireann*"), which guarantees the right to a trial in due course of law and is recognized by court law.[377] Article 40.5 of the Irish Constitution provides protection against unreasonable searches and seizures, thus safeguarding the right to privacy.[378]

a) National Law Applicable to Judicial Proceedings

5 In Ireland, judicial proceedings related to tax, customs, and fraud or irregularities cases are firstly governed by the **Taxes Consolidation Act 1997 and its regulations**, which enumerates the laws relating to taxation in Ireland, providing the legal framework for tax assessments, appeals, and penalties and secondly the **Customs Act 2015** governing the statutory law for customs regulations, duties, and enforcement of customs law in

[377] See Supreme Court, *DUNNE v. DPP,* [2002] IESC 27 [S.C. No. 142, 25 April 2002; Supreme Court *Mallak v Min for Justice,* [S.C. No. 339 of 2011] 06 December 2012; Supreme Court, *Dellway Investment Ltd and Others v National Asset Management Agency (NAMA) and Others*, Neutral Citation [2011] IESC 14,[2011] IESC 4,396/10,[2010 Nos. 909 JR & 222 COM and S.C. No. 396 of 2010], 12 April 2011; Supreme Court, *Damache v DPP & Others* Neutral Citation[2012] IESC 11,[S.C. No. 253 of 2011], 23 February 2012;

[378] See e.g. High Court, *Kennedy v. Ireland* , 01 January 1988,[1984 No. 5011P], for the administrative area [2017] IESC 34[S.C. No. 65 of 2016],[Appeal No. AP:IE:2006:00065] Supreme Court, CRH Plc, Irish Cement Ltd v Competition and Consumer Protection Commission, 29 May 2017; High Court, *Byrne v National Asset Management Agency*, [2018] IEHC 526, [2016 No. 11419 P], 23 March 2018.

Ireland, including provisions related to fraud or irregularities. Thirdly, we can name the **Criminal Justice (Theft and Fraud Offences) Act 2001**. It addresses criminal offenses related to fraud and includes provisions for investigation, prosecution, and penalties for fraud, including tax fraud, which are referred to national authorities via Art. 11 OLAF Regulation in a final report.

Last but not least the European Union (Anti-Fraud) Regulations might be researched for any rules on relevant aspects to judicial proceedings such as the fundamental rights of a potential suspect or administrative offender. **6**

An example is the **Customs Act 2015**, which provides for an explicit appeal procedure, which is a procedural tool for a person under investigation: **7**

PART 7
Customs Appeals
44. Definitions
45. Appeal to Commissioners
46. Determination of appeal
47. Appeal Commissioners
48. Effect of lodgement of appeal on decision to which appeal relates
49. Service of notices and determinations

b) Internal Advisory and Control Procedure: Legality Check Involving National Law

If Article 17 of the OLAF Regulation provides for legality checks, the seconded national experts or legal experts in an OLAF Unit should **ensure compliance with the EU and national laws of the Member State** concerned for all investigative measures taken. The Supervisory Committee once recalled the fact that OLAF has established **mini-country-files** for this purpose. This alone is a sign of the problem. OLAF needs good access to national law as does the EPPO and its staff because both Regulation **rely heavily on national procedural requirements**. In this case, for Ireland, such a measure will be required to make OLAF conduct its actions in conformity with Irish statutory provisions, case law, and procedural safeguards. **8**

Thus, Art. 17 of the OLAF Regulation requires that investigations comply with the legal systems adopted in Ireland, particularly when it comes to evidence handling and procedural safeguards. It should also be noted here that the **Charter of Fundamental Rights**, especially **Articles 47 and 48**, guarantees fairness in trial and rights of defence – which apply as well in administrative proceedings. These safeguards at the EU level must therefore match with similar standards at the Irish level stipulated under national law. **9**

10 In fact, the major relevant legislation within the Irish legal framework that would apply to such matters include **Criminal Justice Corruption Offences Act 2018**, defining corruption offences and describing their procedural safeguards for prosecution, and the **Criminal Justice Theft and Fraud Offences Act 2001**, which deals with all kinds of fraud but specifically mentions offenses detrimental to the financial interest of the EU. In addition to these, Irish case law also has much to offer. Just as examples, landmark judgments like *People (DPP) v. Gilligan* and *People (DPP) v. JC* shed light on procedural rights on admissibility of evidence and right to silence. These statutes and precedents are thus grounding for assuring legality as far as investigative measures go in Ireland.

11 The **first step of legality check** is to ascertain if the alleged acts fall under offense categories under Irish law, such as under the 2001 Act or corruption under the 2018 Act. Once identified, the measures must be reviewed for compatibility with Irish procedural requirements. Investigative actions, such as interviews or document seizures, must comply with specific procedural rules, and measures requiring judicial oversight, such as accessing private communications or issuing search warrants, must adhere to the standards set out in the Criminal Justice (Surveillance) Act 2009.

12 By taking a look at **Irish case law** it becomes clear, why it is obvious to understand any limitations on investigative measures. For example, in *People (DPP) v. JC* the exclusion of evidence obtained without proper safeguards is emphasized.[379] The importance of procedural compliance throughout the investigation cannot be underestimated.

13 To ensure this compliance, the investigator must **document the legality check systematically**. This includes defining the scope of the check by summarizing the alleged irregularities and identifying the relevant Irish laws and EU legal bases. Procedural compliance must then be evaluated, detailing how the measures align with Irish safeguards.

