

# Module 05 – European Union Law MQF Level 5, 4 ECTS

## Lecture 6 – EU Labour Law & EU Criminal Law

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Diploma in Law (Malta)



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# What is EU Labour Law?

- Labour law defines your rights and obligations as workers and employers.
- EU labour law covers 2 main areas:
  1. working conditions - working hours, part-time & fixed-term work, posting of workers,
  2. informing & consulting workers about collective redundancies, transfers of companies, etc.
- EU Anti-Discrimination Law – Not only based on sex equality – but discrimination based on any ground.
- EU Equality Law – Equal Pay for women and men.
- Combating racist and xenophobic expression.



# EU Anti-Discrimination Law

- Originally found in Article 119EEC, dealing with equal pay between men and women, focused mostly on sex equality in the employment context.
- Article 19 TFEU – Introduced Anti-Discrimination on a number of grounds, other than sex. Two important legislations were adopted based on this article:
  1. The Race Directive – Prohibits discrimination on grounds of racial and ethnic origin in a range of contexts.
  2. The Framework Employment Directive – Prohibits discrimination in the field of employment on the grounds of religion, belief, disability, age and sexual orientation.
- The ECJ has also recognised a general principle of equal treatment in EU Law.



# Equal Treatment & Non-Discrimination

- Article 2 TEU – Identifies equality as one of the values on which the EU is founded, and makes specific mention of equality between women and men.
- Article 3 (3) TEU – includes combating of ‘social exclusion and discrimination’, as well as the promotion of ‘social justice and protection, equality between men and women, solidarity between generations and protection of the rights of the child’ among the Eus objectives.
- Articles 8 & 10 TFEU – the integration or mainstreaming of gender equality and of non-discrimination on the basis of sex, racial or ethnic origin, religion or belief, disability, age, or sexual orientation in all EU Policies.
- Everyone is equal before the law.



# Equal Pay for Women & Men

## Article 157

1. Each Member State shall ensure that the principle of equal pay for male and female workers for equal work or work of equal value is applied.

2. For the purpose of this Article, "pay" means the ordinary basic or minimum wage or salary and any other consideration, whether in cash or in kind, which the worker receives directly or indirectly, in respect of his employment, from his employer.

Equal pay without discrimination based on sex means:

(a) that pay for the same work at piece rates shall be calculated on the basis of the same unit of measurement;

(b) that pay for work at time rates shall be the same for the same job.

3. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, and after consulting the Economic and Social Committee, shall adopt measures to ensure the application of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation, including the principle of equal pay for equal work or work of equal value.

4. With a view to ensuring full equality in practice between men and women in working life, the principle of equal treatment shall not prevent any Member State from maintaining or adopting measures providing for specific advantages in order to make it easier for the underrepresented sex to pursue a vocational activity or to prevent or compensate for disadvantages in professional careers.

# Article 157: Social & Economical

- The ECJ declared in early case law that A.157 had a social and not just an economical aim.
- Social: Fairness to individual women and men
- Economical: Ensuring equal conditions for competing employers.
- *Defrenne v. Sabena Case*: Belgium argued that the aim of the provision was economical only, namely to avoid discrepancies in cost prices due to the employment of female labour less well paid for the same work than male labour. The Courts rejected this view.
- *Defrenne Case Facts*: Defrenne worked as a flight attendant for the airline Sabena. The airline paid her less than her male colleagues who did the same work. The ECJ held that Article 119 of the Treaty of the European Community was of such a character as to have horizontal direct effect, and therefore enforceable not merely between individuals and the government, but also between private parties. Article 157 TFEU (119 TEEC, 141 TEC) was invoked which stated "Each Member State shall ensure that the principle of equal pay for male and female workers for equal work or work of equal value is applied".

# Article 157: Social & Economical

- *Schroder*: The ECJ was confronted with an apparent conflict between the declared social aim and economic aim. If the social aim was to take priority, then German law in this case could apply this retroactively so as to permit part-time workers access to an occupational pension scheme. The ECJ began by repeating the double aim mentioned in *Defrenne*. Thus the Social aim, of Article 157 TFEU read in light of the case law on fundamental human rights had come to take precedence over its economic rationale.



# Article 157: The Definition of Pay

2. For the purpose of this Article, "pay" means the ordinary basic or minimum wage or salary and any other consideration, whether in cash or in kind, which the worker receives directly or indirectly, in respect of his employment, from his employer.

