

# Monitoring EU crime policies using the International Classification of Crime for Statistical Purposes (ICCS)

2018 edition





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using the International  
Classification of Crime for  
Statistical Purposes (ICCS)**

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## Abbreviations

CCPCJ	United Nations Commission on Crime Prevention and Criminal Justice
CES	Conference of European Statisticians
ECRIS	European Criminal Record Information System
EEA	European Economic Area
EFTA	European Free Trade Association
ESS	European Statistical System
EU	European Union
EULOCS	EU level Offence Classification System
ICCS	International Classification of Crime for Statistical Purposes
ICD	International Classification of Diseases
ISIC	International Standard Industrial Classification of All Economic Activities
SDG	Sustainable Development Goals
UN	United Nations
UN-CTS	United Nations Surveys on Crime Trends and the Operations of Criminal Justice Systems
UNECE	United Nations Economic Commission for Europe
UNODC	United Nations Office on Drugs and Crime
UNSC	United Nations Statistical Commission
WHO	World Health Organization

# 1

## Introduction

This publication continues the work of Eurostat to raise awareness for the *International Classification of Crime for Statistical Purposes* (ICCS) and to motivate data users and data providers to implement it at national level. Readers not familiar with the ICCS are advised to have a look at the '*EU guidelines for the International Classification of Crime for Statistical purposes — ICCS*<sup>(1)</sup>'. This publication presents the structure of the ICCS, its classification principles, its relations to existing classifications, the organizational and technical tasks for its implementation at national level as well as an implementation strategy through the creation of a correspondence table. The United Nations Office on Drugs and Crime (UNODC), the custodian of the ICCS, is also preparing a general manual for the classification.

The present publication describes how the ICCS relates to EU crime policies and focuses on a number of indicators for monitoring specific criminal offences for policy making at EU level. To ensure these offences are treated consistently when countries apply the ICCS, specific guidance on the relationship between the ICCS and selected offences defined at EU level is provided. It provides the definitions and disaggregations used for statistical data on crime and criminal justice that should become common across the different national authorities for data production, for aggregations at EU level and for comparisons between EU Member States. The ICCS should be used as a key reference when defining indicators to monitor specific policy objectives defined at EU level.

The ICCS is developed by UNODC, with the first version published in 2015<sup>(2)</sup>. It is based on internationally agreed concepts, definitions and principles in order to enhance the consistency and international comparability of crime statistics and to improve analytical capabilities at national, regional and international level. The ICCS is the first common framework to group all kinds of criminal offences into categories that are useful for producing crime statistics all over the world.

Eurostat is the statistical authority of the European Union and ensures the production of European statistics. It is also responsible for coordinating statistical activities across the European Commission. Eurostat collects crime data from countries in the European Statistical System (ESS) — EU, EEA and EFTA countries — as well as from Candidate Countries. A first collection of crime and criminal justice data for the reference year 2005 was organised by Eurostat in 2007 and, since then, figures on crime and criminal justice are published annually in Eurostat website articles. As of 2014, Eurostat has cooperated closely with UNODC in a joint Eurostat/UNODC statistical data collection on crime and criminal justice to make the collection process more efficient. Even though the questionnaire is based on the *United Nations Surveys on Crime Trends and the Operations of Criminal Justice Systems* (UN-CTS), Eurostat collects additional data for specific areas of interest to the European Commission. The UN-CTS collection and consequently the Eurostat data collection are constantly updated and revised, ensuring consistency of the data over time. A current revision brought some changes in the definition and the inclusion of offences in the questionnaire due to the alignment of

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<sup>(1)</sup> Eurostat. EU guidelines for the International Classification of Crime for Statistical purposes – ICCS. Luxembourg. 2017: [ec.europa.eu/eurostat/documents/3859598/8305054/KS-GQ-17-010-EN-N.pdf](http://ec.europa.eu/eurostat/documents/3859598/8305054/KS-GQ-17-010-EN-N.pdf)

<sup>(2)</sup> <http://www.unodc.org/unodc/en/data-and-analysis/statistics/iccs.html>

the data collections with the ICCS and the UN's *Sustainable Development Goals* (SDG). A common classification of offences and the re-use of data are key elements in the joint data collection.

The ICCS uses act or event based descriptions, inclusions and exclusions to guide the coder to the appropriate category, which should in most cases enable an identification of offences. For some offences, the classification may require supplementary guidance to map said offences to the ICCS. Especially for offences that are based on legislation passed by the EU, the Council of Europe or the United Nations, a common approach towards the alignment with the ICCS needs to be developed where possible to ensure all EU Member States treat these offences consistently when applying the ICCS at national level. This booklet will provide explanations on how to align national statistics of offences defined at EU level through legislative measures, by harmonising rules concerning these offences with ICCS definitions.

UNODC, the custodian of the ICCS, has developed a draft implementation plan for the classification at national, regional and international level and will publish manuals for the implementation of certain aspects of the ICCS in the future. More information on best practices will become available as Eurostat receives more feedback on the implementation progress in Member States. This booklet shall complement the information provided in the ICCS itself and in other guidelines prepared by Eurostat and UNODC.



# 2

## Trafficking in firearms

Imports, exports and transit of firearms must comply with specified authorization standards under Regulation No 258/2012<sup>(3)</sup>, in line with the *UN Firearms Protocol* (for civilian firearms) and Council Decision 2008/944/CFSP<sup>(4)</sup> (for military weapons). Regulation 258/2012 introduced a partially new licensing system differentiating between and rationalising the use of general, global and individual licenses. Member States remain free to determine the products eligible for the different types of licenses and to fix the terms and conditions of such licenses.

On the international level, criminalization of trafficking in firearms is regulated in Article 5 of 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 (UNTOC)<sup>(5)</sup> asking each State Party to adopt legislative and other measures to establish as criminal offences:

1. (a) Illicit manufacturing of firearms, their parts and components and ammunition;
2. (b) Illicit trafficking in firearms, their parts and components and ammunition;
3. (c) Falsifying or illicitly obliterating, removing or altering the marking(s) on firearms required by article 8 of this Protocol.

The European Union signed and approved the protocol declaring:

*'Article 17 (3) of the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition provides that the instrument of ratification, acceptance or approval of a regional economic integration organisation is to contain a declaration specifying the matters governed by the Protocol in respect of which competence has been transferred to the organisation by its Member States which are Parties to the Protocol. The European Union has exclusive competence over commercial policy. It also has shared competence over rules for the achievement of the internal market, and exclusive competence as regards provisions of the agreement which may affect or alter the scope of common rules adopted by the Union. The Union has adopted rules as regards in particular the fight against illicit manufacturing of and trafficking in firearms, regulating standards and procedures on commercial policy of the Member States concerning in particular record keeping, marking of firearms, deactivation of firearms, requirements for exports, import and transit licensing authorisation systems, strengthening of controls at export*

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<sup>(3)</sup> Regulation (EU) No 258/2012 of the European Parliament and of the Council of 14 March 2012 implementing Article 10 of the United Nations' 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 (UN Firearms Protocol), and establishing export authorization, and import and transit measures for firearms, their parts and components and ammunition: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:094:0001:0015:En:PDF>

<sup>(4)</sup> Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing controls of export of military technology and equipment: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:335:0099:0103:en:PDF>

<sup>(5)</sup> United Nations Office on Drugs and Crime. 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. New York. 2001: [https://treaties.un.org/doc/source/RecentTexts/18-12\\_c\\_E.pdf](https://treaties.un.org/doc/source/RecentTexts/18-12_c_E.pdf)

*points and brokering activities. The Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition shall apply, with regard to the competences transferred to the Union, to the territories in which the Treaty on the Functioning of the European Union is applied and under the conditions laid down in that Treaty. The scope and the exercise of such Union competence are, by their nature, subject to continuous development, and the Union will complete or amend this declaration, if necessary, in accordance with Article 17(3) of the Protocol.'*

In addition, most EU Member States signed and either ratified, accepted, approved, or became party to the protocol by accession. Germany, Luxembourg and the United Kingdom have only signed it without further ratifying, accepting, approving, or becoming party to the protocol by accession. France, Ireland, and Malta have not signed the protocol.

When it comes to the control of the acquisition and possession of firearms for the internal market, Council Directive 91/477/EEC<sup>(6)</sup> as amended by Directive 2008/51/EC<sup>(7)</sup> and most lately by Directive (EU) 2017/853<sup>(8)</sup> laid down rules for the acquisition and possession of non-military weapons, for the movement of weapons within the Community and created a *European Firearms Pass* for licenced hunters, sports shooters, collectors and dealers to travel within the EU. Intra-EU transfers of military firearms are regulated by Directive 2009/43/EC.<sup>(9)</sup>

While there are measures in place to control the imports, exports, sales, acquisitions and transfers of firearms within the EU and into the EU, the manufacturing and production dimension of the trafficking definition, as mentioned in article 1, paragraphs 11 and 12 of the revised Directive 91/477/EC, is playing an increasing role in the fight against trafficking in firearms. The Commission, in its communication to the Council and the European Parliament on *Firearms and the internal security of the EU: protecting citizens and disrupting illegal trafficking*, lists as the second priority reducing diversion of firearms into criminal hands and as the first task in this regard updating controls on sale and illegal manufacture of firearms<sup>(10)</sup>.

In the ICCS, trafficking of firearms is categorised as a separate offence on the most detailed fourth level in category 09 Acts against public safety and state security under code 090121, with the inclusions listed as manufacturing and trafficking of firearms, parts, components and ammunition. Trafficking, at minimum, is the unlawful manufacture, import or export, acquisition, sale, delivery, production, movement or transfer of the concerning property, which is in line with the language of the UN Firearms Protocol. Firearm is defined in footnote 155, as:

*'Any portable barrelled weapon that expels, is designed to expel or may be readily converted to expel a shot, bullet or projectile by the action of an **explosive**, excluding antique firearms or their replicas, according to article 3 of 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<sup>(11)</sup>.'*

<sup>(6)</sup> Council Directive of 18 June 1991 on control of the acquisition and possession of weapons (91/477/EEC): <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:31991L0477&from=en>

<sup>(7)</sup> Directive 2008/51/EC of the European Parliament and of the Council of 21 May 2008 amending Council Directive 91/477/EEC on control of the acquisition and possession of weapons: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32008L0051&from=en>

<sup>(8)</sup> Directive (EU) 2017/853 of the European Parliament and of the Council of 17 May 2017 amending Council Directive 91/477/EEC on control of the acquisition and possession of weapons: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017L0853&from=EN>

<sup>(9)</sup> Directive 2009/43/EC of the European Parliament and of the Council of 6 May 2009 simplifying terms and conditions of transfers of defence-related products within the Community: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:146:0001:0036:en:PDF>

<sup>(10)</sup> Communication from the Commission to the Council and the European Parliament. Firearms and the internal security of the EU: protecting citizens and disrupting illegal trafficking. COM/2013/0716 final: <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52013DC0716>

<sup>(11)</sup> United Nations Office on Drugs and Crime. 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. New York. 2001: [https://treaties.un.org/doc/source/RecentTexts/18-12\\_c\\_E.pdf](https://treaties.un.org/doc/source/RecentTexts/18-12_c_E.pdf)

This definition is in close agreement with the definition given by revised Directive 91/477/EC:

*'Firearm means any portable barrelled weapon that expels, is designed to expel or may be converted to expel a shot, bullet or projectile by the action of a **combustible propellant**, unless it is excluded from that definition for one of the reasons listed in Part III of Annex I.'*

Part III of Annex 1, as revised by Directive (EU) 2017/853, lists the exclusions from this definition:

*'Objects which correspond to the definition of a 'firearm' shall not be included in that definition if they:*

- a) are designed for alarm, signalling, life-saving, animal slaughter or harpoon fishing or for industrial or technical purposes provided that they can be used for the stated purpose only;*
- b) are regarded as antique weapons where these have not been included in the categories set out in Part II and are subject to national laws.'*

Thus, all offences labelled as trafficking of firearms in the EU should be classified as 090121 Trafficking of firearms in the ICCS. In its definition, this includes the clandestine manufacturing of firearms, for example through the conversion of antiques or through 3D printing, which should also be classified under 090121 Trafficking of firearms. The same classification applies for any parts, components and ammunition.

In addition to the trafficking of firearms, trafficking of other weapons or explosives (090122), trafficking of chemical, biological or radioactive materials (090123), and other acts related to the trafficking of weapons and explosives (090129) are separate offence categories in the ICCS.

# 3

## Trafficking in human beings

In Article 1 of Directive 2011/36/EU<sup>(12)</sup>, it is stipulated that the directive establishes minimum rules concerning the definition of criminal offences and sanctions in the area of trafficking in human beings (THB). In Article 2 the definition of the criminal offence of trafficking in human beings is set forth:

‘1. Member States shall take the necessary measures to ensure that the following intentional acts are punishable:

The **recruitment, transportation, transfer, harbouring or reception of persons**, including the exchange or transfer of control over those persons, **by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.**

2. A position of vulnerability means a situation in which the person concerned has no real or acceptable alternative but to submit to the abuse involved.

3. **Exploitation shall include, as a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services**, including begging, **slavery or practices similar to slavery, servitude**, or the exploitation of criminal activities, **or the removal of organs.**’

This definition is almost identical with the definition of offence category 0204 Trafficking in persons (TIP) in the ICCS:

*‘Recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude, or the removal of organs.’*

The EU definition is more precise on the act of trafficking by specifying that the exchange or transfer of control over those persons is included in trafficking offences. It is also more precise on the purpose by including, in a non-exhaustive manner, begging and the exploitation of criminal activities. However, the general structure of the trafficking offence is the same in both definitions, as they are derived from the definition given in Article 3 in the 2000 *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime* (UNTOC)<sup>(13)</sup>. For the sake of clarity, TIP/THB

<sup>(12)</sup> Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:101:0001:0011:EN:PDF>

<sup>(13)</sup> United Nations Convention against Transnational Organized Crime Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime. New York. 2004: <http://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCbook-e.pdf>

will be used in this booklet in accordance with the ICCS, taking into account the definition of trafficking in human beings as defined in Article 2 of Directive 2011/36/EU.