379 See https://www.ijsj.ie/assets/uploads/documents/pdfs/2017-Edition-01/DPP%20v%20JC%20O%27Conell.pdf referencing *The People (D.P.P.) v Kenny* [1990] 2 I.R. 110, p. 134: "E]vidence obtained by invasion of the constitutional personal rights of a citizen must be excluded unless a court is satisfied that either the act constituting the breach of constitutional rights was committed unintentionally or accidentally, or is satisfied that there are extraordinary excusing circumstances which justify the admission of the evidence in its (the court's) discretion." But be aware that principle from *The People (D.P.P.) v Kenny* does not directly apply to administrative investigations; it applies to criminal proceedings. However, the underlying constitutional principles of protecting against unlawful searches and seizures are relevant to both contexts, and the exclusionary rule is not applicable in the same way for administrative matters as it is for criminal case. See Hamilton 2020. *A revolution in principle: assessing the impact of the new evidentiary exclusionary rule*. Maynooth: Maynooth University. And see O'Mahony 2015. For administrative law and fair proceedings see Kenny 2011. The *Dellway Investments v NAMA* case established a constitutional duty to act fairly in Irish administrative law by mandating that affected individuals have a right to be heard in advance of a decision that could have adverse effects on their rights. The ruling grounded the right to fair procedures in the Irish Constitution's guarantee under Article 40.3.1, which requires the state to protect citizens' property rights from unjust attack.

If questions arise, consultation with Irish legal experts or liaison officers may be necessary. The findings should be recorded in a clear report summarizing compliance with Irish law, potential risks, and recommendations for adjustments if needed.

In conducting such investigations, **practical considerations** are e.g. early coordination with Irish national authorities helps ensure a shared understanding of legal requirements. Investigators should also adhere to Irish rules on confidentiality and data protection, particularly under the Data Protection Act 2018 as the proper handling of evidence, including maintaining a clear chain of custody, is critical to ensure compliance with Irish admissibility standards and to prevent exclusion in court proceedings. **14**

The legality check must result in a **detailed report**, which is put in the annex to the final report (see above → Art. 11). This report should summarize how OLAF's planned investigative measures comply with Irish law, highlight any potential risks or recommendations, and reference the specific Irish statutory provisions and case law consulted. **15**

The file related to the legality check would due to our research of such reports typically include: First, a **record of investigative actions** taken, such as searches, seizures, interviews, or data requests and any national authorities' requests and their responses, ensuring the steps taken are in accordance with national procedural rules. **16**

It may include **legal opinion of OLAF staff or external experts** on whether the investigation respects both EU law and Irish law. Any legal assessments of whether Irish procedural rules have been followed during cooperation with OLAF. **17**

Next, it will include **documentation verifying that the fundamental rights** of the persons under investigation have been safeguarded during the investigative process (e.g., written consent, right to counsel, and protection against self-incrimination). **18**

It should according to **research on the matter outline** (*medias in res*) how the investigation complies with Irish national law, including references to relevant statutes or case law. If necessary, recommendations on how to correct or adjust investigative practices to ensure compliance with national law or fundamental rights in the future. **19**

The legality check report is **attached as an annex to the final investigation report** (see above → Art. 11 OLAF Regulation). This ensures that the legality of the investigation is formally reviewed and recorded, and any issues are noted for rectification before finalizing OLAF's report to EU institutions. **20**

[Article 18–21 omitted]

G. Annex I PIF Offences Overview

PIF / A&L wording	What prosecutor already charges	Existing Irish section till 2021	Statute 2021	New / amended section
Fraud against EU financial interests	Deception	s 6 Criminal Justice (Theft and Fraud Offences) Act 2001	Replaces old EU fraud offence with PIF definition from Art 3(2)	**New s 42**
False EU documents	False accounting	s 9 2001 Act	Now falls inside the new s 42 PIF offence	**New s 42**
Withholding EU information	Suppression of documents	s 10 2001 Act	Now explicitly part of EU fraud definition	**New s 42**
Procurement fraud (EU funds)	Deception / false accounting	s 6, s 9	Expressly included as EU fraud (Art 3(2)(b))	**New s 42**
Misappropriation of EU funds by public official	Theft (Irish theft = *Veruntreuung*)	s 4 2001 Act	Creates a labelled PIF offence of misappropriation (Art 4(3))	**New s 42A**
Serious cross-border VAT fraud (+ €10m)	Revenue / VAT fraud	s 1078 TCA 1997; s 108C VAT Act 2010	Pulled into PIF fraud definition for EU own resources	**New s 42**
Attempt	Attempt	s 4 Criminal Attempts Act 1981	Covered via amendment to extraterritorial rule	**Amended s 45**
Aiding / inciting	Common law	–	Expressly mentioned in new extraterritorial rule	**Amended s 45**

PIF / A&L wording	What prosecutor already charges	Existing Irish section till 2021	Statute 2021	New / amended section
Company failed to prevent EU fraud	Previously impossible unless "controlling mind"	Common law (*Tesco v Nattrass*[380])	Introduces failure-to-prevent model	**New s 42B**
Corporate attribution for other fraud offences	Consent / connivance / neglect	s 58 2001 Act	Limited so it does not apply to PIF offences	**Amended s 58**
Confiscation of proceeds of PIF offences	Extended confiscation	s 8F Criminal Justice Act 1994	Adds s 42 and s 42A to confiscation list	**Amendment to 1994 Act**
Definitions of EU fraud & misappropriation	Old 1995 Convention wording	s 40 2001 Act	Rewrites definitions to mirror PIF Directive	**Amended s 40**

Source: Irish Statutes, Own Compilation.