- Wide Meaning of Pay
- Social Security Benefits are NOT Pay - *Defrenne*
- Statutory sick Pay – *Rinner Kuhn Case (171/88)*
- Maternity Benefits – *Gillespie Case (Case C-342/93)*
- Statutorily required compensation – *Freers and Speckman Case (C-278/93)*
- Occupational Pensions may constitute pay – *Bilka-Kaufhaus and Barber*



# Article 19 TFEU: The Article 19 Directives

## Article 19

1. Without prejudice to the other provisions of the Treaties and within the limits of the powers conferred by them upon the Union, the Council, acting unanimously in accordance with a special legislative procedure and after obtaining the consent of the European Parliament, may take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.
2. By way of derogation from paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may adopt the basic principles of Union incentive measures, excluding any harmonisation of the laws and regulations of the Member States, to support action taken by the Member States in order to contribute to the achievement of the objectives referred to in paragraph 1.

# Article 19 TFEU: The Article 19 Directives

- Introduced by the Amsterdam Treaty, Article 19 serves to combat discrimination in Europe.
- Article 19 does not contain a direct prohibition of discrimination on the listed ground, and it is not directly effective.
- It enables the EU to adopt measures to combat discrimination on the grounds listed within the scope of the policies and powers otherwise granted in the treaties.
- While measures under article 19(1) require unanimity in the Council,
- Article 19(2) allows for the adoption by qualified majority of supportive, non-harmonizing incentive measures to combat discrimination on the grounds set out in paragraph 1.



# The Race Directive 2000/43

- WHAT IS THE AIM OF THE DIRECTIVE?
  - It aims to combat discrimination on the grounds of racial or ethnic origin.
  - It lays down minimum requirements for implementing the principle of equal treatment between persons in the European Union (EU).
  - By discouraging discrimination, it should help to increase participation in economic and social life and reduce social exclusion.
- This directive is based on the principle of equal treatment between persons. It forbids both direct\* and indirect\* discrimination, harassment\*, instructions to discriminate and victimisation\*.

# The Race Directive 2000/43

- **Direct discrimination:** where one person is treated less favourably than another is, has been or would be treated in a comparable situation on grounds of racial or ethnic origin.
- **Indirect discrimination:** where an apparently neutral rule, criterion or practice would put persons of a racial or ethnic origin at a particular disadvantage compared with other persons, unless that rule, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.
- **Harassment:** when an unwanted conduct related to racial or ethnic origin takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment.
- **Victimisation:** unjust or cruel treatment of someone who complains of discrimination or who assists someone else in a complaint of discrimination.



# The Race Directive 2000/43

- The directive applies to all persons and to all sectors of activity, regarding:
  - access to employment;
  - working conditions, including promotion, pay and dismissals;
  - access to vocational training;
  - involvement in workers' or employers' organisations, and in any professional organisation;
  - access to social protection and to healthcare;
  - education;
  - social advantages;
  - access to and supply of goods and services, including housing.
- The directive does not cover difference of treatment based on nationality, or the conditions of entry and residence for citizens from non-EU countries.



# The Framework Employment Directive 2000/78

- The European Union set up a general framework for equal treatment in employment and occupation, empowering it to combat discrimination based on religion or belief, age, disability and sexual orientation on the labour market.
- The scope and the enforceability vary from country to country, which is why Directive 2000/78/EC lays down general minimum rules in this area:
  - conditions of access to employed or self-employed activities, including promotion;
  - vocational training;
  - employment and working conditions (including pay, dismissals, the making of reasonable changes at the workplace to allow disabled workers to work, ...);
  - membership of and involvement in an organisation of employers or workers or any other organisation whose members carry on a particular profession.
- This applies to both the public and private sector, as well as for all types of employment.



# The Framework Employment Directive 2000/78

- Can differences in treatment be authorised? Yes, under certain narrowly limited conditions:
  1. **Genuine occupational differences:** Different treatment is justified by the nature of the post or the conditions in which the job is performed.
  2. **Differences in treatment on grounds of age:** Different treatment is permissible when it is objectively and reasonably justified by a legitimate labour market aim and when it is appropriate and necessary to achieve that aim (such as the protection of young people and older workers, ...).
  3. **Positive action:** Intended to prevent or compensate for existing inequalities.