According to the definition, TIP/THB is defined by three constituent elements that need to be present to define a criminal act as TIP/THB: the act or what is done, the means or how it is done, and the purpose or why it is done. The act is the recruitment, transportation, transfer, harbouring or receipt of persons, with the addition of the exchange or transfer of control over those persons in the EU directive. The means is the threat or use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability, or giving payments or benefits to a person in control of the victim. The purpose is the exploitation, which includes as a minimum the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, including begging, slavery, or practices similar to slavery, servitude, or the exploitation of criminal activities, or the removal of organs.

Without any of the three constituent elements, a criminal offence cannot be defined as TIP/THB if the victim is an adult. If any of these elements is absent, the type of offence changes and it can no longer be classified as TIP/THB.

According to the ICCS, offences (and their corresponding ICCS code in brackets) that should be excluded under 0204 Trafficking in persons are:

- Slavery (02031), if the act and the means do not match the definition of trafficking in human beings
- Forced labour (02032), if the act and the means do not match the definition of trafficking in human beings
- Acts violating labour laws (0808)
- Forced marriage (020292)
- All injurious acts of a sexual nature (03), which includes sexual exploitation (0302), if the act and the means do not match the definition of trafficking in human beings
- Assaults and threats (0201)
- Acts against liberty (0202)
- Acts against public order sexual standards (0802)
- Smuggling of migrants and other migration offences (0805)

These are all separate offences classified elsewhere in the ICCS. Slavery and other offences listed in the exclusions, like forced labour and injurious acts of a sexual nature, are also mentioned as a purpose of TIP in the definition. This is, however, not a contradiction. Slavery is an offence with a separate code. But if perpetrated in combination with another act (like recruitment, transportation, transfer, harbouring or receipt of the person in question) and the mean of threat or use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability, or giving payments or benefits to a person in control of the victim, the offence is considered to be TIP and no longer a standalone offence of slavery. When assigning ICCS categories to offences mentioned in the ICCS exclusions of TIP, like slavery, it should be checked if the act and the means of the trafficking definition are also fulfilled. For example, when the victims of slavery were recruited under false pretence (fraud), transported to a different country, and held in captivity using force, then, the offence should no longer be categorised as slavery but as TIP.

Also, begging and the exploitation of criminal activities, as specifically specified in Article 2 of Directive 2011/36/EU, can be recorded and counted as separate offences in the ICCS if they do not happen via the means and act of TIP/THB. However, if the act and means as per the definition are fulfilled, they should be categorised as TIP/THB.

Child trafficking, as per the definition of the Protocol, has a slightly different definition than TIP, as it does not include any specific means. Therefore, when the conduct involves a child, it shall be a punishable offence of TIP/THB even if none of the means set forth has been used (notably, the

threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person). Therefore, to define a criminal act as child trafficking, only two of the constitutive elements are needed: the act or what is done and the purpose or why it is done. Child, in this regard, means any person below eighteen years of age.

Offences that should be included under 0204 Trafficking in persons (TIP), according to the ICCS, are: Trafficking of adults, child trafficking and all inclusions listed in categories 02041 to 02044. These offence categories are breakdowns of TIP by the various purposes listed in the definition:

**02041 TIP for sexual exploitation;** including all TIP for sexual exploitation and TIP for the exploitation of the prostitution of others but excluding all sexual exploitation of adults not amounting to TIP (03021) and all exclusions already listed in 0204. In addition, TIP for commercial sexual exploitation, if criminalised under national law, can be included under 02041 according to ICCS inclusion criteria.

**02042 TIP for forced labour or services;** including all TIP for forced labour, TIP for slavery or similar practices; TIP for indentured servitude, TIP for domestic work but excluding all exclusions already listed in 0204. Also, TIP for the purpose of begging as specified in Article 2 of Directive 2011/36/EU should be recorded in this category.

**02043 TIP for organ removal;** including all TIP for organ removal, TIP for liver removal and TIP for removal of other organs but excluding acts that endanger health (02061), acts against health and safety (0902) and all exclusions already listed in 0204.

**02049 TIP for other purposes of exploitation** not described or classified in categories 02041 – 02043; including TIP for forced marriage, TIP for camel jockeying, TIP for committing crimes, including the exploitation of criminal activities as specified in Article 2 of Directive 2011/36/EU, but excluding all exclusions already listed in 0204.

# 4

## Smuggling of migrants

The scope of the EU legislation, composed of Directive 2002/90/EC<sup>(14)</sup> and Framework Decision 2002/946/JHA<sup>(15)</sup>, is slightly broader than the definition in the *UN Protocol Against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime*.<sup>(16)</sup>

Under EU law, the offence is referred to as **'facilitation of unauthorised entry, transit and residence'**. In line with Article 1 of the Directive 2002/90/EC, Member States shall adopt appropriate sanctions on:

- a) any person who intentionally assists a person who is not a national of a Member State to **enter, or transit across**, the territory of a Member State in breach of the laws of the State concerned on the entry or transit of aliens;
- b) any person who, for financial gain, intentionally assists a person who is not a national of a Member State to reside within the territory of a Member State in breach of the laws of the State concerned on the **residence** of aliens.

The definition of the offence according to Article 3 of the *UN Protocol against the Smuggling of Migrants by Land, Sea and Air* is the following:

*'Procurement in order to obtain, directly or indirectly, a financial or other material benefit from the illegal entry of a person into a State Party of which the person is not a national or a permanent resident'*

The definition of smuggling of migrant offences (08051) in the ICCS is the same as the definition given in Article 3 of the UN Protocol against the Smuggling of Migrants by Land, Sea and Air. This means that it concentrates on the financial or material benefit derived from the illegal entry of a person into a State where the person is neither a national nor a permanent resident. This is **not completely in line with the EU definition** since it required the financial or material benefit element to be present in order to classify a crime as migrant smuggling, whereas **according to Article 1(a) of Council Directive 2002/90 the facilitation of unauthorised entry and transit is punished also when not committed for a benefit**.

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<sup>(14)</sup> Council Directive 2002/90/EC of 28 November 2002 defining the facilitation of unauthorised entry, transit and residence  
<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32002L0090&from=EN>

<sup>(15)</sup> Council Framework Decision 2002/946/JHA of 28 November 2002 on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence  
<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32002F0946&from=EN>

<sup>(16)</sup> Protocol Against the Smuggling of Migrants by Land, Sea and Air, supplementing the United National Convention against Transnational Organized Crime. New York. 2000: [https://www.unodc.org/documents/southeastasiaandpacific/2011/04/som-indonesia/convention\\_smug\\_eng.pdf](https://www.unodc.org/documents/southeastasiaandpacific/2011/04/som-indonesia/convention_smug_eng.pdf)



Furthermore, the **ICCS (08051) does not include migrant smuggling through the facilitation of unauthorised residence for financial gain**, contrary to the EU definition of the crime which does require an element of financial gain when facilitating unauthorised residence. According to the ICCS the 'organization or facilitating the unlawful stay of foreign citizens' (without reference to any financial benefit) is taken into account under indicator 08059 (other unlawful acts related to migration), however, the latter indicator captures a broader set of data which are not strictly defined as migrant smuggling or the facilitation of irregular migration (e.g. unlawful entry/illegal border crossing; using a forged document to enter a State; unlawfully employing or housing a foreign citizen).

In summary, the ICCS indicators 08051 Smuggling of Migrant offences and 08059 Other unlawful acts related to migration capture only certain aspects of the crime of migrant smuggling according to the EU definition of the facilitation of unauthorised entry transit and residence. In particular, when it comes to the facilitation of entry and transit, the ICCS according to indicator 08051 captures a narrower set of data than that defined in the EU legislation, while for the facilitation of unauthorised residence, the ICCS indicator 08059 captures a broader set of data than defined in the EU legislation on the facilitation of unauthorised entry, transit and residence of third country nationals.

The European Commission has undertaken an **evaluation of the current EU legal framework against the 'facilitation of unauthorised entry, transit and residence of third country nationals'**, with one of the main findings being that there is a **serious lack of reliable and comparable data** on the offences and criminal justice responses to the facilitation of unauthorized entry, transit and residence, at national and European level. For this reason, Eurostat will continue to work closely with DG HOME to also collect criminal justice data from its Member States on the crime of the facilitation of unauthorised entry, transit and residence of third country nationals, supplementing the ICCS data on smuggling of migrants' offences.



# 5 Cybercrime

Cybercrime is often used to refer to a vast array of criminal activities in which computers and other electronic information systems are involved either as a tool or as a target. European societies are increasingly dependent on these information systems, and the development of criminal activity involving these information systems threatens citizens, businesses, governments and critical infrastructures alike.

In the ICCS, computer and information systems are defined as, at minimum, a device, or interconnected devices which pursuant to a computer/information program perform(s) automatic processing of computer data/information/logical/arithmetic/storage functions. The term computer data means any representation of facts, information, concepts, in a machine-readable form suitable for processing by a computer/information system. These definitions are derived from the 2013 *UNODC Comprehensive Study on Cybercrime*.

Due to the design of these information networks, cybercrime is a threat which does not know any national borders. In the *EU Cybersecurity Strategy*<sup>(17)</sup>, cybercrime is classified in three broad definitions:

- traditional offences (e.g. fraud, forgery, and identity theft)
- content-related offences (e.g. on-line distribution of child pornography or incitement to racial hatred)
- offences unique to computers and information systems (e.g. attacks against information systems, denial of service and malware).

The last point, offences unique to computers and information systems, has a separate ICCS category in 09 Acts against public safety and state security. All criminal offences involving unauthorized access to, interception of, interference with, or misuse of computer data or computer systems should be categorized in the ICCS category Acts against computer systems (0903). In the EU, a definition that closely matches those acts described in the ICCS definition can be found in Directive 2013/40/EU<sup>(18)</sup> on attacks against information systems. The directive defines five core offences that should be categorised in the ICCS category 0903 Acts against computer systems. Table 1 provides an overview of the offences defined in Directive 2013/40/EU mapped to the offences defined in the ICCS.

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<sup>(17)</sup> Joint Communication of the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Cybersecurity Strategy of the European Union: An Open, Safe and Secure Cyberspace, JOIN(2013) 1 final. Brussels. 2013: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52013JC0001&from=EN>

<sup>(18)</sup> Directive 2013/40/EU of the European Parliament and of the Council of 12 August 2013 on attacks against information systems and replacing Council Framework Decision 2005/222/JHA: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:218:0008:0014:EN:PDF>

**Table 1: Comparison of EU attacks against information systems to ICCS acts against computer systems**

Directive 2013/40/EU	ICCS
<p>Article 3: Illegal access to information systems.</p> <p>The access without right, to the whole or to any part of an information system, is punishable as a criminal offence where committed by infringing a security measure.</p>	<p>09031 Unlawful access to a computer system</p> <p>Unlawful acts involving entry into parts or the whole of a computer system without authorization or justification.</p>
<p>Article 4: Illegal system interference</p> <p>Seriously hindering or interrupting the functioning of an information system by inputting computer data, by transmitting, damaging, deleting, deteriorating, altering or suppressing such data, or by rendering such data inaccessible, intentionally and without right, is punishable as a criminal offence.</p>	<p>090321 Unlawful interference with a computer system</p> <p>Unlawful acts hindering the functioning of a computer system.</p>
<p>Article 5: Illegal data interference</p> <p>Deleting, damaging, deteriorating, altering or suppressing computer data on an information system, or rendering such data inaccessible, intentionally and without right, is punishable as a criminal offence.</p>	<p>090322 Unlawful interference with computer data</p> <p>Acts involving damage, deletion, deterioration, alteration or suppression of computer data without authorization or justification.</p>
<p>Article 6: Illegal interception</p> <p>Intercepting, by technical means, non-public transmissions of computer data to, from or within an information system, including electromagnetic emissions from an information system carrying such computer data, intentionally and without right, is punishable as a criminal offence.</p>	<p>09033 Unlawful interception or access of computer data</p> <p>Unlawful acts involving gaining access to computer data without authorization or justification, including obtaining data during a transmission process that is not intended to be public, as well as obtaining computer data (such as by copying data) without authorization.</p>
<p>Article 7: Tools used for committing offences</p> <p>Intentional production, sale, procurement for use, import, distribution or otherwise making available, of one of the following tools, without right and with the intention that it be used to commit any of the offences referred to in Articles 3 to 6, is punishable as a criminal offence:</p> <p>(a) a computer programme, designed or adapted primarily for the purpose of committing any of the offences referred to in Articles 3 to 6;</p> <p>(b) a computer password, access code, or similar data by which the whole or any part of an information system is capable of being accessed.</p>	<p>09039 Other acts against computer systems</p> <p>Acts against computer systems not described or classified in categories 09031 – 09033.</p>

The other two broad definitions of cybercrime as criminal activities in which computers and other electronic information systems are involved as a tool, on the one hand traditional offences like fraud, forgery and identity theft, and on the other hand content-related offences like on-line distribution of child pornography or incitement to racial hatred, are categorised differently in the ICCS. Some offences are explicitly mentioned as exclusions from 0903 Acts against computer systems. These exclusions and their corresponding ICCS codes are:

- Possession, distribution, or creation of child pornography with a computer system (030221)
- Computer software theft or piracy (0503)
- Possession, distribution, or creation of pornography with a computer system (08022)
- Fraud (0701) with a computer system
- Theft (0502) with a computer system

In the EU, these offences, with the exception of possession, distribution or creation of pornography, are mainly regulated in Directive 2011/93/EU<sup>(19)</sup> on combating the sexual abuse and sexual exploitation of children and child pornography and in Council Framework Decision 2001/413/JHA<sup>(20)</sup> combating fraud and counterfeiting of non-cash means of payment.

In the ICCS these cybercrime offences are categorized irrespective of the use of computers and other electronic information systems as a tool. In the examples above, theft with a computer system and computer software theft are both categorized as 05 Acts against property only; the first one as theft (0502) and the latter one as an intellectual property offence (0503). Category 05 Acts against property only captures and describes the nature of the criminal offences at question. Within the ICCS it is, however, acknowledged that cybercrime is a very specific nature of a criminal event. Its identification is therefore essential to enable the detection of policy-relevant patterns and trends in crime.