[380] *Tesco Supermarkets Ltd v Nattrass* [1972] AC 153 (HL). The House of Lords held that a company's criminal liability could only arise through the acts and intent of its "directing mind and will" (senior management), a doctrine criticised largely as allowing large corporations to evade liability for fraud by delegating wrongdoing to junior employees and which the 2020 Irish Bill's new "failure to prevent" model was designed to overcome , the previous "controlling mind" principle for offences affecting the EU's financial interests.

H. Annex II Overview of EPPO Cases Since 2021 Comparison of the frequency of EPPO measures

1 Our analysis adopts a short **empirical-doctrinal approach** by examining publicly available **EPPO news releases** as an indicator of investigative practice in cases affecting the Union's financial interests.[381]

2 The analysis deliberately stopped at 15 February 2023 due to project reasons achieved. This cut-off ensures methodological consistency by capturing a closed and manageable dataset corresponding to the **initial period of EPPO practice**, thereby allowing **reliable frequency observations** without distortion from later reporting fluctuations, changes in communication strategy, or evolving institutional practice. Extending the review to subsequent years (e.g. up to 2026) would have introduced temporal bias and reduce comparability, as the EPPO's caseload, priorities, and publication practices continue to develop. The chosen timeframe therefore served as a stable baseline for identifying **structural patterns** rather than producing an exhaustive longitudinal account.

3 *Table 14 EPPO Investigations Phase 2 from 9 December 2022 to 15 February 2023*

Date of news	Measure(s)	Type of (alleged) crime	Member State(s) concerned	Estimated damage / averted damage	Handling EDP / Member State (assisting)	Indictment / verdict / agreement
15 Feb 2023	House searches; questioning of suspects	Criminal organisation involved in fraud affecting EU and national employment funds	RO	€1.67 million (85% EU budget)	Handling: RO	–
13 Feb 2023	Seizure of over €50,000	Fraud involving EU	IT	–	Handling: IT	–

[381] We would like to express our gratitude to our co-editor, *Nur Sena Karakoçaoğlu*, for preparing the overview and identifying the most frequent EPPO investigative measures during the period under consideration, the findings of which also possess broader analytical significance.

Date of news	Measure(s)	Type of (alleged) crime	Member State(s) concerned	Estimated damage / averted damage	Handling EDP / Member State (assisting)	Indictment / verdict / agreement
		agricultural funds				
10 Feb 2023 ("Water Diviner")	Preventive seizure of money/assets/vehicles/shareholdings worth €1.6 million; seizure of machine prototypes	Fraud involving "futuristic" water purification machines; tender rule violations; false statements to obtain EU funds	IT	€1.6 million	Handling: IT (reported by OLAF)	–
1 Feb 2023	Arrests; seizure of cigarettes	Forming a criminal organisation to smuggle tobacco	IT, FR	–	Handling: IT (cooperation: Guardia di Finanza Genoa; French National Fugitive Search Brigade (BNRF))	–
31 Jan 2023	Analysis of fictitious transaction chains; correspondence with EU and	Procurement fraud; fraudulent bookkeeping; forgery of documents	LT	€580,000	Handling: LT	Indictment against 6 defendants (confessions)

Date of news	Measure(s)	Type of (alleged) crime	Member State(s) concerned	Estimated damage / averted damage	Handling EDP / Member State (assisting)	Indictment / verdict / agreement
	non-EU companies					
31 Jan 2023	Preventive seizure order (over €7 million)	Fraud concerning agricultural funds and VAT payments	IT	€7 million	Handling: IT	–
27 Jan 2023	Simplified procedure	Agricultural subsidy fraud; forgery of documents	ES	–	Handling: ES	2 convictions (simplified procedure): 6 months' imprisonment each + fine
27 Jan 2023	Preventive seizure order (over €160,000), partly bank account, remainder via property seizure	Fraud involving EU agricultural funds	IT	€163,031	Handling: IT	–
26 Jan 2023	Detention of 18 suspects (3 arrests; 8 house arrest; 3 compulsory residence);	VAT fraud involving office supplies by criminal organisation; suspected	IT, CZ, AT, SK, NL, DE (+ UK)	€58 million	Handling: IT (Guardia di Finanza)	–

Date of news	Measure(s)	Type of (alleged) crime	Member State(s) concerned	Estimated damage / averted damage	Handling EDP / Member State (assisting)	Indictment / verdict / agreement
	asset seizures (incl. €26m + €58m preventive seizure); 30 searches; bans from executive roles	money laundering				
24 Jan 2023	61 searches; arrests of 5 persons (CZ, BG, SK)	Cross-border VAT fraud ("missing trader intra-Community" scheme)	AT, BG, CZ, EE, DE, HU, LT, NL, SI, SK	€32 million	Handling: DE (Munich)	–
24 Jan 2023	Searches; arrests of 4 persons; seizure of assets and real estate	Fraud involving ESF funding via rigged procurement specifications and inflated costs	LV	€600,000	Handling: LV (with Economic Crime Department, State Police Latvia)	–
23 Jan 2023	Seizure; indictment	Illegal cigarette trade; tax/customs eva-	HR	€80,000 EU budget; €3.3 million total	–	Indictment against 6 defendants

