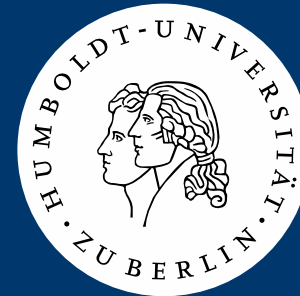




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The scope of application of the new Directive (EU) 2024/1260

Project RECOVER (GA 101091375)



1. Preliminary remarks on the new Directive (EU) 2024/1260 (DIR)

- **New Directive (EU) 2024/1260** on asset recovery and confiscation of 24 April 2024.
- **Regulates all asset recovery stages** (tracing and identification, freezing and confiscation, management) as well as **safeguards and strategic framework**. It provides **clarity** and **relative completeness**.
- **Replaces** the previous Directive 2014/42/EU on freezing and confiscation and the Council Decision 2007/845/JHA on Asset Recovery Offices. **AROs (Art. 5 DIR) and AMOs (Art. 22 DIR)** are now an obligation under the DIR.
- **Art. 25 DIR** requires MS to adopt **by 24 May 2027 a national strategy plan on asset recovery** > *Here we can see how asset recovery takes on the dimension of a policy tool, going beyond its role as a law enforcement tool.*
- All MS will have to **adapt their national legislation by 23 November 2026** according to **Art. 33 DIR**.
- The **main ratio** of the new Directive can be summarised under the title: Financial organised crime against rule of law and democracy.
- **Why do we need a new Directive?** Rec. 6 DIR: *The Commission evaluated Directive 2014/42/EU and Decision 2007/845/JHA, concluding that the current framework has not fully achieved the policy objective of fighting organised crime through recovering its profits.* Rec. 7 DIR: *The existing legal framework should be updated, so as to facilitate and ensure effective asset recovery and confiscation efforts across the Union.*



2. Article 1 DIR - Subject matter

1. This Directive establishes minimum rules on the tracing and identification, freezing, confiscation and management of property within the framework of **proceedings in criminal matters**.
2. This Directive applies **without prejudice to** freezing and confiscation measures within the framework of **proceedings in civil or administrative matters**.

*Rec. 7 DIR: This Directive should, therefore, lay down **minimum rules on tracing and identification, freezing, confiscation and management of property within the framework of proceedings in criminal matters**. In this context, proceedings in criminal matters is an **autonomous concept of Union law** interpreted by the Court of Justice of the European Union, notwithstanding the case-law of the European Court of Human Rights.*



3. The scope of application of the new Directive (Art. 2 & Rec. 9-11)

1. Eurocrimes in Art. 83 (1) TFEU: terrorism, trafficking in human beings and sexual exploitation of women and children,

illicit drug trafficking, illicit arms trafficking, money laundering, corruption, counterfeiting of means of payment, computer crime and organised crime.

2. All crimes that are harmonised at EU level:

- **fraud against the financial interests of the Union** in light of the increasing involvement of organised criminal groups in such crimes.

- **environmental crimes**, which are a core business for organised criminal groups and often are connected to money laundering or concern waste and residues produced in the context of drug production and trafficking.

- **facilitation of unauthorised entry and residence** constitutes a core business for organised criminal groups and is typically connected to the trafficking in human beings.

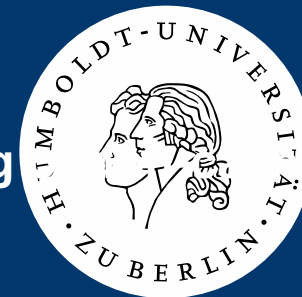
- **violation of EU restrictive measures**: criminal offences covered by Directive (EU) 2024/1226

3. Offence of participation in a criminal organisation and other criminal offences as referred to in Article 1(1) of Framework Decision 2008/841/JHA (fight against organised crime) (Definition of ‘criminal organisation’) and as defined in national law should be included in the scope of this Directive **to the extent to which** they are **committed within the framework of a criminal organisation**. **Rec. 10 DIR**: *Member States are in particular encouraged to ensure that the crimes of counterfeiting and piracy of products, illicit trafficking in cultural goods, forgery and trafficking of administrative documents, murder or grievous bodily injury, illicit trade in human organs and tissue, kidnapping, illegal restraint or hostage-taking, organised or armed robbery, racketeering and extortion, trafficking in stolen vehicles, tax crimes relating to direct taxes and indirect taxes, arson, fraud and swindling, illicit trafficking in nuclear or radioactive materials and crimes which fall within the jurisdiction of the International Criminal Court are included in the scope of this Directive.*



4. Article 2 DIR - its specific wording (I)

1. This Directive applies to criminal offences covered by:
 - (a) Framework Decision 2008/841/JHA; **organised crime**
 - (b) Directive (EU) 2017/541 of the European Parliament and of the Council; **terrorism**
 - (c) Directive 2011/36/EU of the European Parliament and of the Council; **human trafficking**
 - (d) Directive 2011/93/EU of the European Parliament and of the Council; **sexual abuse and sexual exploitation of children and child pornography**
 - (e) Council Framework Decision 2004/757/JHA; **illicit drug trafficking**
 - (f) the Convention drawn up on the basis of Article K.3(2)(c) of the Treaty on European Union on the fight against corruption involving officials of the European Communities or officials of the Member States of the European Union and Council Framework Decision 2003/568/JHA; **corruption involving officials of the European Communities or officials of Member States of the European Union & corruption in the private sector**
 - (g) Directive (EU) 2018/1673 of the European Parliament and of the Council; **money laundering**



4. Article 2 DIR - its specific wording (II)

(h) Directive (EU) 2019/713 of the European Parliament and of the Council; **fraud and counterfeiting means of payment**

(i) Directive 2014/62/EU of the European Parliament and of the Council; **counterfeiting of the euro and other currencies**

(j) Directive 2013/40/EU of the European Parliament and of the Council; **cybercrime**

(k) the Protocol against the **illicit manufacturing of and trafficking in firearms**, their parts and components and ammunition, supplementing the United Nations Convention against transnational organized crime;

(l) Directive (EU) 2017/1371 of the European Parliament and of the Council; **fraud to the Union's financial interests**

(m) Directive 2008/99/EC of the European Parliament and of the Council and Directive 2005/35/EC of the European Parliament and of the Council; **environmental crime & ship-source pollution**

(n) Framework Decision 2002/946/JHA, and Council Directive 2002/90/EC; **unauthorised entry, transit and residence**

(o) Directive 2014/57/EU of the European Parliament and of the Council; **market abuse**

(p) Directive (EU) 2024/1226. **violation of EU restrictive measures**



4. Article 2 DIR - its specific wording (III)

2. This Directive applies to **criminal offences**, as referred to in Article 1, point (1), of Framework Decision 2008/841/JHA, **committed within the framework of a criminal organisation**.

3. This Directive shall apply to **any criminal offences set out in other Union legal acts** where such acts provide that this Directive applies to those criminal offences.

4. The provisions in Chapter II on the **tracing and identification** of instrumentalities, proceeds or property shall apply to **all criminal offences** as defined in national law which are **punishable by the deprivation of liberty or a detention order of at least one year**.



Thank you for your attention 😊

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