The way the cybercrime nature of these offences is identified is through a disaggregating variable, the cybercrime tag. This Cybercrime-related (Cy) tag serves to identify various forms of crime committed with the use of a computer, as defined in the ICCS. Examples for offences that could be tagged cybercrime-related are internet fraud, cyber-stalking, or violation of copyright through electronic dissemination. But all other offences falling under the two broad definitions of cybercrime in the EU Cybersecurity Strategy, namely identity theft, distribution of child pornography and incitement to racial hatred, could as well be 'tagged' cybercrime-related in the context of the ICCS if they are perpetrated with a computer.

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<sup>(19)</sup> Directive 2011/93/EU of the European Parliament and the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA:  
<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32011L0093&from=EN>

<sup>(20)</sup> Council Framework Decision of 28 May 2001 combating fraud and counterfeiting of non-cash means of payment (2001/413/JHA):  
<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32001F0413&from=EN>

# 6

## Child sexual abuse

ICCS offence categories were built around the behaviour shown by the perpetrators of a criminal act. Characteristics of victims and perpetrators, such as sex or age, were generally not considered in the creation of most categories, with some notable exceptions, especially when the victim has a special legal status, like a minor or a child. For example, 020611 Negligence in situations of children under care or 110135 Conscripting or enlisting child soldiers are separate categories in the ICCS because these offences are defined by the special vulnerability of children and their rights to the protection and care necessary for their well-being, as provided for by the 1989 *United Nations Convention on the Rights of the Child*<sup>(21)</sup> and by the *Charter of Fundamental Rights of the European Union*<sup>(22)</sup>. It is because of these vulnerabilities and the rights to protection that sexual abuse and sexual exploitation of children are classified separately from the abuse and exploitation of adults in the ICCS. Among ICCS section 03 Injurious acts of a sexual nature there are several offence categories that fall under the purview of child sexual abuse as defined in Directive 2011/93/EU on combating the sexual abuse and sexual exploitation of children and child pornography.

Any person below the age of 18 years is defined as a child by Directive 2011/93/EU. The age of sexual consent, which means the age below which it is prohibited to engage in sexual activities with a child, on the other hand, is not universally defined by the directive but instead is defined in national law of the individual Member States. In the ICCS, the term child is not universally defined, instead, the ICCS leaves the definition of the term child to national legislation.

Among ICCS section 03 Injurious acts of a sexual nature, the category specifically created for all sexual exploitation of children is under 0302 Sexual exploitation, a level 3 category 03022 Sexual exploitation of children, which is further disaggregated into multiple level 4 offence categories that specify different types of sexual exploitation of children more specifically.

Another ICCS category specifically created for a certain type of sexual abuse of children is 030113 Statutory rape, a level 4 category under 0301 Sexual Violence and 03011 Rape. For an offence to be classified in this category, certain criteria must be fulfilled. In the following paragraphs, reference will be made to the lowest possible ICCS level an offence can be assigned to whenever possible.

## Child pornography

As mentioned in the chapter on Cybercrime, the ICCS does not treat content-related offences like on-line distribution of child pornography as computer-related offences in the narrowest term. The possession, distribution, or creation of child pornography with a computer system is mentioned as an exclusion in ICCS category 0903 Acts against computer systems. This exclusion directs the user

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<sup>(21)</sup> Convention on the Rights of the Child. New York. 1989: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>

<sup>(22)</sup> Charter of Fundamental Rights of the European Union (2000/C 364/01), In Official Journal of the European Communities: [http://www.europarl.europa.eu/charter/pdf/text\\_en.pdf](http://www.europarl.europa.eu/charter/pdf/text_en.pdf)

towards 03022 Sexual exploitation and its sub-category 030221 Child pornography, which is defined as procuring, arranging, facilitating, or controlling a child for the purposes of creating child pornography and/or possessing, disseminating, broadcasting, transmitting, exhibiting, or selling child pornography. Child pornography is in the ICCS, at minimum, defined as visual representation or depiction of a child engaged in sexually explicit conduct, a real person appearing to be a child involved or engaged in sexually explicit conduct, or realistic images of a non-existent child involved in sexually explicit conduct. The ICCS refers in its definition of child pornography to Article 20 Paragraph 2 of the *Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse*, which defines child pornography as any material that visually depicts a child engaged in real or simulated sexually explicit conduct or any depiction of a child's sexual organs for primarily sexual purposes<sup>(23)</sup>.

The EU defined child pornography in Article 2(c) of Directive 2011/93/EU as:

- i. *'any material that visually depicts a child engaged in real or simulated sexually explicit conduct;*
- ii. *any depiction of the sexual organs of a child for primarily sexual purposes;*
- iii. *any material that visually depicts any person appearing to be a child engaged in real or simulated sexually explicit conduct or any depiction of the sexual organs of any person appearing to be a child, for primarily sexual purposes; or*
- iv. *realistic images of a child engaged in sexually explicit conduct or realistic images of the sexual organs of a child, for primarily sexual purposes.'*

The EU definition of child pornography is broader and more inclusive than the ICCS definition, as it makes explicit mention of the depiction of the sexual organs of a child for primarily sexual purposes and of real or simulated sexually explicit conduct. With the reference to the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, which explicitly includes the mentioned definition criteria, and with the limitation that the definition given in the ICCS is considered a minimum, good agreement exists between the two relevant definitions.

The offences concerning child pornography mentioned in Article 5 of Directive 2011/93/EU are:

*'Article 5 (2) Acquisition or possession of child pornography shall be punishable by a maximum term of imprisonment of at least 1 year.*

*Article 5 (3) Knowingly obtaining access, by means of information and communication technology, to child pornography shall be punishable by a maximum term of imprisonment of at least 1 year.*

*Article 5 (4) Distribution, dissemination or transmission of child pornography shall be punishable by a maximum term of imprisonment of at least 2 years.*

*Article 5 (5) Offering, supplying or making available child pornography shall be punishable by a maximum term of imprisonment of at least 2 years.*

*Article 5 (6) Production of child pornography shall be punishable by a maximum term of imprisonment of at least 3 years.'*

Even though some of these offences are not explicitly mentioned in the definition of 030221 Child pornography or in the ICCS inclusions, they are all covered by creating, possessing, disseminating, broadcasting, transmitting, exhibiting, and selling. All offences concerning child pornography criminalised in national law according to Article 5 of Directive 2011/93/EU shall be classified as 030221 Child pornography under the ICCS. All child pornography offences perpetrated through the use of a computer or information system should be 'tagged' cybercrime-related in the context of the ICCS, creating a variable 030221Cy.

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<sup>(23)</sup> Council of Europe Convention. Protection of Children against Sexual Exploitation and Sexual Abuse. 2007: <https://rm.coe.int/168046e1e1>

Article 5 of Directive 2011/93/EU further mentions in paragraph 7 that it is in the discretion of Member States to decide whether child pornography, as referred to in Article 2(c)(iii), should be criminalised if the person appearing to be a child was in fact 18 years of age or older at the time of depiction. In Article 5 (8) it also gives discretion to Member States to decide whether paragraphs (2) and (6) of Article 5 apply to cases where it is established that pornographic material, as referred to in Article 2(c)(iv), is produced and possessed by the producer, solely for his or her private use, in so far as no pornographic material, as referred to in Article 2(c)(i), (ii) or (iii), has been used for the purpose of its production and provided that the act involves no risk of dissemination of the material. If Member States use their discretion to exclude realistic images and material of a person 18 years of age or older appearing to be a child as per paragraphs 7 and 8, this deviation from the ICCS definition should be noted in the metadata.

In Article 4 of Directive 2011/93/EU, more sexual exploitation offences that pertain to child pornography are listed:

*'Article 4 (2) Causing or recruiting a child to participate in pornographic performances, or profiting from or otherwise exploiting a child for such purposes shall be punishable by a maximum term of imprisonment of at least 5 years if the child has not reached the age of sexual consent and of at least 2 years of imprisonment if the child is over that age.'*

*Article 4 (3) Coercing or forcing a child to participate in pornographic performances, or threatening a child for such purposes shall be punishable by a maximum term of imprisonment of at least 8 years if the child has not reached the age of sexual consent, and of at least 5 years of imprisonment if the child is over that age.'*

*Article 4 (4) Knowingly attending pornographic performances involving the participation of a child shall be punishable by a maximum term of imprisonment of at least 2 years if the child has not reached the age of sexual consent, and of at least 1 year of imprisonment if the child is over that age.'*

All offences concerning child pornography criminalised in national law according to Article 4 Paragraphs 2, 3, and 4 of Directive 2011/93/EU shall be classified as 030221 Child pornography under the ICCS.

Also, Article 6 (2) of Directive 2011/93/EU, according to which Member States shall take the necessary measures to ensure that an attempt, by means of information and communication technology, to commit the offences provided for in Article 5(2) and (3) by an adult soliciting a child who has not reached the age of sexual consent to provide child pornography depicting that child is punishable, shall be classified as 030221 Child pornography under the ICCS. All child pornography offences perpetrated through the use of a computer or information system should be 'tagged' cybercrime-related in the context of the ICCS, creating a variable 030221Cy.

## Sexual grooming of children

Paragraph 1 of Article 6 Solicitation of children for sexual purposes of Directive 2011/93/EU finds its correspondence in the ICCS in a separate category, also under 03022 Sexual exploitation of children and also on level 4:

*'Article 6 (1) Member States shall take the necessary measures to ensure that the following intentional conduct is punishable: the proposal, by means of information and communication technology, by an adult to meet a child who has not reached the age of sexual consent, for the purpose of committing any of the offences referred to in Article 3(4) and Article 5(6), where that proposal was followed by material acts leading to such a meeting, shall be punishable by a maximum term of imprisonment of at least 1 year.'*

All offences concerning the solicitation of children for sexual purposes criminalised in national law according to Article 6 Paragraph 1 of Directive 2011/93/EU shall be classified as 030223 Sexual grooming of children, which is defined in the ICCS as making contact with a child followed by



material acts leading to a meeting for sexual purposes, with the definition of child being left to national legislation. All sexual grooming of children perpetrated through the use of a computer or information system should be 'tagged' cybercrime-related in the context of the ICCS, creating a variable 030223Cy.

## Child prostitution

The EU defined child prostitution in Article 2(d) of Directive 2011/93/EU as the use of a child for sexual activities where money or any other form of remuneration or consideration is given or promised as payment in exchange for the child engaging in sexual activities, regardless of whether that payment, promise or consideration is made to the child or to a third party.

The ICCS defines child prostitution as recruiting, enticing and/or procuring a child into prostitution or procuring the sexual services of a child prostitute, in accordance with Article 3(1)(b) of the 2000 *UN Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*<sup>(24)</sup>, which stipulates that each State Party shall, as a minimum, fully cover under its criminal or penal law the offering, obtaining, procuring or providing a child for child prostitution, as defined in Article 2, which stipulates child prostitution means the use of a child in sexual activities for remuneration or any other form of consideration. The definition of child prostitution given in the Optional Protocol is in accordance with the definition of prostitution given in the ICCS, which, at minimum, is the exchange of money or other forms of remuneration for sexual activities.

The EU definition of child prostitution is broader and more inclusive than the ICCS definition, as it specifically includes the promise of payment. While the EU specifies that for the definition of child prostitution it does not matter whether the payment, promise or consideration is made to the child or to a third party, the ICCS definition omits to specify the recipient of the remuneration at all.

Even though there are slight differences in the definition of child prostitution, these differences do not affect the subject matter and are negligible, as the promising of a payment can be considered to be included in the term procuring. Thus, good agreement exists between the definitions of child prostitution in Directive 2011/93/EU and the ICCS.

The offences concerning child prostitution mentioned in Article 4 of Directive 2011/93/EU are:

*'Article 4 (5) Causing or recruiting a child to participate in child prostitution, or profiting from or otherwise exploiting a child for such purposes shall be punishable by a maximum term of imprisonment of at least 8 years if the child has not reached the age of sexual consent, and of at least 5 years of imprisonment if the child is over that age.'*

*Article 4 (6) Coercing or forcing a child into child prostitution, or threatening a child for such purposes shall be punishable by a maximum term of imprisonment of at least 10 years if the child has not reached the age of sexual consent, and of at least 5 years of imprisonment if the child is over that age.*

*Article 4 (7) Engaging in sexual activities with a child, where recourse is made to child prostitution shall be punishable by a maximum term of imprisonment of at least 5 years if the child has not reached the age of sexual consent, and of at least 2 years of imprisonment if the child is over that age.'*

All offences concerning child prostitution criminalised in national law according to Article 4 of Directive 2011/93/EU shall be classified as 030222 Child prostitution under the ICCS.

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<sup>(24)</sup> Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. New York. 2000: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPSCCRC.aspx>

## Other offences concerning sexual abuse

Article 3 of Directive 2011/93/EU lists all offences concerning sexual abuse that Member States shall criminalise:

*'Article 3 (2) Causing, for sexual purposes, a child who has not reached the age of sexual consent to witness sexual activities, even without having to participate, shall be punishable by a maximum term of imprisonment of at least 1 year.'*

Causing a child to witness sexual activities should be categorized in the ICCS under 030229 Other sexual exploitation of children as it is arguably an exploitation of children for sexual purposes and personal gratification. The perpetrator profits physically from a child witnessing a sexual activity, which is covered by the definition of exploitation.

*'Article 3 (3) Causing, for sexual purposes, a child who has not reached the age of sexual consent to witness sexual abuse, even without having to participate, shall be punishable by a maximum term of imprisonment of at least 2 years.'*

Similar to Article 3(2), causing a child to witness sexual abuse should also be categorized in the ICCS under 030229 Other sexual exploitation of children as it is an exploitation of children for sexual purposes and personal gratification. The perpetrator profits physically from a child witnessing a sexual abuse, which is covered by the definition of exploitation.

*'Article 3 (6) Coercing, forcing or threatening a child into sexual activities with a third party shall be punishable by a maximum term of imprisonment of at least 10 years if the child has not reached the age of sexual consent, and of at least 5 years of imprisonment if the child is over that age.'*

Coercing, forcing or threatening a child into sexual activities with a third party should also be categorized in the ICCS under 030229 Other sexual exploitation of children. It cannot be included in 030222 Child prostitution under the ICCS, as there is no mention of remuneration or any other form of consideration in exchange for the sexual activities of the child.

