



2023/0135(COD)

21.9.2023

*****I**

DRAFT REPORT

on the proposal for a directive of the European Parliament and of the Council on combating corruption, replacing Council Framework Decision 2003/568/JHA and the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union and amending Directive (EU) 2017/1371 of the European Parliament and of the Council
(COM(2023)0234 – C9-0162/2023 – 2023/0135(COD))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Ramona Strugariu

Rapporteur for the opinion of the associated committee pursuant to Rule 57 of the Rules of Procedure: Caterina Chinnici, Committee on Budgetary Control

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the **■** symbol or ~~strikeout~~. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

CONTENTS

	Page
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION	5
EXPLANATORY STATEMENT	73

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a directive of the European Parliament and of the Council on combating corruption, replacing Council Framework Decision 2003/568/JHA and the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union and amending Directive (EU) 2017/1371 of the European Parliament and of the Council (COM(2023)0234 – C9-0162/2023 – 2023/0135(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2023)0234),
 - having regard to Article 294(2) and Articles 82(1) point (d), and 83(1) and (2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0162/2023),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the reasoned opinion submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the Swedish Parliament, asserting that the draft legislative act does not comply with the principle of subsidiarity,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the opinion of the Committee on Budgetary Control,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A9-0000/2023),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a directive

Recital 5

Text proposed by the Commission

(5) To root out corruption, both preventive and repressive mechanisms are needed. Member States are encouraged to take a wide range of preventive, legislative and cooperative measures as part of the fight against corruption. Whereas corruption is first and foremost a crime and specific acts of corruption are defined in national and international law, failings in integrity, undisclosed conflicts of interests or serious breaches of ethical rules can become corrupt activities if left unaddressed. The prevention of corruption mitigates the need for criminal repression and has wider benefits in promoting public trust and managing the conduct of public officials. Effective anti-corruption approaches often build on measures to enhance transparency, ethics and integrity, as well as by regulating in areas such as conflict of interest, lobbying and revolving doors. Public bodies should seek the highest standards of integrity, transparency and independence as an important part of tackling corruption more broadly.

Amendment

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Or. en

Amendment 2

**Proposal for a directive
Recital 5 a (new)**

Text proposed by the Commission

Amendment

(5a) Public procurement is particularly vulnerable to corruption. In order to fight corruption efficiently, it is important that Member States strengthen the transparency of public procurement processes by enabling stakeholder participation, better access to information, including through the use of e-procurement, as well as oversight and control those procurement processes.

Or. en

Amendment 3

**Proposal for a directive
Recital 5 b (new)**

Text proposed by the Commission

Amendment

(5b) Member States should adopt appropriate legislation and procedures which should govern the financing of political campaigns and the financing of political parties, such as setting the parameters for the limits, purpose and time periods of campaign expenditures, limits on contributions, state subsidies, identification of donors and the annual publication of accounts and expenditure by political party organisations.

Or. en

Amendment 4

**Proposal for a directive
Recital 10**

Text proposed by the Commission

Amendment

(10) It is necessary to strenghten the

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legal framework to combat bribery and to provide law enforcement and prosecution with the necessary tools. In bribery of public officials, there are two sides to distinguish. Active bribery exists when a person promises, offers or gives an advantage of any kind to influence a public official. Passive bribery exists when the public official requests or receives such advantages in order to act or to refrain from acting in a certain way. This Directive should also set minimum rules on bribery and other forms of corruption in the private sector, where the immediate victims include companies that are impacted unfairly and where free competition is diminished by each bribe offered or accepted.

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Or. en

Amendment 5

Proposal for a directive

Recital 14

Text proposed by the Commission

(14) Obstruction of justice is a criminal offence committed in support of corruption. It is therefore necessary to lay down a criminal offence for the obstruction of justice, which entails the exercise of physical force, threats or intimidation, or the inducement of false testimony or evidence. Actions to interfere in the giving of testimony or production of evidence, or with the exercise of official duties by judicial or law enforcement officials should also be covered. In line with the UNCAC, this Directive only applies to the obstruction of justice concerning proceedings relating to a corruption offence.