# The Proposed New Article 19 Directive on Equal Treatment

- Directive 2000/78 – We saw covers a wider range of grounds, but confined to the employment context.
- Race Directive – Prohibits discrimination on grounds of race only, though across a wider range of areas of social and economic life.
- This brought about a lot of criticism.
- In 2008, Commission responded proposing legislation under Article 19(1) aiming to ‘equalise’ standards of protection against discrimination across all prohibited grounds in article 19, namely age, disability, sexual orientation, and religion or belief, leaving aside race and sex since these are heavily legislated upon.





# The Gender Directives: Equal Treatment and Protection

- A. The 'Recast' Equal Treatment Directive 2006/54
- B. The Social Security Directive 79/7
- C. The Pregnancy Directive 92/85
- D. Directive 2004/113 on access to and supply of goods and services
- E. Paternal, Paternity and Carers' Leave
- F. Directive 2010/41 on the Self Employed



# A. The 'Recast' Equal Treatment Directive 2006/54

- The objective of this Directive is to consolidate several directives on gender equality by simplifying, modernising and improving EU legislation in the area of equal treatment for men and women in employment.
- Equality between men and women is a fundamental principle of EU law which applies to all aspects of life in society, including to the world of work.
- This Directive prohibits direct\* or indirect discrimination\* between men and women concerning the conditions of:
  - recruitment, access to employment and self-employment;
  - dismissals;
  - vocational training and promotion;
  - membership of workers' or employers' organisations.



# A. The 'Recast' Equal Treatment Directive 2006/54

- In addition, Article 157 of the Treaty on the Functioning of the EU prohibits discrimination on grounds of sex on matters of pay for the same work or work of equal value. This principle also applies to job classification systems used for determining pay.
- However, different treatment for men and women may be justified by reason of the nature of the particular occupational activity, if the measures taken are legitimate and proportionate.
- EU countries must encourage employers and vocational trainers to act against discrimination (both direct and indirect) on grounds of sex, and particularly against harassment and sexual harassment.



# A. The 'Recast' Equal Treatment Directive 2006/54

- Women and men are treated equally under occupational social security schemes, particularly concerning:
  - the scope and conditions of access to the schemes;
  - the contributions;
  - the calculation of benefits, including supplementary benefits, and the conditions governing the duration and retention of entitlement.
- This principle applies to the whole working population, including:
  - self-employed workers, however for this category EU countries may provide for different treatment, in particular concerning the age of retirement;
  - workers whose activity is interrupted by illness, maternity, accident or involuntary unemployment;
  - persons seeking employment, retired and disabled workers, and those claiming under them.

# A. The 'Recast' Equal Treatment Directive 2006/54

- At the end of maternal, paternal or adoption leave, employees have the right to:
  - return to their jobs or to equivalent posts on conditions which are no less favourable to them;
  - benefit from any improvement in working conditions to which they would have been entitled during their absence.



## B. The Social Security Directive 79/7

- It aims to ensure respect for the principle of equal treatment for men and women in matters of social security.
- This directive applies to:
  - statutory social security schemes which provide protection against sickness, invalidity, accidents at work and occupational diseases, unemployment and risks related to old age;
  - social assistance which supplements or replaces the basic schemes.
- It does not apply to survivors' benefits and family benefits schemes.

## B. The Social Security Directive 79/7

- This principle protects European citizens against discrimination on grounds of sex, whether direct or indirect, as regards:
  - the scope of the schemes and the conditions of access to them;
  - the obligation to contribute and the calculation of contributions;
  - the calculation of benefits and the conditions governing the duration and retention of entitlement to benefit.
- EU countries may exclude from the scope of the directive:
  - the determination of pensionable age;
  - advantages granted to retired persons who have brought up children, specifically concerning periods of interruption of employment;
  - the granting of old-age or invalidity benefit entitlement connected with the derived entitlements of a spouse;
  - long-term benefits accorded to a spouse connected with the invalidity, old-age, accidents at work or the occupational disease of their spouse;
  - a right of option before the adoption of the Directive, specifically the option not to acquire rights or incur obligations under a statutory social security scheme.

## C. The Pregnancy Directive 92/85

- The objective of this Directive is to protect the health and safety of women in the workplace when pregnant or after they have recently given birth and women who are breastfeeding.
- Under the Directive, a set of guidelines detail the assessment of the chemical, physical and biological agents and industrial processes considered dangerous for the health and safety of pregnant women or women who have just given birth and are breast feeding.
- The Directive also includes provisions for physical movements and postures, mental and physical fatigue and other types of physical and mental stress.
- Pregnant and breastfeeding workers may under no circumstances be obliged to perform duties for which the assessment has revealed a risk of exposure to agents, which would jeopardize their safety or health. Those agents and working conditions are defined in Annex II of the Directive.