While all the previous offences are complete matches to corresponding ICCS categories, for the remaining articles of Directive 2011/93/EU the sexual activities that take place matter to categorise them accordingly in the ICCS. The term 'sexual activities' is not further defined in the Directive. In the ICCS, sexual activities do not have to be further specified when it comes to the sexual exploitation of children, which encompasses the abuse of a position of vulnerability, power or trust, or the use of force or threat of force, for profiting financially, physically, socially or politically from the sexual acts of a child. It basically summarizes the illegal barter of any sexual activity of a child facilitated through force or the abuse of position for some sort of gain.

However, with category 030113 Statutory rape, the ICCS has another category specifically created for a certain type of sexual abuse of children. 030113 Statutory rape is defined as sexual penetration with or without consent with a person below the age of consent, or with a person incapable of consent by reason of law. For an offence to be classified in this category, sexual activities must amount to sexual penetration, which is defined in the ICCS as, at minimum, the penetration of the vulva, anus or mouth with any body part or object.

The following articles of Directive 2011/93/EU consider 'sexual activities':

*'Article 3 (4) Engaging in sexual activities with a child who has not reached the age of sexual consent shall be punishable by a maximum term of imprisonment of at least 5 years.'*

*Article 3 (5) (i) Engaging in sexual activities with a child, where abuse is made of a recognised position of trust, authority or influence over the child, shall be punishable by a maximum term of imprisonment of at least 8 years if the child has not reached the age of sexual consent, and of at least 3 years of imprisonment, if the child is over that age; or*

*Article 3 (5) (ii) Engaging in sexual activities with a child, where abuse is made of a particularly vulnerable situation of the child, in particular because of a mental or physical disability or a situation of dependence, shall be punishable by a maximum term of imprisonment of at least 8 years if the*



*child has not reached the age of sexual consent, and of at least 3 years of imprisonment if the child is over that age; or*

*Article 3 (5) (iii) Engaging in sexual activities with a child, where use is made of coercion, force or threats shall be punishable by a maximum term of imprisonment of at least 10 years if the child has not reached the age of sexual consent, and of at least 5 years of imprisonment if the child is over that age.'*

If sexual activities amount to sexual penetration, Articles 3 (4) and 3 (5) should be classified as 030113 Statutory rape in the ICCS, if the child is below the age of consent or incapable of consent by reason of law.

If sexual activities amount to sexual penetration as defined in the ICCS and the child is over the age of sexual consent, offences should be classified as 0301 Rape.

If sexual activities do not amount to sexual penetration as defined in the ICCS, offences should be classified as 03012 Sexual assault.

Whenever ICCS categories 03011 Rape and 03012 Sexual assault are used, the victim disaggregation tag 'STV' – age status of victim should be used to indicate that the victim of the rape or the sexual assault was a minor over the age of sexual consent.

Below is a summary of all Articles in Directive 2011/93/EU and their correspondence to ICCS categories in table 2:

**Table 2: Comparison of EU Directive 2011/93/EU Articles on child sexual abuse and child sexual exploitation to ICCS injurious acts of a sexual nature**

Directive 2011/93/EU	ICCS Code	ICCS Description	Complete Match	Incomplete Match
Article 3 (2)	30229	Other sexual exploitation of children	*	
Article 3 (3)	30229	Other sexual exploitation of children	*	
Article 3 (4)	30113	Statutory rape		*
	3012	Sexual assault*		*
Article 3 (5)(i)	30113	Statutory rape		*
	3011	Rape		*
	3012	Sexual assault*		*
Article 3 (5)(ii)	30113	Statutory rape		*
	3011	Rape		*
	3012	Sexual assault*		*
Article 3 (5)(iii)	30113	Statutory rape		*
	3011	Rape		*
	3012	Sexual assault*		*
Article 3 (6)	30229	Other sexual exploitation of children	*	
Article 4 (2)	30221	Child pornography	*	
Article 4 (3)	30221	Child pornography	*	
Article 4 (4)	30221	Child pornography	*	
Article 4 (5)	30221	Child pornography	*	
Article 4 (5)	30222	Child prostitution	*	
Article 4 (6)	30222	Child prostitution	*	
Article 4 (7)	30222	Child prostitution	*	
Article 5 (2)	30221	Child pornography	*	
Article 5 (3)	30221	Child pornography	*	
Article 5 (4)	30221	Child pornography	*	
Article 5 (5)	30221	Child pornography	*	
Article 5 (6)	30221	Child pornography	*	
Article 6 (1)	30223	Sexual grooming of children	*	
Article 6 (2)	30221	Child pornography	*	

\* If sexual activities do not amount to sexual penetration as defined in the ICCS, offences should be classified as 03012 Sexual assault and the age status victim tag (STV) should be used to indicate the age status of the victim.

# 7

## Gender-based violence

DG JUST defines gender-based violence as violence directed against a person because of that person's gender (including gender identity/expression) or as violence that affects persons of a particular gender disproportionately<sup>(25)</sup>. According to this definition, gender-based violence is not a category in the ICCS. The first part of the definition, violence directed against a person because of that person's gender, needs data on the motive for the violent act. It can thus not be classified by the ICCS alone, if information on the motive is missing from the data. The latter part of the definition, violence that affects persons of a particular gender disproportionately, can be examined by relying on disaggregating variables. The gender ratio of victims can provide a good indication of a disproportional effect on one gender. The victim disaggregation tag SV for sex of victims could serve as the key identifier for gender-based violence indicators in the ICCS.

The *Council of Europe Convention on preventing and combating violence against women and domestic violence*, the so-called Istanbul Convention<sup>(26)</sup>, signed by the EU on 13th June 2017, is establishing the legally binding instrument dedicated to combating violence against women. The definition of gender-based violence against women is the same as used by DG JUST and specifies the definitions by type of violence: psychological violence (Article 33), stalking (Article 34), physical violence (Article 35), Sexual violence including rape (Article 36), forced marriage (Article 37), female genital mutilation (Article 38), forced abortion and forced sterilisation (Article 39) and sexual harassment (Article 40). The convention indicates in its Article 11 that:

*'For the purpose of the implementation of this Convention, parties shall undertake to: a) collect disaggregated relevant statistical data at regular intervals on cases of all forms of violence covered by the scope of this Convention.'*

There is no offence category in the ICCS established for gender-based violence, however, the offence categories combined with the sex of perpetrator (SP) and sex of victim (SV) tags can create gender-based violence indicators. In addition to the SP and SV disaggregation, the victim-perpetrator relationship tag (ViP) can be used to create standardized indicators based on ICCS codes for offence categories in which the victim-perpetrator relationship qualifies the offence, such as domestic violence or violence in close relationships. However, the exact mapping tool which ICCS codes have to be taken into account when calculating the GBV indicators has to be developed based on definitions used in policy documents as they do not exist at the moment.

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<sup>(25)</sup> DG JUST. Zero tolerance of violence against women. Retrieved January 18, 2018: [http://ec.europa.eu/justice/gender-equality/gender-violence/index\\_en.htm](http://ec.europa.eu/justice/gender-equality/gender-violence/index_en.htm)

<sup>(26)</sup> Council of Europe Convention on preventing and combating violence against women and domestic violence. Istanbul. 2011: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168008482e>

# 8

## Corruption

Corruption, as defined in Article 3 of 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 Member States of the European Union, drawn up by the Council Act of 26 May 1997<sup>(27)</sup>, and in Article 2(1) of Council Framework Decision 2003/568/JHA<sup>(28)</sup> constitutes a serious threat to the rule of law in Europe and often has a cross-border dimension that cannot be tackled by one country alone. In Article 1 of the Council Decision 2008/801/EC<sup>(29)</sup>, the United Nations Convention against Corruption (UNCAC)<sup>(30)</sup> was approved on behalf of the Community. This UN Convention requires countries to criminalize certain acts of corruption in their national penal codes. The UNCAC goes beyond previous international instruments, criminalizing a vast array of behaviours, from bribery and the embezzlement of public funds to trading in influence and the concealment and laundering of the proceeds of corruption. Also, by now, every EU Member State has signed and either ratified UNCAC, accepted UNCAC or became party to the convention by accession. The provisions and articles of UNCAC should therefore be already reflected in national laws throughout the Union.<sup>(31)</sup>

Furthermore, in the Stockholm program under point 4.4.5. Economic crime and corruption, the European Council invites the Commission to *'increase coordination between Member States in the framework of the United Nations Convention against Corruption (UNCAC), GRECO and the Organisation for Economic Cooperation and Development (OECD) work in the field of combating corruption'*<sup>(32)</sup>.

While the Council of Europe's (CoE) Groupe d'Etats contre la corruption (GRECO) and the OECD have an important influence on shaping anti-corruption policies in Europe, for the ICCS, the implementation of UNCAC is particularly important. The ICCS is an international classification with its categories under code 0703 Corruption based on the definitions laid out in UNCAC. The offences that should be summarized under code 0703 include active and passive bribery of national public officials; active and passive bribery of foreign public officials and officials of public international organizations; active and passive bribery in the private sector; and all other inclusions listed in the

<sup>(27)</sup> 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 Member States of the European Union: [http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:41997A0625\(01\)](http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:41997A0625(01))

<sup>(28)</sup> Council Framework Decision 2003/568/JHA of 22 July 2003 on combating corruption in the private sector: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32003F0568&from=en>

<sup>(29)</sup> Council Decision of 25 September 2008 on the conclusion, on behalf of the European Community, of the 2003 United Nations Convention against Corruption (2008/801/EC): <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32008D0801&from=EN>

<sup>(30)</sup> UNODC. United Nations Convention Against Corruption. New York. 2004: [https://www.unodc.org/documents/brussels/UN\\_Convention\\_Against\\_Corruption.pdf](https://www.unodc.org/documents/brussels/UN_Convention_Against_Corruption.pdf)

<sup>(31)</sup> A mapping of national legislation on corruption to the articles of the UNCAC and further to the categories of the ICCS can be found in Annex 1.

<sup>(32)</sup> European Council. The Stockholm Programme – An open and secure Europe serving and protecting citizens (2010/C 115/01): [http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52010XG0504\(01\)&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52010XG0504(01)&from=EN)

following level 3 and level 4 categories, which are all based on and linked to at least one UNCAC article.

In the ICCS, 07031 Bribery is defined as the promising, offering, giving, soliciting, or accepting an undue advantage to or from a public official or a person who directs or works in a private sector entity, directly or indirectly, in order that the person act or refrain from acting in the exercise of his or her official duties. This definition is quite broad and encompasses three UNCAC articles: Bribery of national public officials (UNCAC Article 15), bribery of foreign public officials and officials of public international organizations (UNCAC Article 16) and bribery in the private sector (UNCAC Article 21).

The ICCS does not differentiate by the type of person receiving a bribe but, same as UNCAC, ICCS distinguishes between active and passive bribery.

070311 Active bribery is defined as the promising, offering or giving, to a public official or a person who directs or works in a private sector entity, directly or indirectly, an undue advantage in order that the official act or refrain from acting in the exercise of his or her official duties. This definition includes active bribery of a public official (UNCAC Article 15a), active bribery of a foreign public official and of an official of a public international organization (UNCAC Article 16.1) and active bribery in the private sector (UNCAC Article 21a).

070312 Passive bribery is defined as solicitation or acceptance by a public official or a person who directs or works in a private sector entity, directly or indirectly, of an undue advantage in order that the official act or refrain from acting in the exercise of his or her official duties. This definition includes passive bribery of a public official (UNCAC Article 15b), passive bribery of a foreign public official and of an official of a public international organization (UNCAC Article 16.2) and passive bribery of an official in the private sector (UNCAC Article 21b).

In addition to the ICCS categories for bribery, Eurostat recommends collecting data for offences criminalised according to UNCAC Article 15 Bribery of national public officials, Article 16 Bribery of foreign public officials and officials of public international organizations and Article 21 Bribery in the private sector via the perpetrator disaggregation tag under 070312 Passive bribery and the victim disaggregation tag under 070311 Active bribery. The six variables to be collected would thus be:

1. 070311 PLS1bPCit1 for Active bribery of national public officials
2. 070311 PLS1bPCit2 for Active bribery of foreign public officials
3. 070311 PLS1a for Active bribery in the private sector
4. 070312 PLS1bPCit1 for Passive bribery of national public officials
5. 070312 PLS1bPCit2 for Passive bribery of foreign public officials
6. 070312 PLS1a for Passive bribery in the private sector

For all the bribery offences, any course of action demanded from a person by another person through the use of force, threat, intimidation, threat to reveal compromising information, or the threat of defamation shall be excluded from the category. Even though criminal behaviour, this would amount to coercion and should be coded under ICCS code 0205.

Corruption is not just bribery though. The ICCS lists four more offences under corruption: 07032 Embezzlement, 07033 Abuse of functions, 07034 Trading in influence and 07035 Illicit enrichment. A residual category 07039 Other acts of corruption means any acts of corruption not described or classified in categories 07031 – 07035, which include conflict of interest or dishonest appropriation (see table 3). As all these offence categories should already be codified in national criminal law, also the vocabulary to accurately translate the ICCS categories should exist in all national languages in all Member States. For a complete mapping of national penal code articles to UNCAC articles and further to ICCS codes see Annex 1.

Table 3. Comparison of ICCS levels for category 0703 and UNCAC Articles

ICCS Level 2	ICCS Level 3	ICCS Level 4	UNCAC Article
0703 Corruption	07031 Bribery	070311 Active bribery	15a Active bribery of national public officials
			16.1 Active bribery of foreign public officials and officials of public international organizations
			21a Active bribery in the private sector
		070312 Passive bribery	15b Passive bribery of national public officials
			16.2 Passive bribery of foreign public officials and officials of public international organizations
			21b Passive bribery in the private sector
	07032 Embezzlement		17 Embezzlement, misappropriation, or other diversion of property by a public official
			22 Embezzlement of property in the private sector
	07033 Abuse of functions		19 Abuse of functions
	07034 Trading in influence		18 Trading in influence
	07035 Illicit enrichment		20 Illicit enrichment
	07039 Other acts of corruption		

# 9 Acts involving the proceeds of crime, their confiscation and freezing of assets

Article 2 of Directive 2014/42/EU<sup>(33)</sup> on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union defines proceeds of crime as *'any economic advantage derived directly or indirectly from a criminal offence; it may consist of any form of property and includes any subsequent reinvestment or transformation of direct proceeds and any valuable benefits'*, with criminal offence meaning corruption offences, counterfeiting, fraud, money laundering, terrorism, drug trafficking, organised crime, trafficking in persons, sexual abuse and sexual exploitation of children and child pornography, and attacks against information systems, as listed in Article 3 of the same Directive. Other legal instruments can be included, if they provide specifically that this Directive applies to the criminal offences harmonised therein.

