

# Future of EU Substantive Criminal Law

Thomas Wahl



## News

At their meeting on 6 June 2019, the Justice Ministers of the EU Member States debated about a [report by the Romanian Council Presidency](#) on the future of EU substantive criminal law. During the Presidency in the first half of 2019, Romania sent a questionnaire to the EU Member States to find out their views on the need to introduce additional harmonising criminal law provisions in new areas within the EU's competence pursuant to Art. 83 TFEU. Issues related to the transposition and implementation of the EU's current regulatory framework were also taken into account.

The [Ministers of Justice supported the conclusions](#) of the Presidency Report. They mainly stressed that emphasis should be placed on the effectiveness and quality of implementation of *existing* legislation. They also propounded that further "Lisbonisation" is currently unnecessary, i.e., Framework Decisions that were adopted under the Amsterdam/Nice Treaty should not be transposed and updated by Directives under the Lisbon Treaty. In this context, ministers currently see no need to develop a common definition of certain legal notions, e.g., "serious crime" or "minor offences."

However, the door to the establishment of more minimum rules on criminal offences and sanctions has not yet been completely shut. Instead, the reflection process is to continue. Some Member States and the Commission mentioned *inter alia* the following specific areas where EU legislation would be advisable in the future:

- Environmental crimes, including maritime, soil, and air pollution;
- Trafficking in cultural goods;
- Counterfeiting, falsification, and illegal export of medical products;
- Trafficking in human organs;
- Manipulation of elections;
- Identity theft;
- Unauthorised entry, transit, and residence;
- Crimes relating to artificial intelligence.

In addition, the Presidency report concluded that the EU should improve its dialogue with other international organisations, e.g., the Council of Europe, if the EU envisages legislation in an area that is already covered by an international instrument. The EU should also strive for a high quality of legislation, which is why sufficient time for consultations at the national level should be allotted for. Ultimately, delegations of the EU Member States stressed the need for enough time to transpose EU directives, i.e., no less than 24 months.

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ISSN: 1862-6947

<https://euclid.eu>

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