## C. The Pregnancy Directive 92/85

- Member States shall ensure that pregnant workers are not obliged to work in night shifts when medically indicated (subject to submission of a medical certificate).
- Employers or the health and safety service will use these guidelines as a basis for a risk evaluation for all activities that pregnant or breast feeding workers may undergo and must decide what measures should be taken to avoid these risks. Workers should be notified of the results and of measures to be taken which can be adjustment of working conditions, transfer to another job or granting of leave.
- The Directive grants maternity leave for the duration of 14 weeks of which 2 weeks must occur before birth.
- Women must not be dismissed from work because of their pregnancy and maternity for the period from the beginning of their pregnancy to the end of the period of leave from work.



# D. Directive 2004/113 on access to and supply of goods and services

- The directive establishes a framework for combatting all gender discrimination in access and supply of goods and services, in both the public and private sectors.
- The directive applies to goods and services offered to the public, regardless of the persons concerned (that is to say, whatever the personal circumstances of the service recipient) and which are offered outside of the private and family spheres. The term 'services' indicates services provided in exchange for remuneration.
- The directive does not apply to either the content of media or advertising, or education.



# D. Directive 2004/113 on access to and supply of goods and services

- Ban on discrimination in the field of goods and services: in principle, the directive prohibits:
  - any less favourable treatment of men or women by reason of their gender;
  - any less favourable treatment of women due to pregnancy or maternity;
  - harassment, sexual harassment or any incitement to discriminate with regard to the offer or supply of goods or services.
- The directive establishes only minimal requirements to allow EU countries to be able to maintain higher or more extensive levels of protection.



## E. Paternal, Paternity and Carers' Leave

- The current directive dates from 2019, and strengthens the rights contained in the earlier Directives. It started to take effect from 2022.
- It grants male and female workers a minimum level individual right to at least four months' parental leave on the grounds of the birth or adoption of a child in order to care for the child, until a given age up to 8 years to be specified by the MS.
- There is also a right to paternity leave for 10 days to be taken on the birth of the child, and provision for leave to be taken by carers.
- There is, in addition, provision for leave on grounds of force majeure for urgent family reasons in cases of sickness or accident.
- Workers are protected against dismissal on grounds of applying for, or taking, the permitted parental leave.



## F. Directive 2010/41 on the Self Employed

- It puts into effect the principle of equal treatment between self-employed men and women.
- The legislation covers all self-employed workers (people pursuing a gainful activity for their own account) and their spouses or life partners.
- Equal treatment means no discrimination, either directly or indirectly, on grounds of gender in the public or private sectors. Harassment, sexual or otherwise, is considered to be discrimination on grounds of sex.
- EU countries may adopt positive action, such as promoting business initiatives among women, to ensure full equality in practice between working men and women.

# F. Directive 2010/41 on the Self Employed

- EU countries must ensure:
  - the conditions for establishing a business between spouses or life partners are no more difficult than for other people;
  - spouses and life partners can benefit from national social protection schemes;
  - self-employed female spouses and life partners are granted a sufficient maternity allowance of at least 14 weeks;
  - anyone who considers their equal treatment rights have not been respected can access judicial or administrative proceedings;
  - real and effective compensation or reparation is available for any loss or damage someone might have suffered;
  - the relevant national bodies have the authority to promote, analyse, monitor and support equal treatment of all people covered by the legislation;
  - equal treatment is applied between men and women when drafting and implementing laws, regulations, administrative provisions, policies and activities covered by the legislation;
  - the content of the legislation is made as widely known as possible.





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# EU Criminal Law



# Article 67 TFEU

1. The Union shall constitute an area of freedom, security and justice (AFSJ) with respect for fundamental rights and the different legal systems and traditions of the Member States.
2. It shall ensure the absence of internal border controls for persons and shall frame a common policy on asylum, immigration and external border control, based on solidarity between Member States, which is fair towards third-country nationals. For the purpose of this Title, stateless persons shall be treated as third-country nationals.
3. The Union shall endeavour to ensure a high level of security through measures to prevent and combat crime, racism and xenophobia, and through measures for coordination and cooperation between police and judicial authorities and other competent authorities, as well as through the mutual recognition of judgments in criminal matters and, if necessary, through the approximation of criminal laws.
4. The Union shall facilitate access to justice, in particular through the principle of mutual recognition of judicial and extrajudicial decisions in civil matters.