The European definition of proceeds of crime is narrower than the ICCS definition, as the ICCS defines category 0704 Acts involving the proceeds of crime as receiving, handling or processing money or property derived from or obtained, directly or indirectly, through the commission of an offence, which includes the possession of stolen goods or money; receiving, handling, disposing of, selling or trafficking stolen goods, using stolen parts for producing other goods and concealment of stolen goods. The types of offences are not further specified but include the level 3 categories 07041 Money laundering and 07042 Illicit trafficking in cultural property.

In EU legislation, specifically in Directive 2014/42/EU and section 4.4.5 of the Stockholm program on Economic crime and corruption, the confiscation and freezing of assets of the proceeds of crime is linked to economic crime and crimes regulated on the EU level while it does not explicitly pertain to proceeds of other forms of crime not regulated on the EU level. However, with the explicit mentioning of money laundering, a big overlap between the EU definition and the ICCS definition exists.

## Money laundering

Money laundering, as defined in Article 1 Figure 3 of Directive 2015/849/EU<sup>(34)</sup>, corresponds to a great deal to the definition of laundering of proceeds of crime in Article 6 in the UNTOC, Article 23 on Laundering of proceeds of crime in the UNCAC and Article 9 in the *Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of*

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<sup>(33)</sup> Directive 2014/42/EU of the European Parliament and of the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0042&from=EN>

<sup>(34)</sup> Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015L0849&from=EN>

*Terrorism.*<sup>(35)</sup> Even though different terms are used in Directive 2015/849/EU and the UN and CoE Conventions, the same offence category is described. Below is the common definition with specific formulations of the EU directive in *italics* and specific formulations in the UNTOC convention in **bold**:

- a) the conversion or transfer of property, knowing that such property *is derived from criminal activity or from an act of participation in such activity*/is the **proceeds of crime**, for the purpose of concealing or disguising the illicit origin of the property or of *assisting/helping* any person who is involved in the commission of *such activity*/the **predicate offence** to evade the legal consequences of *that person's/his or her* action;
- b) the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property is *derived from criminal activity or from an act of participation in such activity*/the **proceeds of crime**;
- c) the acquisition, possession or use of property, knowing, at the time of receipt, that such property *was derived from criminal activity or from an act of participation in such activity*/is the **proceeds of crime**;
- d) participation in, association **with or conspiracy** to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the *actions mentioned in the foregoing points*/offences **established in accordance with this article**.

In the ICCS, money laundering is classified under level 2 category 0704 Acts involving the proceeds of crime, namely as category 07041. It shares its definition with the UNTOC definition of money laundering which, as shown in the comparison of definitions above, is congruent with the definition in Directive 2015/849/EU. If the implementation in national law, as asked for in Article 1 Paragraph 2 of the Directive, is done in line with the Directive's definition of money laundering, Member States can directly map their national money laundering offences to ICCS category 07041.

## Illicit trafficking in cultural property

Another act involving the proceeds of crime explicitly included in the ICCS is 07042 Illicit trafficking in cultural property, which is defined as any unlawful sale, distribution, delivery, brokerage, transport, import, export or possession of cultural property, with cultural property being, at minimum, property which, on religious or secular grounds, is specifically designated by a State Party as being subject to export control by reason of its importance for archaeology, prehistory, history, literature, art or science, a definition in accordance with Article 1 of the 1970 *UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property*.<sup>(36)</sup> This ICCS category touches on topics regulated in Directive 2014/60/EU<sup>(37)</sup> on the return of cultural objects unlawfully removed from the territory of a Member State and in Council Regulation (EC) No 116/2009<sup>(38)</sup> on the export of cultural goods.

<sup>(35)</sup> Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism. Warsaw. 2005: <https://rm.coe.int/168008371f>

<sup>(36)</sup> UNESCO. Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. Paris. 1970: [http://portal.unesco.org/en/ev.php-URL\\_ID=13039&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=13039&URL_DO=DO_TOPIC&URL_SECTION=201.html)

<sup>(37)</sup> Directive 2014/60/EU of the European Parliament and of the Council of 15 May 2014 on the return of cultural objects unlawfully removed from the territory of a Member State and amending Regulation (EU) No 1024/2012 (Recast): <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0060&from=EN>

<sup>(38)</sup> Council Regulation (EC) No 116/2009 of 18 December 2008 on the export of cultural goods: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:039:0001:0007:en:PDF>



In July 2017 the Commission has adopted a proposal for a Regulation on the import of cultural goods, i.e. cultural goods illicitly exported from a third country. The goal of this proposal is to reduce trafficking in cultural goods, to combat terrorism financing and to protect cultural heritage, especially archaeological objects in third countries which are affected by armed conflict or are suffering a natural disaster.

## Other acts involving the proceeds of crime

All other criminal acts involving the possession of stolen goods or money; receiving, handling, disposing of, selling or trafficking stolen goods, using stolen parts for producing other goods and concealment of stolen goods should be classified in the residual ICCS category 07049 Other acts involving the proceeds of crime.

# 10 Counterfeiting

With Directive 2004/48/EC<sup>(39)</sup>, the EU set its focus on the fight against counterfeiting on the enforcement of intellectual property rights. Counterfeiting and infringements of intellectual property rights are observed as a growing phenomenon in Europe. Product piracy is considered a serious threat to national economies and governments, as well as to the health and safety of EU citizens.<sup>(40)</sup>

In the ICCS, the focus in category 0702 Forgery/counterfeiting is set on counterfeiting means of payment (07021), both cash (070211) and non-cash (070212). Regarding counterfeiting means of cash payment there is a series of EU legislation on the protection of the Euro from counterfeiting. Especially the latest law enforcement legislation, Directive 2014/62/EU<sup>(41)</sup>, which entered into force in May 2014, defines criminal law measures to combat Euro-counterfeiting. In article 3 it defines the offences which Member States are obliged to punish in criminal law:

- a) *'any fraudulent making or altering of currency, whatever means are employed;*
- b) *the fraudulent uttering of counterfeit currency;*
- c) *the import, export, transport, receiving or obtaining of counterfeit currency with a view to uttering the same and with knowledge that it is counterfeit;*
- d) *the fraudulent making, receiving, obtaining or possession of*
  - i. *instruments, articles, computer programs and data, and any other means peculiarly adapted for the counterfeiting or altering of currency; or*
  - ii. *security features, such as holograms, watermarks or other components of currency which serve to protect against counterfeiting.'*

In addition, these offences are also punishable with respect to notes or coins being manufactured or having been manufactured by use of legal facilities or materials in violation of the rights or the conditions under which competent authorities may issue notes or coins and in relation to notes and coins which are not yet issued, but are designated for circulation as legal tender.

The language of Directive 2014/62/EU is in line with ICCS category 070211 Counterfeiting means of cash payment, which is defined as creating, manufacturing, passing, using or possessing counterfeit means of cash payment or an instrument to create a false imitation with or without the use of computer systems, and includes offences like the fraudulently making or altering of notes and coins, fraudulently making, receiving, obtaining or possessing instruments, articles, computer programs and

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<sup>(39)</sup> Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights: [http://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32004L0048R\(01\)](http://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32004L0048R(01))

<sup>(40)</sup> DG HOME. Counterfeiting. Retrieved February 26, 2018: [https://ec.europa.eu/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/counterfeiting\\_en](https://ec.europa.eu/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/counterfeiting_en)

<sup>(41)</sup> Directive 2014/62/EU of the European Parliament and of the Council of 15 May 2014 on the protection of the euro and other currencies against counterfeiting by criminal law, and replacing Council Framework Decision 2000/383/JHA: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0062&from=EN>

other means of counterfeiting or altering notes and coins; importing, exporting, transporting, receiving or obtaining counterfeit notes and coins with the knowledge that they are counterfeit. All offences criminalised in national law according to article 3 of Directive 2014/62/EU should be mapped into ICCS category 070211 Counterfeiting means of cash payment.

For means of non-cash payment categorised in ICCS category 070212 Counterfeiting means of non-cash payment, no European legislation exists yet. The ICCS defines non-cash payment as a method of payment that is not notes or coins, such as credit cards, cheques, virtual currencies, and debit cards. Similar to 070211 Counterfeiting means of cash payment, the creating, manufacturing, passing, using or possessing counterfeit means of non-cash payment or an instrument to create a false imitation with or without the use of computer systems should be included in ICCS category 070212 Counterfeiting means of non-cash payment as criminalised in national law.

Counterfeit product offences, as defined and categorised under code 07022 in the ICCS, are closely linked to Directive 2004/48/EC on the enforcement of intellectual property rights, also known as *Intellectual Property Rights Enforcement Directive* (IPRED). The ICCS defines counterfeit product offences as creating, manufacturing, selling, passing or possessing counterfeit trademarked, patented, licensed, or otherwise protected products, or an instrument to create a false imitation of a product, with intellectual property, trademark and patent defined as by the World Intellectual Property Organization's (WIPO) basic definitions<sup>(42)</sup>. This category includes all counterfeit product offences, with bags, shoes, medicines, and prescription goods listed explicitly, possession of an article for the creation of counterfeit goods or instruments, counterfeit medicines, and counterfeiting pharmaceutical products. It thus regards only products understood as physical goods and materials. The ICCS explicitly excludes adulteration of medicine (02071), smuggling of goods (08044), and intellectual property offences (0503), which are also covered by the IPRED.

These intellectual property offences under ICCS code 0503 are defined as the unlawful copying, using, reproducing or other infringements of copyrights, patents, trademarks, or other intellectual property, using the same WIPO definitions as in 0702. Intellectual property offences include intellectual property theft, copyright infringements, unlawful appropriation of copyright, computer software piracy, and industrial espionage not amounting to forgery or counterfeiting.

The main difference between ICCS categories 07022 counterfeit product offences and 0503 intellectual property offences is that 07022 is regarding physical products that violate intellectual property and can be physically confiscated. The physical creating, manufacturing, passing or possessing counterfeit trademarked, patented, licensed or otherwise protected products covered by 07022 is excluded from intellectual property offences (0503). Therefore, 0503 only regards offences that violate intellectual property without the creation of physical goods, like copyright infringements, unlawful appropriation of copyright, computer software piracy, or industrial espionage.

The term piracy has its own meaning in the context of the ICCS and is defined under ICCS code 11012 as any act of violence, detention or depredation committed for private ends by the crew or passengers of a private ship or a private aircraft, and directed on the high seas, against another ship or aircraft, or against persons or property on board of such ship or aircraft; or against a ship, aircraft, persons or property in a place outside the jurisdiction of any State, including acts of participation in, incitement to, or facilitation of such acts. 11012 Piracy cannot be used for intellectual property offences.

In addition, ICCS category 0702 Forgery/counterfeiting includes 07023 Acts of forgery/counterfeiting documents, specifically mentioning passports, visas and signatures, and 07029 Other acts of forgery/counterfeiting as a residual category.

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<sup>(42)</sup> World Intellectual Property Organization. What is Intellectual Property?. Page 2. Geneva. [Undated]: [http://www.wipo.int/edocs/pubdocs/en/intproperty/450/wipo\\_pub\\_450.pdf](http://www.wipo.int/edocs/pubdocs/en/intproperty/450/wipo_pub_450.pdf)

# 11

## Drug control, illicit drug markets and drug trafficking

Regulation (EC) No 273/2004<sup>(43)</sup> on drug precursors, which regulates intra-Community trade, and the Council Regulation (EC) No 111/2005<sup>(44)</sup> laying down rules for the monitoring of trade between the Community and third countries in drug precursors, define classes of precursors, stemming from the EU objectives of free movement of goods.

While European Union legislation in the past did not establish different classes of narcotic or psychotropic substances, Council Decision 2005/387/JHA<sup>(45)</sup> on the information exchange, risk-assessment and control of new psychoactive substances (NPS) provided the framework to define which new substances are considered as 'drugs' and thereby requiring Member States to put a drug under national controls equivalent to the controls for substances listed in the UN Conventions of 1961 and 1971. Decision 2005/387/JHA was recently repealed through Directive (EU) 2017/2103<sup>(46)</sup> amending Council Framework Decision 2004/757/JHA in order to include new psychoactive substances in the definition of 'drug'. According to Article 3 (2), Decision 2005/387/JHA will continue to apply to new psychoactive substances already in the process of being classified through the system established in Decision 2005/387/JHA. The new legislation retains and strengthens the response process of information exchange, risk-assessment and control of NPS by inserting Article 1a on the procedure for including new psychoactive substances in the definition of 'drug' in Council Framework Decision 2004/757/JHA. Directive (EU) 2017/2103 further amends Council Framework Decision 2004/757/JHA on laying down minimum provisions on the constituent elements of criminal acts and penalties in the field of illicit drug trafficking which defines drugs for the European Commission. Amended Article 1 now specifies that 'drug' means any of the following:

- a) 'a substance covered by the 1961 United Nations Single Convention on Narcotic Drugs, as amended by the 1972 Protocol, or by the 1971 United Nations Convention on Psychotropic Substances;
- b) any of the substances listed in the Annex;'

While these EU regulations and the UN Conventions provide a framework for which substances are controlled, it is in the end for the Member States to schedule substances, which is now formalised in Article 1b of the amended Council Framework Decision 2004/757/JHA:

*'Article 1b) National control measures: Without prejudice to the obligations imposed on the Member States under this Framework Decision, Member States may maintain or introduce in their territories,*

<sup>(43)</sup> Regulation (EC) No 273/2004 of the European Parliament and of the Council of 11 February 2004 on drug precursors: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:047:0001:0010:EN:PDF>

<sup>(44)</sup> Council Regulation (EC) No 111/2005 of 22 December 2004 laying down rules for the monitoring of trade between the Community and third countries in drug precursors: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32005R0111&from=EN>

<sup>(45)</sup> Council Decision 2005/387/JHA of 10 May 2005 on the information exchange, risk-assessment and control of new psychoactive substances: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32005D0387&from=en>

<sup>(46)</sup> Directive (EU) 2017/2103 of the European Parliament and of the Council of 15 November 2017 amending Council Framework Decision 2004/757/JHA in order to include new psychoactive substances in the definition of 'drug' and repealing Council Decision 2005/387/JHA: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32017L2103>

*with regard to new psychoactive substances, any national control measures that they consider appropriate.'*

In the ICCS, Category 0601 Unlawful acts involving controlled drugs or precursors encapsulates all offences regarding narcotic drugs, psychotropic substances and precursors scheduled as such under the 1961 Single Convention on Narcotic Drugs, as amended, the 1971 *Convention on Psychotropic Substances* and the 1988 *Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances*. Only offences regarding substances listed in the UN Conventions are to be classified under 0601.