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Amendment 6**Proposal for a directive****Recital 15***Text proposed by the Commission*

(15) Corruption feeds off the motivation for undue economic and other advantages. In order to reduce the incentive for individuals and criminal organisations to commit new criminal acts and deter individuals from consenting to becoming fake property owners enrichment by corruption offences should be criminalised. This should, in turn, complicate the concealment of illicitly acquired property and reduce the spread of corruption as well as the damage done to society. Transparency helps competent authorities to detect possible illicit enrichment. ***For example, in jurisdictions where public officials are*** required to declare their assets at regular intervals, including when taking up and completing duties, authorities can assess whether the declared assets correspond to declared incomes.

Amendment

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Amendment 7**Proposal for a directive****Recital 15 a (new)***Text proposed by the Commission**Amendment*

(15a) Member States should adopt measures to define as a punishable criminal offence, the intentional

concealment or continued retention of property by a person who is aware that such property results from the offences referred to in this Directive, even if that person was not involved in committing those offences.

Or. en

Amendment 8

Proposal for a directive Recital 15 b (new)

Text proposed by the Commission

Amendment

(15b) Member States should be obliged to take measures that hold public officials accountable for any culpable breach of their official duties that results in harm to the rights or to the legitimate interests of individuals or entities. Such breaches, involving a failure to perform duties or a defective performance of duties, should be punishable as criminal offences.

Or. en

Amendment 9

Proposal for a directive Recital 20 a (new)

Text proposed by the Commission

Amendment

(20a) In the fight against corruption, urgent attention should be directed towards tackling the misuse of bearer shares and trusts, which are essential in clandestine financial activities. Member States still permit the use of bearer shares, allowing for illicit funds to be received, held, and transferred in a clandestine manner. These mechanisms create an opacity level even higher than tax havens,

making them a serious concern in the battle against corruption. Moreover, trusts are also exploited for their potential to allow obscure financial transactions and to hide the true beneficiaries. The misuse of funds further compounds the challenge of tracking and combating corruption effectively. Therefore, Member States need to swiftly implement robust measures. Such measures should encompass an unambiguous ban on bearer shares and a comprehensive strategy to ensure transparency of ownership in the use of trusts.

Or. en

Amendment 10

Proposal for a directive Recital 28

Text proposed by the Commission

(28) Corruption offences are a difficult category of crime to identify and investigate, as they mostly occur as part of a conspiracy between two or more willing parties and lack an immediate and obvious victim who could complain. Thus, a significant proportion of corruption crime remains undetected, and the criminal parties are able to benefit from the proceeds of their corruption. The longer it takes to detect a corruption offence, the more difficult it is to uncover evidence. Therefore, it should be ensured that law enforcement and prosecutors have appropriate investigative tools to gather relevant evidence of corruption offences which often affect more than one Member State. Furthermore, Member States should allocate sufficient training, in close coordination with the European Union Agency for Law Enforcement Training (CEPOL), also on the use investigative tools to successfully carry out proceedings

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and the identification and quantification of proceeds of corruption in the context of freezing and confiscation. In addition, this Directive facilitates the gathering of information and evidence by setting out mitigating circumstances for offenders that help the authorities.

time, continuously and over a certain period of time, interception of telecommunications, information on banking and other financial operations and bank and other financial accounts. Furthermore, Member States should allocate sufficient training, in close coordination with the European Union Agency for Law Enforcement Training (CEPOL), also on the use investigative tools to successfully carry out proceedings and the identification and quantification of proceeds of corruption in the context of freezing and confiscation. In addition, this Directive facilitates the gathering of information and evidence by setting out mitigating circumstances for offenders that help the authorities.

^{1a} Directive 2014/41/EU of the European Parliament and of the council of 3 April 2014 regarding the European Investigation Order in criminal matters (OJ L 130, 1.5.2014, p.1).

Or. en

Amendment 11

Proposal for a directive Recital 30

Text proposed by the Commission

(30) Independent civil society organisations are crucial for the well-functioning of our democracies, and play a key role in upholding the common values on which the EU is founded. They act as essential watchdogs, drawing attention to threats to the rule of law, contributing to making those in powers accountable, and ensuring respect for fundamental rights. Member States should promote the participation of civil society in anti-corruption activities.

Amendment

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involvement of civil society in the prevention and in the fight against corruption, as well as in raising public awareness regarding the existence, causes and gravity of corruption and the threats it poses should be an essential element of the Union's approach.