Date of news	Meas-ure(s)	Type of (alleged) crime	Member State(s) concerned	Estimated damage / averted damage	Handling EDP / Member State (as-sisting)	Indict-ment / ver-dict / agreement
		sion; brib-ery; crimi-nal organi-sation		(also: dam-ages pre-vented €9.6 million; ~€183,000 EU budget)		
18 Jan 2023	Freezing order (€800,000) on bank ac-counts and real estate	Fraud con-cerning housing	IT	€800,000	Handling: IT (with Guardia di Finanza)	–
11 Jan 2023	Freezing order (€10 million); searches; seizure	Interna-tional tax evasion mechanism (“tax inver-sion”)	IT, NL	€10 million frozen	Handling: IT (with Guardia di Finanza)	–
11 Jan 2023	Seizure of several lux-ury vehi-cles; indict-ment	Gang/pro-fessional smuggling; evasion of import du-ties; money laundering	DE	–	Handling: DE	Indictment in 32 cases before Os-nabrück Regional Court
10 Jan 2023	Indictment	Fraud con-cerning road mod-ernisation works us-ing false documents	RO	€101,000	–	Indictment of 1 com-pany + 3 individuals

Date of news	Measure(s)	Type of (alleged) crime	Member State(s) concerned	Estimated damage / averted damage	Handling EDP / Member State (assisting)	Indictment / verdict / agreement
		to obtain EU funds				
22 Dec 2022	Searches; review of accounting/financial flows; seizure of 2 luxury cars and €40,000 cash + luxury items	VAT and customs evasion by suspected organised criminal group	FR, BE	€817,434	Handling: FR (with French customs)	–
15 Dec 2022	Request to lift immunity of 2 MEPs (Eva Kaili; Maria Spyraki)	Fraud	–	–	European Chief Prosecutor (based on OLAF report)	–
14 Dec 2022	Seizure of 28 electric cars for confiscation	Smuggling	IT	Shipment taxable value > €900,000	Handling: IT (with Civitavecchia Customs Office)	–

The second part of the table concerns the early phase since 1.6.2021: 4

Table 15 EPPO Investigations Phase 1 from 16 July 2021 to 9 December 2022

Date of news	Measure(s)	Type of (alleged) crime	Member State(s) concerned	Estimated damage / averted damage	Handling EDP / Member State (assisting)	Indictment / verdict / agreement
9 Dec 2022 (update 4 Apr 2023)	Arrests (6); convictions; confiscation orders	Forming a criminal organisation; tax evasion	DE	–	Handling: DE	Convictions (06.03.2023): multiple prison sentences + confiscation (incl. >€10m); appeal pending in part
8 Dec 2022	Arrest (1); searches; seizure of data (emails/chats/paperwork)	VAT carousel fraud scheme (21 suspects)	DE, IT, MT, PT, RO, SE, UK	€80 million	Handling: DE	–
8 Dec 2022 (update 19 Dec 2022)	21 searches; arrests (3); seizure of 23 properties, 34 vehicles, 7 shareholdings + bank accts (€11.9m); indictments	VAT fraud scheme involving imported fuels; tax fraud; criminal association; money laundering	PT, ES	>€26 million	Handling: PT (cooperation: PT Tax Authority + customs anti-fraud + financial directorate + forensics + PSP)	Indictment: 5 individuals (tax fraud + ML); coercive measures for 3 suspects; one suspended from work

Date of news	Measure(s)	Type of (alleged) crime	Member State(s) concerned	Estimated damage / averted damage	Handling EDP / Member State (assisting)	Indictment / verdict / agreement
	(5 persons + 16 companies)					as certified accountant
7 Dec 2022	Searches (15 premises); seizure of property (>€1m); indictment	Subsidy fraud; unlawful advantage in public procurement	CZ	≥€448,000 (CZK 11m)	Handling: CZ (cooperation: Czech police, Olomouc region)	Indictment: 7 suspects + 2 engineering companies
6 Dec 2022	Delivery of notification of suspicion	Abuse of office; fraud	LT	€1.7 million	Handling: LT (investigation by STT)	–
5 Dec 2022	Searches authorised by judge; (French National Assembly premises + others)	Misappropriation of public funds (incl. aiding/concealment) involving MEP + assistant	FR	–	Handling: FR (EPPO Paris)	–
29 Nov 2022 (update 13 Dec 2022) “Operation Admiral”	312 searches; 24 arrests; wide seizures (bank accts, shares, real estate, luxury cars,	Complex VAT carousel fraud by organised crime groups (electronics)	EPPO Member States (multi-jurisdiction) + additional states/third countries	Estimated €2.2 billion	Handling: PT; Assisting: CZ, HU, IT, NL, SK, SE (with Europol + many national authorities)	–