Offences regarding all other controlled substances, be it controlled on the European level or on the national level, are to be categorised under ICCS category 0602 Unlawful acts involving alcohol, tobacco or other controlled substances, specifically under 06029 Other unlawful acts involving alcohol, tobacco or other controlled substances.

For offences regarding substances listed in the UN Conventions, the ICCS further distinguishes between offences for personal consumption (06011) and not for personal consumption (06012), which include all trafficking offences (060121) and manufacturing offences (060122).

Council Framework Decision 2004/757/JHA also defines crimes linked to trafficking in drugs and precursors in Article 2 of the Council Framework Decision, asking each Member State to take the necessary measures to ensure that these criminal offences are punishable:

- a) *'the production, manufacture, extraction, preparation, offering, offering for sale, distribution, sale, delivery on any terms whatsoever, brokerage, dispatch, dispatch in transit, transport, importation or exportation of drugs;*
- b) *the cultivation of opium poppy, coca bush or cannabis plant;*
- c) *the possession or purchase of drugs with a view to conducting one of the activities listed in (a);*
- d) *the manufacture, transport or distribution of precursors, knowing that they are to be used in or for the illicit production or manufacture of drugs.'*

The 4 offence categories created by Council Framework Decision 2004/757/JHA, if implemented into national law as specified in the decision, can be mapped to ICCS categories under 06012 Unlawful trafficking, cultivation or production of controlled drugs or precursors not for personal consumption.

*'Article 2(b) can be mapped to ICCS category 060123 Unlawful cultivation of controlled drugs not for personal consumption.*

*Article 2(d) can be mapped to ICCS category 060124 Unlawful diversion of precursors not for personal consumption.*

*Article 2(a) can be mapped to two ICCS categories, depending on the criminal activity.'*

For the production, manufacture, extraction and preparation of drugs, criminal offences according to Article 2(a) can be mapped to ICCS category 060122 Unlawful manufacture of controlled drugs not for personal consumption.

For offering, offering for sale, distribution, sale, delivery on any terms whatsoever, brokerage, dispatch, dispatch in transit, transport, importation or exportation of drugs, criminal offences according to Article 2(a) can be mapped to ICCS category 060121 Unlawful trafficking of controlled drugs not for personal consumption

For Article 2(c), criminal offences can be mapped to ICCS category 060122 or 060121, depending on which activity specified in Article 2(a) is being conducted.

# Annex: ICCS and national legislation in Member States

Jurisdiction	National law	UNCAC	ICCS Category
Belgium	Article 246 (1), 247 (1-3), 248 and 249, Code pénal	15a	070311 Active bribery
	Article 246 (2), 247 (1-3), 248 and 249, Code pénal	15b	070312 Passive bribery
	Article 250, Code pénal	16.1	070311 Active bribery
	Article 250, Code pénal	16.2	070312 Passive bribery
	Article 240-242 and 491, Code pénal	17	07032 Embezzlement
	Article 247 (4), Code pénal	18	07034 Trading in influence
	Article 243, 245 and 254, Code pénal	19	07033 Abuse of functions
	Article 504bis (2) and 504ter, Code pénal	21a	070311 Active bribery
	Article 504bis (1), 504ter, Code pénal	21b	070312 Passive bribery
	Article 492bis, Code pénal	22	07032 Embezzlement
	Article 304 and 304a, Code pénal	15a	070311 Active bribery
	Article 301-303, Code pénal	15b	070312 Passive bribery
	Article 304 and 304a, Code pénal	16.1	070311 Active bribery
	Article 301-303, Code pénal	16.2	070312 Passive bribery
	Article 201-205, Code pénal	17	07032 Embezzlement
	Article 304b, Code pénal	18	07034 Trading in influence
	Article 282-283 and 387, Code pénal	19	07033 Abuse of functions
	Article 225c, Code pénal	21a	070311 Active bribery
	Article 225c, Code pénal	21b	070312 Passive bribery
	Article 206, Code pénal	22	07032 Embezzlement
Czech Republic	Section 332 and 334, Criminal Code	15a	070311 Active bribery
	Section 331 and 334, Criminal Code	15b	070312 Passive bribery
	Section 332 and 334, Criminal Code	16.1	070311 Active bribery
	Section 331 and 334, Criminal Code	16.2	070312 Passive bribery
	Section 206, Criminal Code	17	07032 Embezzlement
	Section 333, Criminal Code	18	07034 Trading in influence
	Section 329, Criminal Code	19	07033 Abuse of functions
	Section 332 and 334, Criminal Code	21a	070311 Active bribery

Jurisdiction	National law	UNCAC	ICCS Category
	Section 331 and 334, Criminal Code	21b	070312 Passive bribery
	Section 206, Criminal Code	22	07032 Embezzlement
Denmark	Section 122, Criminal Code	15a	070311 Active bribery
	Section 144, Criminal Code	15b	070312 Passive bribery
	Section 122, Criminal Code	16.1	070311 Active bribery
	Section 144, Criminal Code	16.2	070312 Passive bribery
	Article 286, Civil/Criminal Code	17	07032 Embezzlement
	Article 155, Civil/Criminal Code	19	07033 Abuse of functions
	Article 156, Civil/Criminal Code	19	07033 Abuse of functions
	Section 299, Criminal Code	21	07031 Bribery
	Article 278, Civil/Criminal Code	22	07032 Embezzlement
	Article 280, Civil/Criminal Code	22	07032 Embezzlement
Germany	Section 333 Criminal Code (StGB) - Giving bribes	15a	070311 Active bribery
	Section 331 Criminal Code (StGB) - Taking bribes	15b	070312 Passive bribery
	Section 335a Criminal Code (StGB) - Foreign and international officials	16	07031 Bribery
	Section 333 Criminal Code (StGB) - Giving bribes	16.1	070311 Active bribery
	Section 331 Criminal Code (StGB) - Taking bribes	16.2	070312 Passive bribery
	Section 266 Criminal Code (StGB) - Embezzlement and abuse of trust	17	07032 Embezzlement
	Section 332 Criminal Code (StGB) - Taking bribes meant as an incentive to violating one's official duties	18	07034 Trading in influence
	Section 334 Criminal Code (StGB) - Giving bribes as an incentive to the recipient's violating his official duties	18	07034 Trading in influence
	Section 335 Criminal Code (StGB) - Aggravated cases	18	07034 Trading in influence
	Section 339 Criminal Code (StGB) - Perverting the course of justice	19	07033 Abuse of functions
	Section 348 Criminal Code (StGB) - Making false entries in public records	19	07033 Abuse of functions
	Section 352 Criminal Code (StGB) - Demanding excessive fees	19	07033 Abuse of functions
	Section 353 Criminal Code (StGB) - Levying excessive taxes; granting reduced benefits	20	07035 Illicit enrichment
	Section 299 (2) Criminal Code (StGB) - Taking and giving bribes in commercial practice	21a	070311 Active bribery
	Section 300 Criminal Code (StGB) - Aggravated cases of taking and giving bribes in commercial practice	21a	070311 Active bribery
	Section 299 (1) Criminal Code (StGB) - Taking and giving bribes in commercial practice	21b	070312 Passive bribery



Jurisdiction	National law	UNCAC	ICCS Category
	Section 300 Criminal Code (StGB) - Aggravated cases of taking and giving bribes in commercial practice	21b	070312 Passive bribery
Estonia	Section 298, Criminal Code	15a	070311 Active bribery
	Section 294, Criminal Code	15b	070312 Passive bribery
	Section 298, Criminal Code	16.1	070311 Active bribery
	Section 294, Criminal Code	16.2	070312 Passive bribery
	Section 201, Criminal Code	17	07032 Embezzlement
	Section 298-1, Criminal Code	18	07034 Trading in influence
	Section 291, Criminal Code	19	07033 Abuse of functions
	Section 298, Criminal Code	21a	070311 Active bribery
	Section 294, Criminal Code	21b	070312 Passive bribery
	Section 201, Criminal Code	22	07032 Embezzlement
Ireland	Article 1, Prevention of Corruption Act 1906	15a	070311 Active bribery
	Article 1.2, Public Bodies Corrupt Practices Act 1889	15a	070311 Active bribery
	Article 2(2), Prevention of Corruption Act 2001	15a	070311 Active bribery
	Article 2, Prevention of Corruption (Amendment) 2010	15a	070311 Active bribery
	Article 1, Prevention of Corruption Act 1906	15b	070312 Passive bribery
	Article 1.1, Public Bodies Corrupt Practices Act 1889	15b	070312 Passive bribery
	Article 2(1), Prevention of Corruption Act 2001	15b	070312 Passive bribery
	Article 2, Prevention of Corruption (Amendment) 2010	15b	070312 Passive bribery
	Article 1, Prevention of Corruption Act 1906	16.1	070311 Active bribery
	Article 2(2), Prevention of Corruption Act 2001	16.1	070311 Active bribery
	Article 2, Prevention of Corruption (Amendment) 2010	16.1	070311 Active bribery
	Article 43, Criminal Justice (Theft and Fraud Offences) Act, 2001	16.1	070311 Active bribery
	Article 1, Prevention of Corruption Act 1906	16.2	070312 Passive bribery
	Article 2(1), Prevention of Corruption Act 2001	16.2	070312 Passive bribery
	Article 2, Prevention of Corruption (Amendment) 2010	16.2	070312 Passive bribery
	Article 44, Criminal Justice (Theft and Fraud Offences) Act, 2001	16.2	070312 Passive bribery
	Article 1, Prevention of Corruption Act 1906	21a	070311 Active bribery
	Article 2(2), Prevention of Corruption Act 2001	21a	070311 Active bribery
	Article 2, Prevention of Corruption (Amendment) 2010	21a	070311 Active bribery
	Article 1, Prevention of Corruption Act 1906	21b	070312 Passive bribery
	Article 2(1), Prevention of Corruption Act	21b	070312 Passive bribery

Jurisdiction	National law	UNCAC	ICCS Category
	2001		
	Article 2, Prevention of Corruption (Amendment) 2010	21b	070312 Passive bribery
Greece	Article 159A, Criminal Code	15a	070311 Active bribery
	Article 236, Criminal Code	15a	070311 Active bribery
	Article 237, Criminal Code	15a	070311 Active bribery
	Article 159, Criminal Code	15b	070312 Passive bribery
	Article 235, Criminal Code	15b	070312 Passive bribery
	Article 237, Criminal Code	15b	070312 Passive bribery
	Article 236, Criminal Code	16.1	070311 Active bribery
	Article 235, Criminal Code	16.2	070312 Passive bribery
	Article 256, Criminal Code	17	07032 Embezzlement
	Article 257, Criminal Code	17	07032 Embezzlement
	Article 258, Criminal Code	17	07032 Embezzlement
	Article 237A, Criminal Code	18	07034 Trading in influence
	Article 239, Criminal Code	19	07033 Abuse of functions
	Article 259, Criminal Code	19	07033 Abuse of functions
	Article 237B, Criminal Code	21a	070311 Active bribery
	Article 237B, Criminal Code	21b	070312 Passive bribery
	Article 375, Criminal Code	22	07032 Embezzlement
	Article 390, Criminal Code	22	07032 Embezzlement
Spain	Article 424, Penal Code	15a	070311 Active bribery
	Article 419, Penal Code	15b	070312 Passive bribery
	Article 420, Penal Code	15b	070312 Passive bribery
	Article 422, Penal Code	15b	070312 Passive bribery
	Article 427, Penal Code	16	07031 Bribery
	Article 424, Penal Code	16.1	070311 Active bribery
	Article 445, Penal Code	16.1	070311 Active bribery
	Article 419, Penal Code	16.2	070312 Passive bribery
	Article 420, Penal Code	16.2	070312 Passive bribery
	Article 422, Penal Code	16.2	070312 Passive bribery
	Article 432, Penal Code	17	07032 Embezzlement
	Article 433, Penal Code	17	07032 Embezzlement
	Article 434, Penal Code	17	07032 Embezzlement
	Article 435, Penal Code	17	07032 Embezzlement
	Article 428, Penal Code	18	07034 Trading in influence
	Article 429, Penal Code	18	07034 Trading in influence
	Article 430, Penal Code	18	07034 Trading in influence
	Article 404, Penal Code	19	07033 Abuse of functions
	Article 439, Penal Code	19	07033 Abuse of functions
	Article 440, Penal Code	19	07033 Abuse of functions
	Article 286 bis(1), Penal Code	21a	070311 Active bribery
	Article 286 bis(2), Penal Code	21b	070312 Passive bribery