# AFSJ and EU Competence

- The AFSJ falls within shared competence.
- The power sharing between the EU and the Member States can only be divined by looking at the detailed provisions of the particular area.
- It is the particular Treaty provisions, and the judicial interpretation thereof, which determine the division between MS and EU Competence.
- Article 2(2) TFEU stipulates that shared competences, the MS can exercise competence only to the extent that the Union has not exercised, or has decided to cease to exercise, its competence within such area.
- The EU's competence to enact measures concerning the Criminal law is now specified in Article 83 TFEU.

# AFSJ and EU Competence Cont.

- Article 84 TFEU provides that the EP and the Council, acting via the ordinary legislative procedure, can establish measures to promote and support the action of MSs in the field of crime prevention, excluding harmonisation of the laws and regulations of the MSs. It confines the EU to supporting MS action and excludes harmonisation.
- Article 85 TFEU states that 'Eurojust's mission is to support and strengthen coordination and cooperation between national investigating and prosecuting authorities in relation to serious crime affecting two or more MSs, or requiring a prosecution on common bases, on the basis of operations conducted and information supplied by MS authorities by Europol.



# AFSJ and EU Competence Cont.

- Article 86 TFEU speaks about the EPPO – European Public Prosecutor’s Office. The EPPO combats crimes that affect the EU’s financial interests.
- Article 87 TFEU embodies the basic principle of police cooperation between Mss authorities in relation to the prevention, detection and investigation of crime.



# EU Criminal Procedure

- WHAT IS THE BIGGEST ISSUE WHEN IT COMES TO HARMONISATION OF CRIMINAL PROCEDURE?
- Member State's Acceptance
- Different MS with different Criminal Procedures.
- Judicial cooperation between member states is based on two principles, mutual recognition and mutual legal assistance. Both mutual recognition and mutual legal assistance are then in turn based on a simple concept of mutual trust between states.



# Mutual Legal Assistance

- Mutual Legal Assistance deals with the concept of states having intra-state agreements whereby the said states, bind themselves to gather evidence and provide the necessary assistance in order that justice be served.
- However, when speaking about mutual legal assistance, we have to keep in mind that different states have different legislations together with different legal systems, and hence when a state requests another state to give assistance in the execution of another criminal justice system, procedural differences may occur.



# Mutual Legal Assistance

- It is for this reason that mutual legal assistance has been heavily criticized as being a fragmented system within the European Union, and hence it was essential that instruments be created under the concept of mutual legal assistance, so as to mutually recognise and harmonise both the procedural as well as the substantive laws of the member states of the European Union.
- The creation within the European Union of instruments pertaining to mutual legal assistance, creates indirectly a specific law which is to be used within the European Union when it comes to criminal matters and the execution of legal assistances when required within the European Union. In fact, within the European Union there was a shift from classical notion of mutual legal assistance to a new concept of mutual recognition.





# Mutual Recognition

- Mutual recognition contemplates an agreement between states which recognises judgements, decisions and legal concepts of another state and vice-versa. Hence why this principle has a strong foundation within the concept of mutual trust. If states do not trust one another in their workings and findings, there is no way that this principle of mutual recognition is to work.
- Mutual recognition does not solely refer to recognising substantive law, but it requires that states mutually recognise both the substantive, as well as the procedural laws.
- mutual recognition focuses on the integration and the working of different laws of different member states, thereby creating a more flexible process



# European Arrest Warrant (EAW)

- The need for an instrument like the EAW arose out of the need to have a more efficient procedure when it comes to the surrender of persons between member states.
- Through the working of the EAW, you have the judicial cooperation of two member states, which are working together so as to bring about the arrest and ultimate surrender of a person who is wanted for criminal prosecution.
- An EAW is limited solely to such requested person being wanted either for criminal prosecution, or for executing a custodial sentence or detention order. (Crime has to be of at least 3 years imprisonment)
- A Central Authority is set-up – Attorney General's Office





# Freezing Orders

- This order contemplates the facility of transnationally freezing assets, but this freezing of assets is restricted solely to two scenarios, if such is needed for the securing of evidence or subsequent confiscation of property.
- A freezing order, as is understandable from the name itself, simply stops at freezing the property or evidence per se, and in no way does a freezing order authorise the transfer off such frozen property or evidence from one member state to another.
- This instrument cannot be used alone, but has to be used with another instrument to reach its full potential.