Or. en

Amendment 12

Proposal for a directive Recital 31

Text proposed by the Commission

(31) Media pluralism and media freedom are key enablers for the rule of law, democratic accountability, equality and the fight against corruption. Independent and pluralistic media, in particular investigative journalism, play an important role in the scrutiny of public affairs, detecting possible corruption and integrity breaches, raising awareness and promoting integrity. Member States have an obligation to guarantee an enabling environment for journalists, protect their safety and pro-actively promote media freedom and media pluralism. The Commission's Recommendation on the protection, safety and empowerment of journalists⁴⁹, as well as the *proposal* for a Directive⁵⁰ and a Commission Recommendation⁵¹ on protecting persons who engage in public participation from manifestly unfounded or abusive court proceedings ('Strategic lawsuits against public participation') include important safeguards and standards to ensure that journalists, human rights defenders and others can carry out their role unhindered.

Amendment

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to ensure that journalists, human rights defenders and others can carry out their role unhindered.

⁴⁹ Commission Recommendation of 16 September 2021 on ensuring the protection, safety and empowerment of journalists and other media professionals in the European Union, C(2021)6650 final.

⁴⁹ Commission Recommendation of 16 September 2021 on ensuring the protection, safety and empowerment of journalists and other media professionals in the European Union, C(2021)6650 final.

^{49a} Proposal for a Regulation of the European Parliament and of the Council establishing a common framework for media services in the internal market (European Media Freedom Act) and amending Directive 2010/13/EU, COM/2022/457 final.

⁵⁰ Proposal for a Directive of the European Parliament and of the Council on protecting persons who engage in public participation from manifestly unfounded or abusive court proceedings (“Strategic lawsuits against public participation”), COM/2022/177 final.

⁵⁰ Proposal for a Directive of the European Parliament and of the Council on protecting persons who engage in public participation from manifestly unfounded or abusive court proceedings (“Strategic lawsuits against public participation”), COM/2022/177 final.

⁵¹ Commission Recommendation on protecting journalists and human rights defenders who engage in public participation from manifestly unfounded or abusive court proceedings (“Strategic lawsuits against public participation”), C(2022) 2428 final.

⁵¹ Commission Recommendation on protecting journalists and human rights defenders who engage in public participation from manifestly unfounded or abusive court proceedings (“Strategic lawsuits against public participation”), C(2022) 2428 final.

Or. en

Amendment 13

Proposal for a directive Recital 33

Text proposed by the Commission

(33) To combat corruption effectively, efficient exchange of information between competent authorities responsible for the prevention, detection, investigation or prosecution of corruption offences is

Amendment

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crucial. Member States should ensure that information is exchanged in an effective and timely manner in accordance with national and Union law. This Directive, which aims to lay down common definitions of corruption offences, should serve as a benchmark for information exchange and cooperation between the competent national authorities under Directives (EU) XX/2023⁵², (EU) 2019/1153⁵³, (EU) 2016/681⁵⁴ of the European Parliament and of the Council, Regulations (EU) 2018/1240⁵⁵, (EU) 2018/1862⁵⁶ and (EU) 603/2013⁵⁷ of the European Parliament and of the Council, Council Decision 2008/633/JHA⁵⁸.

crucial. Member States should ensure that information is exchanged in an effective and timely manner in accordance with national and Union law. This Directive, which aims to lay down common definitions of corruption offences, should serve as a benchmark for information exchange and cooperation between the competent national authorities under Directives (EU) 2023/977⁵², (EU) 2019/1153⁵³, (EU) 2016/681⁵⁴ of the European Parliament and of the Council, Regulations (EU) 2018/1240⁵⁵, (EU) 2018/1862⁵⁶ and (EU) 603/2013⁵⁷ of the European Parliament and of the Council, Council Decision 2008/633/JHA⁵⁸. ***To ensure the security of the information shared between Anti-Corruption Investigation units and agencies, the use of the Secure Information Exchange Network Application (SIENA), managed by Europol in accordance with Regulation (EU) 2016/794 of the European Parliament and of the Council^{58a}, should be mandatory for all Anti-Corruption Investigation units and agencies under this Directive.***

⁵² See Proposal for a Directive of the European Parliament and of the Council on information exchange between law enforcement authorities of Member States, repealing Council Framework Decision 2006/960/JHA, COM/2021/782 final.

⁵³ Directive (EU) 2019/1153 of the European Parliament and of the Council of 20 June 2019 laying down rules facilitating the use of financial and other information for the prevention, detection, investigation or prosecution of certain criminal offences, and repealing Council Decision 2000/642/JHA OJ L 186, 11.7.2019, p. 122.