Date of news	Meas-ure(s)	Type of (alleged) crime	Member State(s) concerned	Estimated damage / averted damage	Handling EDP / Member State (as-sisting)	Indict-ment / ver-dict / agreement
	cash, valu-ables; digi-tal evi-dence)					
25 Nov 2022	Seizure of assets (>€24m) against compa-nies/entre-pre-neurs/sus-pects; sei-zure of >125,000 litres fuels	Tax eva-sion on im-ported fuels; VAT evasion (two crimi-nal groups)	IT	–	Handling: IT (Guardia di Finanza + ex-cise/cus-toms/mo-nopolies)	–
25 Nov 2022	Judicial seizure de-cree to freeze bank accounts	Fraud in-volving EU (ERDF) + regional funds	IT	€72,900	Handling: IT (with Guardia di Finanza, Giuli-anova)	–
23 Nov 2022	Searches (5 houses, 1 office); in-terviews (5 suspects); seizures (IT equipment, phones, goods; ille-gal firearm)	VAT fraud (perfumes + electron-ics sales)	NL, BE, EE, PL, DE, UK, FI, LT, BG	–	Handling: NL (with FIOD)	–

Date of news	Meas-ure(s)	Type of (alleged) crime	Member State(s) concerned	Estimated damage / averted damage	Handling EDP / Member State (as-sisting)	Indict-ment / ver-dict / agreement
10 Nov 2022	Judicial seizure to freeze bank accounts	Aggravated fraud in-volving EU funds	IT	€230,000	Handling: IT (with Guardia di Finanza)	–
18 Oct 2022	Temporary measure to secure asset recovery	Fraud to unlawfully obtain agri-cultural funds	HR	€487,000	–	–
14 Oct 2022	–	Fraud in-volving ac-quisition of COVID-19 vaccines	–	–	–	–
12 Oct 2022	Preventive seizure de-cree (€520k); freezing payment (€200k)	Aggravated fraud in-volving na-tional + EU reconstruc-tion funds	IT	€700,000	Handling: IT (with Modena Prosecution Office + Guardia di Finanza)	–
10 Oct 2022	Indictment (2 persons)	Fraudu-lently ob-taining >€3m EU funds; sus-pected money laundering	RO	>€3 million	–	One ac-cused plea-bargained; judgment awaited
7 Oct 2022	Arrests (5); 24 searches; seizure of	Suspected credit fraud; doc-	LT	€343,000	– (with LT Financial	–

Date of news	Meas-ure(s)	Type of (alleged) crime	Member State(s) concerned	Estimated damage / averted damage	Handling EDP / Member State (as-sisting)	Indict-ment / ver-dict / agreement
	account-ing/e-com-munica-tions	ument for-gery to ob-tain EU funds			Crime In-vestigation Service)	
6 Oct 2022	Indictment	Fraud/at-tempted fraud; for-gery; pos-session of forged doc—EU agricultural funds	LT	“thousands of euro”	–	–
5 Oct 2022	–	Forgery + attempted fraud by police of-ficer (fake receipts)	EL	€12,000	–	–
4 Oct 2022	Recovery of unlaw-fully ob-tained EU funds; con-victions (plea bar-gains)	Organised fraudulent tendering (ERDF); fake docu-ments to rig contract	LV	€780,000	–	Conviction of 4 per-sons (Riga District Court, 26.09.2022); sus-pended sentences + fines; com-pany fined
27 Sep 2022	Preventive seizure (€200k)	Aggravated fraud to	IT	€200,000	Handling: IT (with Guardia di	–

Date of news	Measure(s)	Type of (alleged) crime	Member State(s) concerned	Estimated damage / averted damage	Handling EDP / Member State (assisting)	Indictment / verdict / agreement
		promote regional products			Finanza, Asti)	
21–22 Sep 2022	Arrests (2); urgent evidence collection; questioning; proposal of pre-trial detention	Unlawful favouritism / incitement re EU-funded procurement call (HAMAG-BICRO)	HR	€113,000	Handling: HR (with Zagreb Police Department)	–
20 Sep 2022	House arrest; seizure (€15k)	Falsification to obtain EU agricultural funds (grassland maintenance)	IT	–	Handling: IT (GdF Aosta + Forestry Corps)	–
16 Sep 2022	Seizure (>€2m)	Fraudulent obtainment of EU funds (promotion of agricultural products); direct loan >€5m (part paid)	IT	€2 million	Handling: IT (GdF Milan)	–
9 Aug 2022 (linked to	Preventive seizure	Aggravated fraud re medical	IT	~€1.1 million	Handling: IT (GdF)	–

Date of news	Meas-ure(s)	Type of (alleged) crime	Member State(s) concerned	Estimated damage / averted damage	Handling EDP / Member State (as-sisting)	Indict-ment / ver-dict / agreement
17 Sep 2021 case)	(>€1.144m)	supplies (FFP2/FFP3 masks; lack of cer-tification)				
27 Jul 2022	Seizure (>€160k)	Aggravated agricultural fraud (2013–2021) via false own-ership/pos-session declara-tions	IT	€160,000	Handling: IT (Carabi-nieri Agri-food Pro-tection Messina)	–
20 Jul 2022	House ar-rests (3); searches	Fraud in EU Cohe-sion Fund social-housing renovation; unlawful inducement by officials	IT	–	Handling: IT (Carabi-nieri Pa-lermo; EPPO in-vestigative section)	–
14–15 Jul 2022	Arrests (3); urgent evi-dence col-lection; question-ing; pro-posal of pre-trial de-tention	Bribery (multi-mil-lion infra-structure project co-funded by EU Cohe-sion Fund)	HR	Project value €23.7 million	Handling: HR (with Croatia anti-cor-ruption po-lice office)	–

