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

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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

[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