⁵⁴ Directive (EU) 2016/681 of the European Parliament and of the Council of 27 April 2016 on the use of passenger

⁵² Directive (EU) 2023/977 of the European Parliament and of the Council of 10 May 2023 on the exchange of information between the law enforcement authorities of Member States and repealing Council Framework Decision 2006/960/JHA (OJ L 134, 22.5.2023, p. 1).

⁵³ Directive (EU) 2019/1153 of the European Parliament and of the Council of 20 June 2019 laying down rules facilitating the use of financial and other information for the prevention, detection, investigation or prosecution of certain criminal offences, and repealing Council Decision 2000/642/JHA OJ L 186, 11.7.2019, p. 122.

⁵⁴ Directive (EU) 2016/681 of the European Parliament and of the Council of 27 April 2016 on the use of passenger

name record (PNR) data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime (OJ L 119, 4.5.2016, p. 132), Annex II, point 6.

⁵⁵ Regulation (EU) 2018/1240 of the European Parliament and of the Council of 12 September 2018 establishing a European Travel Information and Authorisation System (ETIAS) and amending Regulations (EU) No 1077/2011, (EU) No 515/2014, (EU) 2016/399, (EU) 2016/1624 and (EU) 2017/2226 (OJ L 236, 19.9.2018, p. 1), Annex, point 7.

⁵⁶ Regulation (EU) 2018/1862 of the European Parliament and of the Council of 28 November 2018 on the establishment, operation and use of the Schengen Information System (SIS) in the field of police cooperation and judicial cooperation in criminal matters, amending and repealing Council Decision 2007/533/JHA, and repealing Regulation (EC) No 1986/2006 of the European Parliament and of the Council and Commission Decision 2010/261/EU, (OJ L 312, 7.12.2018, p. 56). Reference to corruption is made indirectly in the SIS II Council Decision by delimiting its scope with a reference to the European Arrest Warrant, for instance in Article 8.

⁵⁷ Regulation (EU) No 603/2013 of the European Parliament and of the Council of 26 June 2013 on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes, and amending Regulation (EU) No 1077/2011

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⁵⁵ Regulation (EU) 2018/1240 of the European Parliament and of the Council of 12 September 2018 establishing a European Travel Information and Authorisation System (ETIAS) and amending Regulations (EU) No 1077/2011, (EU) No 515/2014, (EU) 2016/399, (EU) 2016/1624 and (EU) 2017/2226 (OJ L 236, 19.9.2018, p. 1), Annex, point 7.

⁵⁶ Regulation (EU) 2018/1862 of the European Parliament and of the Council of 28 November 2018 on the establishment, operation and use of the Schengen Information System (SIS) in the field of police cooperation and judicial cooperation in criminal matters, amending and repealing Council Decision 2007/533/JHA, and repealing Regulation (EC) No 1986/2006 of the European Parliament and of the Council and Commission Decision 2010/261/EU, (OJ L 312, 7.12.2018, p. 56). Reference to corruption is made indirectly in the SIS II Council Decision by delimiting its scope with a reference to the European Arrest Warrant, for instance in Article 8.

⁵⁷ Regulation (EU) No 603/2013 of the European Parliament and of the Council of 26 June 2013 on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes, and amending Regulation (EU) No 1077/2011

establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (OJ L 180, 29.6.2013, p. 1).

⁵⁸ Council Decision 2008/633/JHA of 23 June 2008 concerning access for consultation of the Visa Information System (VIS) by designated authorities of Member States and by Europol for the purposes of the prevention, detection and investigation of terrorist offences and of other serious criminal offences (OJ L 218, 13.8.2008, p. 129). Reference to corruption is made indirectly in the VIS Council Decision for law enforcement by delimiting its scope with a reference to the European Arrest Warrant in recital 6.

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⁵⁸ Council Decision 2008/633/JHA of 23 June 2008 concerning access for consultation of the Visa Information System (VIS) by designated authorities of Member States and by Europol for the purposes of the prevention, detection and investigation of terrorist offences and of other serious criminal offences (OJ L 218, 13.8.2008, p. 129). Reference to corruption is made indirectly in the VIS Council Decision for law enforcement by delimiting its scope with a reference to the European Arrest Warrant in recital 6.

^{58a} Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA (OJ L 135, 24.5.2016, p. 53).