Jurisdiction	National law	UNCAC	ICCS Category
France	Article 252, Penal Code	22	07032 Embezzlement
	Article 295, Penal Code	22	07032 Embezzlement
	Article 433-1 (1), Criminal Code	15a	070311 Active bribery
	Article 434-9, Criminal Code	15a	070311 Active bribery
	Article 432-11 (1), Criminal Code	15b	070312 Passive bribery
	Article 433-1 (2), Criminal Code	15b	070312 Passive bribery
	Article 434-9, Criminal Code	15b	070312 Passive bribery
	Article 435-3, Criminal Code	16.1	070311 Active bribery
	Article 435-9, Criminal Code	16.1	070311 Active bribery
	Article 435-1 of the Criminal Code	16.2	070312 Passive bribery
	Article 435-7, Criminal Code	16.2	070312 Passive bribery
	Article 432-15, Criminal Code	17	07032 Embezzlement
	Article 432-11 (2), Criminal Code	18	07034 Trading in influence
	Article 433-1 (2), Criminal Code	18	07034 Trading in influence
	Article 433-2, Criminal Code	18	07034 Trading in influence
	Article 435-10, Criminal Code	18	07034 Trading in influence
	Article 435-2, Criminal Code	18	07034 Trading in influence
	Article 435-4, Criminal Code	18	07034 Trading in influence
	Article 435-8, Criminal Code	18	07034 Trading in influence
	Article 168 of the General Tax Code	19	07033 Abuse of functions
	Article 321-1, Criminal Code	19	07033 Abuse of functions
	Article 321-6, Criminal Code	19	07033 Abuse of functions
	Article 432-1, Criminal Code	19	07033 Abuse of functions
	Article 432-10, Criminal Code	19	07033 Abuse of functions
	Article 432-12, Criminal Code	19	07033 Abuse of functions
	Article 432-14, Criminal Code	19	07033 Abuse of functions
	Article 432-2, Criminal Code	19	07033 Abuse of functions
	Article 432-4, Criminal Code	19	07033 Abuse of functions
	Article 445-1, Criminal Code	21a	070311 Active bribery
	Article 445-1-1, Criminal Code	21a	070311 Active bribery
	Article 445-2, Criminal Code	21b	070312 Passive bribery
	Article 445-2-1, Criminal Code	21b	070312 Passive bribery
	Article 314-1, Criminal Code	22	07032 Embezzlement
	Article 314-2, Criminal Code	22	07032 Embezzlement
	Article 314-3, Criminal Code	22	07032 Embezzlement
	L.241-3 of the Commercial Code	22	07032 Embezzlement
	L.242-6 of the Commercial Code	22	07032 Embezzlement
Croatia	Article 294, Criminal Code	15a	070311 Active bribery
	Article 293, Criminal Code	15b	070312 Passive bribery
	Article 294, Criminal Code	16.1	070311 Active bribery
	Article 293, Criminal Code	16.2	070312 Passive bribery
	Article 233, Criminal Code	17	07032 Embezzlement
	Article 295, Criminal Code	18	07034 Trading in influence

Jurisdiction	National law	UNCAC	ICCS Category
	Article 291, Criminal Code	19	07033 Abuse of functions
	Article 253, Criminal Code	21a	070311 Active bribery
	Article 252, Criminal Code	21b	070312 Passive bribery
	Article 233, Criminal Code	22	07032 Embezzlement
Italy	Article 321 Criminal Code	15a	070311 Active bribery
	Article 322 Criminal Code	15a	070311 Active bribery
	Article 317 Criminal Code	15b	070312 Passive bribery
	Article 318 Criminal Code	15b	070312 Passive bribery
	Article 319 Criminal Code	15b	070312 Passive bribery
	Article 319ter Criminal Code	15b	070312 Passive bribery
	Article 322bis Criminal Code	16	07031 Bribery
	Article 314 Criminal Code	17	07032 Embezzlement
	Article 316 Criminal Code	17	07032 Embezzlement
	Article 346 Criminal Code	18	07034 Trading in influence
	Article 346bis Criminal Code	18	07034 Trading in influence
	Article 323 Criminal Code	19	07033 Abuse of functions
	Article 328 Criminal Code	19	07033 Abuse of functions
	Article 2635 Civil Code	21	07031 Bribery
	Article 646 Criminal Code	22	07032 Embezzlement
Cyprus	Section 100-101, Criminal Code	15	07031 Bribery
	section 4 of Law 23(III) 2000, as amended by Law 22(III)/2012	15	07031 Bribery
	section 4 of Law 23(III) 2000, as amended by Law 22(III)/2012	16	07031 Bribery
	Section 104, Criminal Code	17	07032 Embezzlement
	Section 270(b), Criminal Code	17	07032 Embezzlement
	Section 102, Criminal Code	18	07034 Trading in influence
	Section 105A, Criminal Code	18	07034 Trading in influence
	section 4 of Law 23(III) 2000, as amended by Law 22(III)/2012	18	07034 Trading in influence
	Section 103 and 105, Criminal Code	19	07033 Abuse of functions
	Law No. 51(I)/2004 'The Illicit Acquisition of Property Benefits by State Officials and Public Officers Law'	20	07035 Illicit enrichment
	Section 3, Prevention of Corruption Law Cap. 161	21	07031 Bribery
Latvia	Section 255(1), Criminal Code	22	07032 Embezzlement
	Section 326, Criminal Law	15	07031 Bribery
	Section 323, Criminal Law	15a	070311 Active bribery
	Section 320, Criminal Law	15b	070312 Passive bribery
	Section 316(3), Criminal Law	16	07031 Bribery
	Section 323, Criminal Law	16.1	070311 Active bribery
	Section 320, Criminal Law	16.2	070312 Passive bribery
	Section 179, Criminal Law	17	07032 Embezzlement
	Section 318(2), Criminal Law	17	07032 Embezzlement

Jurisdiction	National law	UNCAC	ICCS Category
	Section 319(2), Criminal Law	17	07032 Embezzlement
	Section 326-1, Criminal Law	18	07034 Trading in influence
	Section 318, Criminal Law	19	07033 Abuse of functions
	Section 319, Criminal Law	19	07033 Abuse of functions
	Section 219, Criminal Law	20	07035 Illicit enrichment
	Section 325, Criminal Law	20	07035 Illicit enrichment
	Section 326, Criminal Law	20	07035 Illicit enrichment
	Section 199, Criminal Law	21a	070311 Active bribery
	Section 198, Criminal Law	21b	070312 Passive bribery
	Section 179, Criminal Law	22	07032 Embezzlement
Lithuania	Article 230, Criminal Code	15	07031 Bribery
	Article 227, Criminal Code	15a	070311 Active bribery
	Article 225, Criminal Code	15b	070312 Passive bribery
	Article 230, Criminal Code	16	07031 Bribery
	Article 227, Criminal Code	16.1	070311 Active bribery
	Article 225, Criminal Code	16.2	070312 Passive bribery
	Article 183, Criminal Code	17	07032 Embezzlement
	Article 184, Criminal Code	17	07032 Embezzlement
	Article 228, Criminal Code	17	07032 Embezzlement
	Article 226, Criminal Code	18	07034 Trading in influence
	Article 228, Criminal Code	19	07033 Abuse of functions
	Article 189, Criminal Code	20	07035 Illicit enrichment
	Article 230, Criminal Code	21	07031 Bribery
	Article 227, Criminal Code	21a	070311 Active bribery
	Article 225, Criminal Code	21b	070312 Passive bribery
	Article 183, Criminal Code	22	07032 Embezzlement
	Article 184, Criminal Code	22	07032 Embezzlement
Luxembourg	Article 247(1), Code Pénal, Livre II, , Titre IV, Chapitre III	15a	070311 Active bribery
	Article 249, Code Pénal, Livre II, , Titre IV, Chapitre III	15a	070311 Active bribery
	Article 250, Code Pénal, Livre II, , Titre IV, Chapitre III	15a	070311 Active bribery
	Article 246(1), Code Pénal, Livre II, , Titre IV, Chapitre III	15b	070312 Passive bribery
	Article 249, Code Pénal, Livre II, , Titre IV, Chapitre III	15b	070312 Passive bribery
	Article 250, Code Pénal, Livre II, , Titre IV, Chapitre III	15b	070312 Passive bribery
	Article 252, Code Pénal, Livre II, , Titre IV, Chapitre III	16	07031 Bribery
	Article 247(1), Code Pénal, Livre II, , Titre IV, Chapitre III	16.1	070311 Active bribery
	Article 249, Code Pénal, Livre II, , Titre IV, Chapitre III	16.1	070311 Active bribery

Jurisdiction	National law	UNCAC	ICCS Category
	Article 250, Code Pénal, Livre II, , Titre IV, Chapitre III	16.1	070311 Active bribery
	Article 246(1), Code Pénal, Livre II, , Titre IV, Chapitre III	16.2	070312 Passive bribery
	Article 249, Code Pénal, Livre II, , Titre IV, Chapitre III	16.2	070312 Passive bribery
	Article 250, Code Pénal, Livre II, , Titre IV, Chapitre III	16.2	070312 Passive bribery
	Article 240, Code Pénal, Livre II, Titre IV, Chapitre III	17	07032 Embezzlement
	Article 491, Code Pénal, Livre II, Titre IX, Chapitre II, Section II	17	07032 Embezzlement
	Article 246(2), Code Pénal, Livre II, , Titre IV, Chapitre III	18	07034 Trading in influence
	Article 247(2), Code Pénal, Livre II, , Titre IV, Chapitre III	18	07034 Trading in influence
	Article 248, Code Pénal, Livre II, , Titre IV, Chapitre III	18	07034 Trading in influence
	Article 240, Code Pénal, Livre II, Titre IV, Chapitre III	19	07033 Abuse of functions
	Article 243, Code Pénal, Livre II, Titre IV, Chapitre III	19	07033 Abuse of functions
	Article 245, Code Pénal, Livre II, Titre IV, Chapitre III	19	07033 Abuse of functions
	Article 254, Code Pénal, Livre II, , Titre IV, Chapitre IV	19	07033 Abuse of functions
	Article 310-1, Code Pénal, Livre II, , Titre V, Chapitre VIII	21a	070311 Active bribery
	Article 310, Code Pénal, Livre II, , Titre V, Chapitre VIII	21b	070312 Passive bribery
	Article 491, Code Pénal, Livre II, Titre IX, Chapitre II, Section II	22	07032 Embezzlement
	Article 494, Code Pénal, Livre II, Titre IX, Chapitre II, Section II	22	07032 Embezzlement
	Article 495, Code Pénal, Livre II, Titre IX, Chapitre II, Section II	22	07032 Embezzlement
Hungary	Article 293, New Criminal Code	15a	070311 Active bribery
	Article 295, New Criminal Code	15a	070311 Active bribery
	Article 294, New Criminal Code	15b	070312 Passive bribery
	Article 296, New Criminal Code	15b	070312 Passive bribery
	Article 293 (3), New Criminal Code	16.1	070311 Active bribery
	Article 294 (4), New Criminal Code	16.2	070312 Passive bribery
	Article 372, New Criminal Code	17	07032 Embezzlement
	Article 376, New Criminal Code	17	07032 Embezzlement
	Article 298, New Criminal Code	18	07034 Trading in influence
	Article 299, New Criminal Code	18	07034 Trading in influence
	Article 300, New Criminal Code	18	07034 Trading in influence
	Article 305, New Criminal Code	19	07033 Abuse of functions

Jurisdiction	National law	UNCAC	ICCS Category
	Article 306, New Criminal Code	19	07033 Abuse of functions
	Article 290, New Criminal Code	21a	070311 Active bribery
	Article 291, New Criminal Code	21b	070312 Passive bribery
	Article 372, New Criminal Code	22	07032 Embezzlement
	Article 376, New Criminal Code	22	07032 Embezzlement
Malta	Article 120, Criminal Code	15a	070311 Active bribery
	Article 115, Criminal Code	15b	070312 Passive bribery
	Article 118, Criminal Code	15b	070312 Passive bribery
	Article 121(4), Criminal Code	16	07031 Bribery
	Article 120, Criminal Code	16.1	070311 Active bribery
	Article 115, Criminal Code	16.2	070312 Passive bribery
	Article 127 (1), Criminal Code	17	07032 Embezzlement
	Article 293, Criminal Code	17	07032 Embezzlement
	Article 294, Criminal Code	17	07032 Embezzlement
	Article 121(A), Criminal Code	18	07034 Trading in influence
	Article 112, Criminal Code	19	07033 Abuse of functions
	Article 113, Criminal Code	19	07033 Abuse of functions
	Article 121, Criminal Code	21	07031 Bribery
	Article 120, Criminal Code	21a	070311 Active bribery
	Article 115, Criminal Code	21b	070312 Passive bribery
	Article 127(2), Criminal Code	22	07032 Embezzlement
	Article 293, Criminal Code	22	07032 Embezzlement
	Article 294, Criminal Code	22	07032 Embezzlement
Netherlands	Article 177, Criminal Code (Wetboek van Strafrecht)	15a	070311 Active bribery
	Article 177a, Criminal Code (Wetboek van Strafrecht)	15a	070311 Active bribery
	Article 178, Criminal Code (Wetboek van Strafrecht)	15a	070311 Active bribery
	Article 362, Criminal Code (Wetboek van Strafrecht)	15b	070312 Passive bribery
	Article 363, Criminal Code (Wetboek van Strafrecht)	15b	070312 Passive bribery
	Article 364, Criminal Code (Wetboek van Strafrecht)	15b	070312 Passive bribery
	Article 177, Criminal Code (Wetboek van Strafrecht)	16.1	070311 Active bribery
	Article 177a, Criminal Code (Wetboek van Strafrecht)	16.1	070311 Active bribery
	Article 178, Criminal Code (Wetboek van Strafrecht)	16.1	070311 Active bribery
	Article 178a, Criminal Code (Wetboek van Strafrecht)	16.1	070311 Active bribery
	Article 362, Criminal Code (Wetboek van Strafrecht)	16.2	070312 Passive bribery
	Article 363, Criminal Code (Wetboek van Strafrecht)	16.2	070312 Passive bribery



