



# The Scales of Justice

## *Sea-Fisheries and the Courts*

Laurie O'Keeffe

## Enforcement

National and EU legislation

Criminal enforcement

Strict liability offences

# EU Law

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Only common law jurisdiction

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Only Member State without administrative sanctions

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Sanctions should be calculated in such way as to make sure that they “effectively deprive those responsible of the economic benefit derived from their infringement”

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“Effective, proportionate and dissuasive”

# Sea-Fisheries and Maritime Jurisdiction Act 2006

General EU law provision

High maximum fines and forfeiture

Extensive powers of SFPOs

Establishes the Sea-Fisheries Protection  
Authority

## Main Offences

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Under recording

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Quota

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Quota hopping

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Authorisation

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Prohibited species

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Undersized species

# Prosecutions

Summary and  
indictable cases  
through the DPP

High burden of  
proof

Mainly plea  
cases

# Issues

Delay

Lack of priority in  
court lists

Complexity of  
law and subject  
matter

Lack of physical  
evidence

Low fines

Sympathetic  
judge/jury

Perception of  
fisheries offences  
as real crime?

## Bridget Carmel Cases

- Fully recorded plus admissions
- Points already applied and licence suspended
- Corroboration warning
- Portion of the catch already confiscated
- € 100 fine



*DPP v Gerrit  
Plug*

High grading case

€5,922,544 bond challenged in  
High Court successfully

No forfeiture ordered

## Selected Plea Cases

- *DPP v Jose Hipolito Bares Soto* – forfeiture of part of catch to which offence related
- *DPP v Manuel Montejano* – boarding ladder health and safety offence, no forfeiture
- *DPP v Javier Juncal Iglesias* – boarding ladder, forfeiture ordered
- *DPP v Mark Bates* – stand-in familiarity with penalties

## *DPP v Klaas Meijvogel*

- High grading case
- Fine of € 500 and forfeiture of € 399,000
- Unsuccessful appeal against conviction to Court of Appeal
- Preliminary reference- is mandatory forfeiture proportionate?
- Reasoned Order- trial judge must have discretion
- All sentencing in cases on indictment delayed

# EU Study 2014-2019

“Rather low and not sufficiently high to be dissuasive”

Low detection of infringements

Almost negligible cases of convictions

Average length of enforcement procedures 419 days

Backlog of cases

# Points to Consider

Effective,  
proportionate and  
dissuasive?

Remove the  
economic benefit  
derived from the  
infringement?

Alternatives  
needed