

German Federal Bar Criticised Planned Implementation of Sanctions Directive and e-Evidence Package

Thomas Wahl

The German Federal Bar (*Bundesrechtsanwaltskammer, BRAK*) - the umbrella organisation of the 28 German regional Bars - criticised the German government's plans to implement two important EU laws in the field of criminal law and cooperation.

Looking at the draft bill for the implementation of Directive (EU) 2024/1226 on the definition of criminal offences and penalties for violation of Union restrictive measures (→[eucrim 1/2024, 14-15](#)), the [BRAK criticised](#) the blanket criminalisation of the legal advisory activities of lawyers. This violates the freedom to practise a profession pursuant to Article 12(1) sentence 2 of the German Basic Law. The draft provides for a penalty of three months to five years' imprisonment for the professional practice of "legal advice", whereby the essential wrongfulness of the act only becomes apparent from an overall view of EU secondary law, which can be amended at any time. The BRAK criticises the resulting risk of excessive or even unjustified prosecution of lawyers, with consequences for the protection of confidentiality.

Looking at the implementation plans for the e-evidence package (→[eucrim 2/2023, 165-168](#)), the [BRAK denounced](#) the restriction of legal remedies. According to the plans, there will be no subsequent review of discretionary decisions by the enforcement authority with regard to the (non-)assertion of grounds for refusal under Union law pursuant to Art. 12 of the E-Evidence Regulation. The BRAK sees this as a threat to fundamental EU rights, such as the right to confidentiality of communications between clients and professionals bound by professional secrecy, and as promoting legal uncertainty.

The implementation of both pieces of EU legislation was already drafted in the previous legislative period, but fell victim to the principle of discontinuity following the premature end of the red-yellow-green coalition. The drafts have now been reintroduced unchanged. The BRAK has thus largely repeated its original criticism.

AUTHOR

Thomas Wahl

Senior Researcher
Max Planck Institute for the
Study of Crime, Security and
Law

Published in
2025, Vol. 20(3) [eucrim](#)
ISSN: 1862-6947
<https://eucrim.eu>



About eucrim

eucrim is the leading journal which regularly informs about current developments in European criminal and "criministrative" law.

All news items are freely accessible at: <https://eucrim.eu/news/>

Stay informed by emailing to eucrim-subscribe@csl.mpg.de to receive alerts for new releases of issues.

The project is co-financed by the Union Anti-Fraud Programme (UAFP), managed by the European Anti-Fraud Office (OLAF).



**Co-funded by
the European Union**