Jurisdiction	National law	UNCAC	ICCS Category
	Strafrecht)		
	Article 364a, Criminal Code (Wetboek van Strafrecht)	16.2	070312 Passive bribery
	Article 359, Criminal Code (Wetboek van Strafrecht)	17	07032 Embezzlement
	Article 360, Criminal Code (Wetboek van Strafrecht)	17	07032 Embezzlement
	Article 361, Criminal Code (Wetboek van Strafrecht)	17	07032 Embezzlement
	Article 366, Criminal Code (Wetboek van Strafrecht)	17	07032 Embezzlement
	Article 365, Criminal Code (Wetboek van Strafrecht)	19	07033 Abuse of functions
	Article 328ter(2), Criminal Code (Wetboek van Strafrecht)	21a	070311 Active bribery
	Article 328ter(1), Criminal Code (Wetboek van Strafrecht)	21b	070312 Passive bribery
	Article 321, Criminal Code (Wetboek van Strafrecht)	22	07032 Embezzlement
	Article 322, Criminal Code (Wetboek van Strafrecht)	22	07032 Embezzlement
	Article 323, Criminal Code (Wetboek van Strafrecht)	22	07032 Embezzlement
	Article 323a, Criminal Code (Wetboek van Strafrecht)	22	07032 Embezzlement
<b>Austria</b>	Article 307, 307a and 307b Penal Code	15a	070311 Active bribery
	Article 304, 305 and 306, Penal Code	15b	070312 Passive bribery
	Article 307, 307a and 307b Penal Code	16.1	070311 Active bribery
	Article 304, 305 and 306, Penal Code	16.2	070312 Passive bribery
	Article 133 and 153, Penal Code	17	07032 Embezzlement
	Article 308, Penal Code	18	07034 Trading in influence
	Article 302, Penal Code	19	07033 Abuse of functions
	Article 309, Penal Code	21a	070311 Active bribery
	Article 309, Penal Code	21b	070312 Passive bribery
	Article 133 and 153, Penal Code	22	07032 Embezzlement
<b>Poland</b>	Article 229, Criminal Code	15a	070311 Active bribery
	Article 228, Criminal Code	15b	070312 Passive bribery
	Article 229(5), Criminal Code	16.1	070311 Active bribery
	Article 228(6), Criminal Code	16.2	070312 Passive bribery
	Article 284, Criminal Code	17	07032 Embezzlement
	Article 296, Criminal Code	17	07032 Embezzlement
	Article 230, Criminal Code	18	07034 Trading in influence
	Article 230a, Criminal Code	18	07034 Trading in influence
	Article 231, Criminal Code	19	07033 Abuse of functions
	Article 296a(2), Criminal Code	21a	070311 Active bribery
	Article 296a(1), Criminal Code	21b	070312 Passive bribery
	Article 284, Criminal Code	22	07032 Embezzlement

Jurisdiction	National law	UNCAC	ICCS Category
	Article 296, Criminal Code	22	07032 Embezzlement
Portugal	Article 372.2, Criminal Code (as amended by Law no. 32/2010, of 2 September)	15a	070311 Active bribery
	Article 374, Criminal Code (as amended by Law no. 32/2010, of 2 September)	15a	070311 Active bribery
	Article 372.1, Criminal Code (as amended by Law no. 32/2010, of 2 September)	15b	070312 Passive bribery
	Article 373, Criminal Code (as amended by Law no. 32/2010, of 2 September)	15b	070312 Passive bribery
	Article 7, Law nº 20/2008 of 21 April	16.1	070311 Active bribery
	Article 375, Criminal Code (as amended by Law no. 32/2010, of 2 September)	17	07032 Embezzlement
	Article 376, Criminal Code (as amended by Law no. 32/2010, of 2 September)	17	07032 Embezzlement
	Article 335, Criminal Code (as amended by Law no. 32/2010, of 2 September)	18	07034 Trading in influence
	Article 382, Criminal Code (as amended by Law no. 32/2010, of 2 September)	19	07033 Abuse of functions
	Article 9, Law no. 20/2008, of 21 April	21a	070311 Active bribery
	Article 8, Law no. 20/2008, of 21 April	21b	070312 Passive bribery
	Article 205, Criminal Code (as amended by Law no. 32/2010, of 2 September)	22	07032 Embezzlement
Romania	Article 293, Criminal Code 2012	15	07031 Bribery
	Article 290, Criminal Code 2012	15a	070311 Active bribery
	Article 289, Criminal Code 2012	15b	070312 Passive bribery
	Article 294, Criminal Code 2012	16	07031 Bribery
	Article 290, Criminal Code 2012	16.1	070311 Active bribery
	Article 289, Criminal Code 2012	16.2	070312 Passive bribery
	Article 10, Law on Preventing, Discovering, and Sanctioning of Corruption Acts	17	07032 Embezzlement
	Article 295, Criminal Code 2012	17	07032 Embezzlement
	Article 307, Criminal Code 2012	17	07032 Embezzlement
	Article 291, Criminal Code 2012	18	07034 Trading in influence
	Article 292, Criminal Code 2012	18	07034 Trading in influence
	Article 297, Criminal Code 2012	19	07033 Abuse of functions
	Article 300, Criminal Code 2012	19	07033 Abuse of functions
	Article 306, Criminal Code 2012	20	07035 Illicit enrichment
	Article 308, Criminal Code 2012	21	07031 Bribery
	Article 290, Criminal Code 2012	21a	070311 Active bribery
	Article 289, Criminal Code 2012	21b	070312 Passive bribery
	Article 295, Criminal Code 2012	22	07032 Embezzlement
	Article 308, Criminal Code 2012	22	07032 Embezzlement
Slovenia	Article 262, Criminal Code 2008	15a	070311 Active bribery
	Article 261, Criminal Code 2008	15b	070312 Passive bribery
	Article 262, Criminal Code 2008	16.1	070311 Active bribery
	Article 261, Criminal Code 2008	16.2	070312 Passive bribery

Jurisdiction	National law	UNCAC	ICCS Category
	Article 209(2), Criminal Code 2008	17	07032 Embezzlement
	Article 263, Criminal Code 2008	18	07034 Trading in influence
	Article 264, Criminal Code 2008	18	07034 Trading in influence
	Article 257, Criminal Code 2008	19	07033 Abuse of functions
	Article 242, Criminal Code 2008	21a	070311 Active bribery
	Article 241, Criminal Code 2008	21b	070312 Passive bribery
	Article 208, Criminal Code 2008	22	07032 Embezzlement
	Article 209, Criminal Code 2008	22	07032 Embezzlement
Slovakia	Section 333, Criminal Code	15a	070311 Active bribery
	Section 329, Criminal Code	15b	070312 Passive bribery
	Section 334, Criminal Code	16.1	070311 Active bribery
	Section 335, Criminal Code	16.1	070311 Active bribery
	Section 330, Criminal Code	16.2	070312 Passive bribery
	Section 331, Criminal Code	16.2	070312 Passive bribery
	Section 213, Criminal Code	17	07032 Embezzlement
	Section 336, Criminal Code	18	07034 Trading in influence
	Section 326, Criminal Code	19	07033 Abuse of functions
	Proof of Origin Act	20	07035 Illicit enrichment
	Section 332, Criminal Code	21a	070311 Active bribery
	Section 328, Criminal Code	21b	070312 Passive bribery
	Section 213, Criminal Code	22	07032 Embezzlement
Finland	Chapter 16, Section 13, Penal Code -Giving of bribes (604/2002)	15a	070311 Active bribery
	Chapter 16, Section 14, Penal Code - Aggravated giving of bribes (563/1998)	15a	070311 Active bribery
	Chapter 16, Section 14a, Penal Code - Giving of bribes to a member of Parliament (637/2011)	15a	070311 Active bribery
	Chapter 16, Section 14b, Penal Code - Aggravated giving of bribes to a member of Parliament (637/2011)	15a	070311 Active bribery
	Chapter 40, Section 1, Penal Code - Acceptance of a bribe (604/2002)	15b	070312 Passive bribery
	Chapter 40, Section 2, Penal Code - Aggravated acceptance of a bribe (604/2002)	15b	070312 Passive bribery
	Chapter 40, Section 3, Penal Code - Bribery violation (604/2002)	15b	070312 Passive bribery
	Chapter 40, Section 4, Penal Code - Acceptance of a bribe as a member of Parliament (637/2011)	15b	070312 Passive bribery
	Chapter 40, Section 4a, Penal Code - Aggravated acceptance of a bribe as a member of Parliament (637/2011)	15b	070312 Passive bribery
	Chapter 16, Section 13, Penal Code -Giving of bribes (604/2002)	16.1	070311 Active bribery
	Chapter 16, Section 14, Penal Code - Aggravated giving of bribes (563/1998)	16.1	070311 Active bribery

Jurisdiction	National law	UNCAC	ICCS Category
	Chapter 16, Section 14a, Penal Code - Giving of bribes to a member of Parliament (637/2011)	16.1	070311 Active bribery
	Chapter 16, Section 14b, Penal Code - Aggravated giving of bribes to a member of Parliament (637/2011)	16.1	070311 Active bribery
	Chapter 40, Section 1, Penal Code - Acceptance of a bribe (604/2002)	16.2	070312 Passive bribery
	Chapter 40, Section 2, Penal Code - Aggravated acceptance of a bribe (604/2002)	16.2	070312 Passive bribery
	Chapter 40, Section 3, Penal Code - Bribery violation (604/2002)	16.2	070312 Passive bribery
	Chapter 40, Section 4, Penal Code - Acceptance of a bribe as a member of Parliament (637/2011)	16.2	070312 Passive bribery
	Chapter 40, Section 4a, Penal Code - Aggravated acceptance of a bribe as a member of Parliament (637/2011)	16.2	070312 Passive bribery
	Chapter 28, Section 4, Penal Code - Embezzlement (769/1990)	17	07032 Embezzlement
	Chapter 28, Section 5, Penal Code - Aggravated embezzlement (769/1990)	17	07032 Embezzlement
	Chapter 28, Section 6, Penal Code - Petty embezzlement (769/1990)	17	07032 Embezzlement
	Chapter 40, Section 5 (1), Penal Code - Breach of official secrecy (604/2002)	19	07033 Abuse of functions
	Chapter 40, Section 7, Penal Code - Abuse of public office (604/2002)	19	07033 Abuse of functions
	Chapter 40, Section 8, Penal Code - Aggravated abuse of public office (792/1989)	19	07033 Abuse of functions
	Chapter 40, Section 9, Penal Code - Violation of official duty (604/2002)	19	07033 Abuse of functions
	Chapter 30, Section 7, Penal Code - Giving of bribe in business (637/2011)	21a	070311 Active bribery
	Chapter 30, Section 7a, Penal Code - Aggravated giving of a bribe in business (637/2011)	21a	070311 Active bribery
	Chapter 30, Section 8, Penal Code - Acceptance of a bribe in business (637/2011)	21b	070312 Passive bribery
	Chapter 30, Section 8a, Penal Code - Aggravated acceptance of a bribe in business (637/2011)	21b	070312 Passive bribery
	Chapter 28, Section 4, Penal Code - Embezzlement (769/1990)	22	07032 Embezzlement
	Chapter 28, Section 5, Penal Code - Aggravated embezzlement (769/1990)	22	07032 Embezzlement
	Chapter 28, Section 6, Penal Code - Petty embezzlement (769/1990)	22	07032 Embezzlement
Sweden	Chapter 10, Section 5b, Penal Code	15a	070311 Active bribery
	Chapter 10, Section 5a, Penal Code	15b	070312 Passive bribery
	Chapter 10, Section 5b, Penal Code	16.1	070311 Active bribery

Jurisdiction	National law	UNCAC	ICCS Category
	Chapter 10, Section 5a, Penal Code	16.2	070312 Passive bribery
	Chapter 10, Section 1, Penal Code	17	07032 Embezzlement
	Chapter 10, Section 4, Penal Code	17	07032 Embezzlement
	Chapter 10, Section 5, Penal Code	17	07032 Embezzlement
	Chapter 23, Section 7, Penal Code	17	07032 Embezzlement
	Chapter 10, Section 5d, Penal Code	18	07034 Trading in influence
	Chapter 20, Section 1, Penal Code	19	07033 Abuse of functions
	Chapter 10, Section 5b, Penal Code	21a	070311 Active bribery
	Chapter 10, Section 5a, Penal Code	21b	070312 Passive bribery
	Chapter 10, Section 1, Penal Code	22	07032 Embezzlement
	Chapter 10, Section 4, Penal Code	22	07032 Embezzlement
	Chapter 10, Section 5, Penal Code	22	07032 Embezzlement
	Chapter 23, Section 7, Penal Code	22	07032 Embezzlement
UK	Article 1. Bribery Act 2010 - Offences of bribing another person	15a	070311 Active bribery
	Article 2. Bribery Act 2010 - Offences relating to being bribed	15b	070312 Passive bribery
	Article 6. Bribery Act 2010 - Bribery of foreign public officials	16.1	070311 Active bribery
	Article 1. Bribery Act 2010 - Offences of bribing another person	21a	070311 Active bribery
	Article 2. Bribery Act 2010 - Offences relating to being bribed	21b	070312 Passive bribery
UK - England and Wales	Article 4. Fraud Act 2006 - Fraud by abuse of position	17	07032 Embezzlement
	Article 4. Fraud Act 2006 - Fraud by abuse of position	22	07032 Embezzlement
UK - Northern Ireland	Article 4. Fraud Act 2006 - Fraud by abuse of position	17	07032 Embezzlement
	Article 4. Fraud Act 2006 - Fraud by abuse of position	22	07032 Embezzlement

Source: Country Report or at least Executive Summary of the UNCAC Review cycle 1 on Chapter III implementation

<http://www.unodc.org/unodc/en/treaties/CAC/country-profile/index.html>

Source: National legislation in UNODC's TRACK Legal Library for UNCAC Articles 15 to 22 <https://track.unodc.org/Pages/home.aspx>

Source: National criminal codes or other relevant legislation

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# Monitoring EU crime policies using the International Classification of Crime for Statistical Purposes (ICCS)

Eurostat countries are dealing with different legal concepts and traditions, different criminal justice systems and laws as well as different definitions, methodologies, and instruments to collect crime data.

All these differences limit the comparability of crime statistics across Europe. Implementing a common classification of offences such as the International Classification of Crime for Statistical Purposes (ICCS) will strengthen the comparability and consistency of crime and criminal justice data and improve analytical capabilities at national, European, and international levels. Implementation steps already undertaken by Eurostat include using ICCS categories in the joint UNODC/Eurostat data collection and publishing data on criminal offences according to ICCS categories. The next goal is for Eurostat countries to implement the ICCS in the production of crime statistics on national level.

This publication is the second in a series of Eurostat booklets to support the implementation of the ICCS, with the first booklet providing general remarks, a roadmap for the implementation as well as translations of ICCS category titles in all official EU languages. The overall purpose of this second booklet is to describe how the specific criminal offences defined in the legislation passed at EU level should be mapped to the ICCS. For these offences, a common approach towards the alignment with the ICCS needs to be developed, where possible, to ensure that all EU Member States treat these offences consistently when applying the ICCS at national level. The relevant offences make up the chapters of this booklet. Each chapter provides explanations on how to align offences defined at EU level with ICCS categories by suggesting possible mapping scenarios, providing correspondence tables or pointing out inconsistencies between ICCS definitions and definitions in EU legislation. For some offences, the classification may require supplementary guidance to map said offences to the matching ICCS category .

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For more information

<http://ec.europa.eu/eurostat/>



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