Date of news	Meas-ure(s)	Type of (alleged) crime	Member State(s) concerned	Estimated damage / averted damage	Handling EDP / Member State (as-sisting)	Indict-ment / ver-dict / agreement
8 Jul 2022	Preventive seizure (€2m)	Fraud con-cerning EU agricultural funds (EAFRD): in-voice/pay-ment car-ousel among companies	IT	€2 million	–	–
7–8 Jul 2022	Arrests (2); urgent evi-dence col-lection; proposal of pre-trial de-tention	Subsidy fraud; abuse of office/au-thority in wine-sector tenders	HR	Subsidy granted €396,500 (attempted more)	–	–
18 Jul 2022 (see out-come)	–	Attempted fraud against EU budget (false state-ments/doc-uments)	SI	€31,300	–	Verdict (04.07.2022): sus-pended sentences; company fine €10,000 (probation-ary)
30 Jun 2022 (see outcome)	–	Attempted fraud relat-ing to wine subsidies	BG	~€400,000	–	Conviction by agree-ment: 1 year im-prisonment

Date of news	Measure(s)	Type of (alleged) crime	Member State(s) concerned	Estimated damage / averted damage	Handling EDP / Member State (assisting)	Indictment / verdict / agreement
						(suspended 3 years) + fine (BGN 2,000)
30 Jun 2022	18 searches; 8 arrests; seizure of farms/cars/docs/IT; large evidence collection	Fraud relating to EU agricultural funds by organised group	BG	~€300,000	Handling: BG (with anti-organised crime directorate + food safety agency + agricultural fund)	–
29 Jun 2022	Seizure of goods (model trains); freezing assets (€2m); custody	Subsidy fraud + attempted fraud; complex falsified project documentation	CZ, AT, DE	€5.5 million	Handling: CZ (assisting: DE, AT)	Indictment filed 28.06.2022 (3 persons + 3 legal entities)
28–29 Jun 2022 (update 23 Dec 2022)	160 searches; seizures; questioning; asset seizures ongoing	Fraud concerning EU + Romanian funds >€5m; money laundering	RO, AT	€5 million	Handling: RO (assisting: AT + RO specialised units)	Indictment/accusation 29.06.2022 (12 persons); case later referred to court; indictment of 23 people

Date of news	Meas-ure(s)	Type of (alleged) crime	Member State(s) concerned	Estimated damage / averted damage	Handling EDP / Member State (assisting)	Indictment / verdict / agreement
						(19.12.2022)
28 Jun 2022	Judicial warrant: house arrest (12); reporting obligations (10); preventive seizure (€2.5m)	Corruption + fraud regarding agricultural funds; abuse of office; forgery; etc.	IT	€2.5 million	Handling: IT (with Guardia di Finanza)	Indictment (multiple offences including conspiracy/corruption/forgery)
20 Jun 2022 (see outcome)	–	Fraud in procurement; subsidy (EAFRD)	LV	€104,030	Handling: LV	Verdict: convictions (simplified procedure/plea); repayment; fines
14 Jun 2022	50 searches; 15 arrests	Illicit enrichment in EU-funded procurement	LT	€250,000	Handling: LT	–
8 Jun 2022	Searches at homes/workplaces	Lack of transparency in EU-funded procurement (street lighting); abuse of	LT	–	Handling: LT (with STT units)	–

Date of news	Meas-ure(s)	Type of (alleged) crime	Member State(s) concerned	Estimated damage / averted damage	Handling EDP / Member State (as-sisting)	Indict-ment / ver-dict / agreement
		office; in-citement				
30 May 2022	– (charges brought)	Fraud re ERDF (~€375k); unlawful VAT re-fund (>€137k); tax evasion (>€29.5k)	SK	–	Handling: SK	Indictment before Spe-cialised Criminal Court
26 May 2022 (up-date 23 Dec 2022)	Searches (15 loca-tions)	Fraud con-cerning EU funds >€3m	RO	~€3 million	Handling: RO	Indictment against 5 people + 4 companies
12 May 2022	Searches (55 prem-ises); sei-zures (cars, real estate, watches, accounts, data/docs)	Missing trader VAT fraud (VAT carousel)	DE	>€40 mil-lion	Handling: DE	–
6 May 2022 (up-date 11 Jul 2022)	Investiga-tions; in-dictment; later agree-ment ver-dict	Subsidy fraud (non-refundable subsidy ob-tained by false state-ments)	HR	~€843,000 (85% EU funds)	–	Verdict by agreement (11.07.202 2): convic-tion; 10 months (converted to commu-

Date of news	Meas-ure(s)	Type of (alleged) crime	Member State(s) concerned	Estimated damage / averted damage	Handling EDP / Member State (as-sisting)	Indict-ment / ver-dict / agreement
						nity ser-vice); con-fession
29 Apr 2022	Seizure (€470k)	Evasion of anti-dump-ing duty + customs duties + import VAT (false origin dec-laration)	IT	€470,000	Handling: IT	–
28 Apr 2022	10 searches	Fraud con-cerning EU funds; cross-bor-der dimen-sion	RO, PT, ES, CY	>€3 million	Handling: RO (assist-ing: PT, ES, CY)	–
21 Apr 2022	Seizure (>€2m)	Evading anti-dump-ing + cus-toms duties by import-ing e-bikes as parts (OLAF re-port trig-ger)	IT	>€2 million	–	–
25 Mar 2022	25 searches; seizure of docs/hard-ware/equip	Organised fraud (false docu-ments/state ments) to	BG	–	Handling: BG	–