Or. en

Amendment 14

Proposal for a directive Recital 33 a (new)

Text proposed by the Commission

Amendment

(33a) Victims of corruption often lack representation in legal processes, consultation in corruption investigations, and opportunities for compensation. In practice, enforcing actions against international corruption often neglects the involvement and rights of victims, creating a significant gap where victims remain largely unknown. Member States

should safeguard the rights of victims, ensuring their perspectives are voiced and considered without compromising the rights of the defence during criminal proceedings against offenders. The compensation of victims represents the essence of justice and victims should be empowered to seek remedies. Therefore, Member States should implement measures allowing individuals or entities harmed by acts of corruption to initiate legal actions against the responsible parties to seek appropriate compensation.

Or. en

Amendment 15

Proposal for a directive Recital 34

Text proposed by the Commission

(34) Corruption is a cross-cutting issue, while vulnerabilities differ from sector to sector, as well as the most adequate way to tackle them. Member States should therefore regularly perform an assessment to identify the sectors most at risk of corruption and develop risk management plans to address the main risks in the sectors identified, including by organising, at least once a year, awareness-raising actions adapted to the specificities of the sectors identified. Member States that have broad national anti-corruption strategies in place, may also choose to address their risk assessments and risk management plans therein, as long as the risks are assessed and the measures are reviewed regularly. For instance, investor *residence* schemes are among the sectors that bear high risks for corruption⁵⁹. and should therefore be *included in the assessments of the sectors most at risk of corruption and the trainings to be conducted by Member*

Amendment

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States *as provided for by this Directive*.

⁵⁹ Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Investor Citizenship and Residence Schemes in the European Union, 23 January 2019, COM(2019) 12 final.

should also be banned^{59a}.

⁵⁹ Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Investor Citizenship and Residence Schemes in the European Union, 23 January 2019, COM(2019) 12 final.

^{59a} P9_TA(2022)0065 Citizenship and residence by investment schemes European Parliament resolution of 9 March 2022 with proposals to the Commission on citizenship and residence by investment schemes (2021/2026(INL)), para 23

Or. en

Amendment 16

Proposal for a directive Recital 34 a (new)

Text proposed by the Commission

Amendment

(34a) The European Commission should support Member States and their authorities to comply with the obligations stemming from this Directive. In particular, the Commission should offer guidance and support to Member States in enhancing the capacity of their institutions, strengthening investigative bodies and the judiciary in order to respond better to risks of corruption identified at national and Union level.

Or. en

Amendment 17

Proposal for a directive Recital 34 b (new)

Text proposed by the Commission

Amendment

(34b) The EU network against corruption should bring together the expertise and resources of Member States, Union institutions, civil society, and the private sector in order to develop comprehensive strategies and share best practices in the fight against corruption. It should serve as a platform for cooperation, coordination, and information sharing, including with international organisations and bodies, thus allowing the Union to combat corruption more effectively.

Or. en

Amendment 18

Proposal for a directive Recital 35

Text proposed by the Commission

Amendment

(35) To provide for an equivalent level of protection between the Union's and the national financial interests, the provisions of Directive (EU) 2017/1371⁶⁰ should be aligned with ***those of*** this Directive. To this end, the ***rules applicable to criminal*** offences affecting the Union's financial interests ***as regards*** sanctions, aggravating and mitigating circumstances and ***limitation periods*** should be equivalent to those laid down by this Directive.

(35) To provide for an equivalent level of protection between the Union's and the national financial interests, the provisions of Directive (EU) 2017/1371⁶⁰ should be aligned with ***the standards set out in*** this Directive. To this end, ***Member States should ensure that*** the offences ***covered by this Directive constitute offences also when*** affecting the Union's financial interests. ***Therefore, the standards set out by Directive (EU) 2017/1371 for fighting corruption affecting the Union's financial interests, in particular in terms of definitions of criminal offences, sanctions, limitation periods, aggravating and mitigating circumstances and jurisdiction*** should be equivalent to those laid down by this Directive.

⁶⁰ Directive (EU) 2017/1371 of the

⁶⁰ Directive (EU) 2017/1371 of the

European Parliament and of the Council of 5 July 2017 on the protection of the Union's financial interests by means of criminal law, OJ 198 L, 28.7.2017, p. 29.

European Parliament and of the Council of 5 July 2017 on the protection of the Union's financial interests by means of criminal law, OJ 198 L, 28.7.2017, p. 29.