# Confiscation Orders

- To facilitate the seizure and ultimate confiscation of assets or property which are requested between Member States.
- A confiscation order need not necessarily be transmitted to solely one member state, there are specific instances when a confiscation order may be transmitted to more than one executing state simultaneously.
- How does this differ from a freezing order?
  - Freezing Order – Freezes assets
  - Confiscation Order – Actually confiscates them in favour of the requesting state.



# Financial Penalties

- If one has a financial penalty, that means that such person has an obligation to pay, and such obligation to pay is restricted solely to four circumstances.
  1. When a person being convicted of an offence where in such decision imposes an obligation to pay a sum of money.
  2. Where through the same decision which convicted such person of an offence, there is an obligation to pay a sum of money to the victim, and such obligation cannot arise out of a civil case but rather from the criminal case itself.
  3. Where the obligation to pay a sum of money arises from court expenses or administrative proceedings which led to the decision at hand, and
  4. Where through the same decision there is an obligation to pay a sum of money to a victim support organisation or to a public fund.
- It is important to note that the decision always has to be one of a criminal nature.



# Transfer of Sentenced Persons

- A sentenced person may, if he consents and both states involved likewise consent, be transferred to serve the remaining period of his sentence to their state of nationality.
- It is of utmost importance that the rights of the sentenced person are respected at all stages of the transfer.
- The aim of this tool is to establish the necessary rules and regulations where a Member State, in order to facilitate the social rehabilitation of the sentenced person, is to recognise the relevant judgement in question and ultimately, enforce the sentence.

# Probation Measures and Alternative Sanctions and the European Supervision Order

- Both probation measures and alternative sanctions, as well as the European Supervision order are two closely connected mutual recognition instruments.
- They speak about alternatives to detention of the sentenced person in a correctional facility.
- The purpose of this tool is to facilitate the reintegration of sentenced persons back into society, with however respecting and having due regard to the protection of both the victim, as well as the general public at large.
- A European Supervision Order gives an alternative to provisional detention due to the fact that, this decision puts forwards a number of rules which member states are to abide by so as to recognised a supervision order issued by another member state





# Joint Investigative Teams

- The aim behind a JIT is one, to offer the possibility that investigation teams from another member state be asked for assistance by the executing state so as to solve a particular investigation at hand.
- When asking for assistance across member states, problems arise simply because of the fact that different member states have different modes of procedure, and likewise have different methods of collection of evidence and their ultimate admissibility within a court of law or otherwise.



# European Evidence Warrant

- An instrument created in preparation for the European Investigation Order.
- The evidence which may be collected or obtained and eventually transferred can be only that evidence which is specified within the EEW.
- The evidence has to already be in the possession of the executing authority before there is the issuance of the EEW or else, such evidence must have been discovered during the execution of the EEW and such evidence is relevant to the proceedings pursuant to the EEW.
- Therefore, as a general rule, the evidence has to be pre-existing and, it is clearly seen that such a system of the EEW does not in any way promote or request the investigation to uncover further evidence.



# European Investigation Order

- The European Investigation Order (EIO) is a judicial decision issued in or validated by the judicial authority in one EU country to have investigative measures to gather or use evidence in criminal matters carried out in another EU country. (NOT Ireland and Denmark)
- EIO ensures efficient cross-border evidence gathering.
- The EIO offers judicial authorities a simpler and faster alternative to the traditional instruments for requesting evidence.
- In particular, the instrument provides practitioners with a single standard form for obtaining evidence.
- It outlines strict deadlines and establishes limited possibilities for refusal by the executing State.





# EU Substantive Criminal Law

- What do we mean by substantive law?
- Article 83(1) TFEU – Legislated upon terrorism, trafficking in persons, child pornography and prostitution, drug trafficking, money laundering, corruption, counterfeiting, attacks on information systems and organised crimes.
- The creation of the office of the EPPO, and how it affects national legislation.
- Despite this, substantive criminal law, definitions, crimes ect, still remain heavily legislated by national member states, and I highly doubt such competence will ever be given to the EU, although that is the way forward to truly combat transnational crime.





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