Date of news	Measure(s)	Type of (alleged) crime	Member State(s) concerned	Estimated damage / averted damage	Handling EDP / Member State (assisting)	Indictment / verdict / agreement
	ment; questioning (10 suspects)	obtain EU funds (BG companies)				
17 Mar 2022	Arrest (former PM); custody (24h)	Fraud relating to EU aid	BG	–	–	–
16 Mar 2022	Searches	Abuse of office; fraud; falsification in organised group to obtain EU funds	LT	€200,000	Handling: LT	–
16 Mar 2022	Seizure of 10 luxury cars + 45 motorcycles (€750k)	Aggravated smuggling (introducing seized objects into Italy without border fees)	IT	Customs/VAT evasion >€250,000	Handling: IT (with Guardia di Finanza Savona)	–
15 Mar 2022	Searches (homes; lawyers' offices; accounting firms; brokers)	Aggravated smuggling + money laundering (textiles/shoes China via Portugal)	PT	€600,000	Handling: PT	–

Date of news	Meas-ure(s)	Type of (alleged) crime	Member State(s) concerned	Estimated damage / averted damage	Handling EDP / Member State (assisting)	Indict-ment / verdict / agreement
10 Mar 2022	Seizures	Non-procurement fraud of EU agricultural funds (false statements/declarations)	IT	€200,000	Handling: IT (Carabinieri Agri-Food Protection Messina)	–
2 Mar 2022	Seizure (€350k cash)	Evasion of customs duties + VAT (non-compliant masks from China; "direct release")	IT	–	Handling: IT (with Rome Customs Office/ADM)	–
17 Feb 2022	Searches; seizures; detention (24h)	False information to obtain ESF funds + COVID enterprise support	BG	Under evaluation	Handling: BG	–
7 Feb 2022	Seizure (€130k)	Aggravated smuggling: evasion of anti-dumping + countervailing duties	IT	€200,000 (incl. €70k recovered administratively)	Handling: IT (with ADM)	–

Date of news	Measure(s)	Type of (alleged) crime	Member State(s) concerned	Estimated damage / averted damage	Handling EDP / Member State (assisting)	Indictment / verdict / agreement
4 Feb 2022	26 searches; seizures (luxury cars, cash, gold); securing e-evidence; arrests (2)	Commercial/organised tax evasion (luxury car import scheme)	DE, EE, LV	€5 million	Handling: DE (assisting: EE, LV)	–
3 Feb 2022	Searches; seizures; freezing assets (≈€13m)	Evasion of anti-dumping + import VAT duties (e-bikes declared as parts; shell companies)	IT	~€13 million	Handling: IT (with ADM + Guardia di Finanza Naples)	–
19 Jan 2022 (verdict 22 Dec 2022)	Seizure (≈30 tonnes tobacco)	Evasion of excise duty, VAT, customs fees (false declaration as raw)	IT	~€5 million	–	Verdict: conviction of 10 suspects; confiscations (boat, vehicles, cash etc.)
11 Jan 2022	Searches (homes + company premises)	Tax + customs fraud via undervaluation/transit regime;	SK, CZ	~€48 million	Handling: SK (assisting: CZ)	–

Date of news	Measure(s)	Type of (alleged) crime	Member State(s) concerned	Estimated damage / averted damage	Handling EDP / Member State (assisting)	Indictment / verdict / agreement
		VAT evasion				
30 Nov 2021	Searches; seizure (€16,400)	Passive corruption + money laundering (EU-funded museum procurement)	CZ	–	–	–
30 Nov 2021	Seizure (boat, vehicles, cash); arrests (12)	Smuggling tobacco products (counterfeit cigarettes scheme)	IT	>€6 million	Handling: IT (with Guardia di Finanza Palermo)	–
29 Nov 2021	10 searches; witness hearings; securing data/docs	Aggravated customs fraud	DE, AT, SK	>€1.1 million	Handling: DE	–
23 Nov 2021 (see outcome)	–	Attempted offence: falsified documents to obtain ESF co-financing	SK	>€93,000	–	Verdict: conditional imprisonment (3 years) + disqualification (5 years)
19 Nov 2021	Preventive seizure (10 properties	Misuse of EU funds	IT	€215,000	Handling: IT (Guardia di Finanza)	–

Date of news	Measure(s)	Type of (alleged) crime	Member State(s) concerned	Estimated damage / averted damage	Handling EDP / Member State (assisting)	Indictment / verdict / agreement
	+ bank holdings)	(Rural Development Programme 2007–2013)				
11 Nov 2021	Arrests (4)	Trading in influence; abuse of office/authority	HR	€1.8 million	Handling: HR	–
10 Nov 2021 (indictment 29 Dec 2022)	Arrests (4); questioning	Offences in ministry/contracting agency relating to procurement for IT system	HR	–	Handling: HR	Indictment against 4 persons + 2 entities
4 Nov 2021	Searches; seizure; arrests (6); freezing bank accounts	Criminal organisation controlling VAT carousel; money laundering links	DE, CZ, RO, SK	€23 million (tax loss in Germany)	Handling: DE	Verdict: 3 suspects convicted (Apr/May 2022) + confiscation orders (€20m total)
4 Nov 2021	Seizure	Misuse of EU funds	IT	Assets worth €900,000	Handling: IT (Guardia di Finanza)	–

