

# European Chief Prosecutor Raises Concerns about Changes to Austrian Criminal Procedure Law



## News

Cornelia Riehle

New amendments to the Austrian law on criminal procedure entered into force on 1 January 2025. In addition the Austrian Federal Ministry of Justice presented a draft for an Act on the implementation of EU Criminal Justice Acts. In light of these legislative amendments and the draft Act, the European Chief Prosecutor *Laura Codruța Kövesi* sent a [formal letter](#) to the European Commission on 23 January 2025 expressing her concerns.

According to Kövesi, the amendments to the Austrian law on criminal procedure cannot be reconciled with the principles of the rule of law as laid down in Regulation (EU) 2020/2092 on a general regime of conditionality for the protection of the budget of the EU (Conditionality Regulation → [eucrim 2020, 174-176](#)). She criticises that the new legislation makes the collection and seizure of digital evidence extremely difficult, if not impossible, for the prosecution services, including the EPPO, when acting in Austria.

With regard to the draft Act on the implementation of EU Criminal Justice Acts, Kövesi is worried that the draft law does not remedy some of the most obvious shortcomings of the adaptation of the Austrian legal system to the EPPO Regulation. It also contains draft provisions, which raise further serious concerns, in particular as regards the intrusive supervision powers of a non-judicial authority, and, ultimately, as regards respect for the EPPO's independence.

Accordingly, on the basis of Recital 16 of the Conditionality Regulation, the European Chief Prosecutor informed the European Commission that the new provisions already in place, as well as those under discussion, threaten the effectiveness and efficiency of the EPPO's investigations under Austrian law, as they create a situation in which a national, non-judicial authority is in a position to interfere with such investigations. It is anticipated that the European Commission will examine the concerns raised by the EPPO and that further action may be taken.

In a statement published in June 2024, Kövesi already criticised the proposed amendments to the Austrian Code of Criminal Procedure after a judgment of the Austrian Constitutional Court that called for stricter rules on seizure of data and data storage on devices (→[eucrim 2/2024, 102](#)).

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