Date of news	Meas-ure(s)	Type of (alleged) crime	Member State(s) concerned	Estimated damage / averted damage	Handling EDP / Member State (as-sisting)	Indict-ment / ver-dict / agreement
20 Oct 2021 (EPPO first registered case; up-dates 22 Dec 2022 & 14 Feb 2023)	Seizures; arrests (10)	VAT car-ousel fraud; criminal or-ganisation with mafia links	DE, IT, BG	€13 million	Handling: DE (assist-ing: IT)	Convic-tions incl. 9 years (In-golstadt DC) + con-fiscation; later fur-ther con-victions + confisca-tion (~€1m)
1 Oct 2021	Searches (6 premises); seizure of FFP2 masks; wit-ness state-ments	Customs fraud (im-port of FFP2 masks from China)	DE, AT	–	Handling: DE (assist-ing: AT)	–
17 Sep 2021	Seizure of 3.5m masks; sei-zure of as-sets (~€11m)	Smuggling PPE; ac-complice to aggravated fraud against healthcare facilities	IT	~€11 mil-lion	Handling: IT (GdF Ravenna)	–
8 Sep 2021	Preventive seizure (>€200k)	Evasion of border du-ties + VAT by false origin dec-laration	IT	>€200,000	Handling: IT (GdF Genoa)	–

Date of news	Meas-ure(s)	Type of (alleged) crime	Member State(s) concerned	Estimated damage / averted damage	Handling EDP / Member State (as-sisting)	Indict-ment / ver-dict / agreement
4 Aug 2021	Searches of premises	Cross-bor-der VAT fraud	DE, NL, SK, BG, HU	>€14 mil-lion	–	–
16 Jul 2021 (updates 25 May 2022; 26 Sep 2022; 9 Nov 2022)	Request to lift immun-ity (mayor); indictment (10 per-sons); later plea bar-gains/con-victions	Active/pas-sive cor-ruption; abuse of functions in EU-funded construc-tion pro-curement	HR	€53,000 to EU Cohe-sion Fund; €32,500 to town	Handling: HR	Convic-tions by plea bar-gains for 5 accused (commu-nity ser-vice/fines; suspended sentence)

Source: EPPO News Website (01.06.2021-15.02.2023)[382]

Comparison of the frequency of measures taken by the EPPO and cooperating authorities (as far as they are mentioned in the news published by the EPPO itself): **5**

- Seizures in **58** cases (including 11 preventive seizures orders)
- Multiple searches in **33** cases (including private homes)
- Arrests in **24** cases (including house arrests)
- Freezing of assets in **7** cases
- (Proposal for) pre-trial detention in **6** cases
- Questioning of suspects in **6** cases
- Lifting of immunity in **2** cases
- Securing of electronic evidence in **2** cases
- Witness hearing in **2** cases

[382] The EPPO does report selected cases not everyone.

6 *Nota bene:* As far as the news published by the EPPO (until February 2023) mentions, seizures (in 58 of 91 cases) and searches (in 33 of 91 cases) are the **main investigative methods** made use of. Although one might believe that economic crime does not warrant as many arrests or pre-trial detentions as may be the case with crime against life and limb, the presented information show that suspects are arrested in 24 of 91 EPPO cases, making those three measures the most frequent investigative measures for EPPO cases until February 15, 2023.

7 As an **outlook** it can be said the following by using a citation:

8 "In 2022, the European Commission's Directorate-General for Justice and Consumers (DG JUST) commissioned an external study to assess the EPPO Regulation's implementation in the participating Member States, as well as a few aspects related to the EPPO's effectiveness and efficiency. The study, which was finalised in October 2023, will contribute to the evaluation as provided for in Article 119 of the Regulation."[383]

9 **Until 1 June 2026**, the Commission was required to prepare an evaluation of the EPPO Regulation's implementation, impact, effectiveness, efficiency and working practices. For that purpose, DG JUST collects evidence through stakeholder consultation, EPPO and Member State data, annual reports, and an **external compliance assessment** of national adaptation measures (Spark Legal Firm, external contractor). This is necessary because, although Regulation 2017/1939 is directly applicable, Member States had to **adjust criminal-procedure**, prosecution, judicial-review and cooperation rules so the EPPO can operate effectively. The **Article 119** report must be sent to the European Parliament, Council and national parliaments, and may inform possible revision of the EPPO framework and it must be made public.

[383] See https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=PI_COM:Ares(2024)6817689. The assessment is carried out for the European Commission by an external study team, which already conducted the 2022 Assessement, see Patricia Ypma, Célia Drevon, Chloe Fulcher, Angelica Rasiewicz, Antonia Michailidi, together with a network of national legal experts, under the DG JUST framework contract.

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This **Irish EPPO/OLAF volume** focuses on the powers of the Irish authorities, including the Criminal Assets Bureau, An Garda Síochána, and prosecutors, in investigating EU fraud offences. It also discusses the possible consequences of Ireland's hypothetical accession to the EPPO. Moreover, it explores the role of OLAF and the powers of its national partners, such as the Irish Tax and Customs Office in investigative missions, citing tobacco smuggling and oil or fuel laundering as examples. Noelle Kenny and Claire O'Regan have acted as the publication's national experts.

This volume includes footnotes that reproduce the original Irish legislation. Easily navigable with the help of visual symbols, it is designed as a quick reference tool for academics, students, practitioners and other interested readers.

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