Or. en

Amendment 19

Proposal for a directive

Article 2 – paragraph 1 – point 4 – point a

Text proposed by the Commission

(a) a member of an institution, body, office or agency of the Union and the staff of such bodies shall be assimilated to Union officials.

Amendment

(a) a member of an institution, body, office or agency of the Union and the staff of such bodies shall be assimilated to Union officials, ***inasmuch as the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Union laid down in Council Regulation (EEC, Euratom, ECSC) No 259/68 (the ‘Staff Regulations’) do not apply to them.***

Or. en

Amendment 20

Proposal for a directive

Article 2 – paragraph 1 – point 5

Text proposed by the Commission

5. ‘national official’ means any person holding an executive, administrative, or judicial office at national, regional or local level, whether appointed or elected, whether permanent or temporary, whether paid or unpaid, irrespective of that person’s seniority. Any person holding a legislative office at national, regional or local level ***is considered*** a national official for the purpose of this Directive.

Amendment

5. ‘national official’ means any person holding an executive, administrative, or judicial office at national, regional or local level, whether appointed or elected, whether permanent or temporary, whether paid or unpaid, irrespective of that person’s seniority. Any person holding a legislative office at national, regional or local level ***shall be assimilated to*** a national official for the purpose of this Directive.

Amendment 21

Proposal for a directive

Article 2 – paragraph 1 – point 8

Text proposed by the Commission

8. ‘high level officials’ are heads of state, heads of central and regional government, members of central and regional government, as well as other political appointees who hold a high level public office such as deputy ministers, state secretaries, heads and members of a minister’s private office, and senior political officials, as well as members of parliamentary chambers, members of highest Courts, such as Constitutional and Supreme Courts, and members of Supreme Audit Institutions.

Amendment

8. ‘high level officials’ are heads of state, heads of central and regional government, members of central and regional government, **members of the College of Commissioners of the European Commission**, as well as other political appointees who hold a high level public office such as deputy ministers, state secretaries, heads and members of a minister’s private office, and senior political officials, as well as members of parliamentary chambers, members of **the European Parliament, members of** highest Courts, such as Constitutional and Supreme Courts, **military officials, senior executives of state owned corporations, political party officials** and members of Supreme Audit Institutions.

Amendment 22

Proposal for a directive

Article 2 – paragraph 1 – point 8 a (new)

Text proposed by the Commission

Amendment

8a. ‘grand corruption’ means the commission of any of the offences referred to in Articles 7 to 14, where the offence:

(a) involved a high level official; or

(b) was committed as part of a criminal scheme; or

(c) resulted in a gross misappropriation of property; or

(d) resulted in, or intended to result in, either a serious human rights violation or abuse, or any other human rights violation or abuse, in so far as that violation or abuse is widespread, systematic or is otherwise of serious concern.

Or. en

Amendment 23

Proposal for a directive Article 2 – paragraph 1 – point 8 b (new)

Text proposed by the Commission

Amendment

8b. *‘victim of corruption’ means persons who, individually or collectively, have suffered harm, either directly or indirectly, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are a consequence of any of the offences referred to in Articles 7 to 14.*

Or. en

Amendment 24

Proposal for a directive Article 3 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall take appropriate action, **such as** information and awareness-raising campaigns and research and education programmes, to raise public awareness on the harmfulness of corruption and reduce the overall

1. Member States shall take appropriate action, **including** information and awareness-raising campaigns and research and education programmes, to raise public awareness on the harmfulness of corruption and reduce the overall

commission of corruption offences as well as the risk of corruption.

commission of corruption offences as well as the risk of corruption.

Or. en

Amendment 25

Proposal for a directive Article 3 – paragraph 2

Text proposed by the Commission

2. Member States shall take measures to ensure the highest degree of transparency and accountability in public administration and public decision-making with a view to prevent corruption.

Amendment

2. Member States shall take measures to ensure the highest degree of ***integrity***, transparency and accountability, ***through merit-based recruitment and promotion*** in public administration and public decision-making with a view to prevent corruption.

Or. en

Amendment 26

Proposal for a directive Article 3 – paragraph 3

Text proposed by the Commission

3. Member States shall take measures to ensure that key preventive tools ***such as an open access to information of public interest, effective rules for the disclosure and management of conflicts of interests in the public sector, effective rules for the disclosure and verification of assets of public officials and effective rules regulating the interaction between the private and the public sector*** are in place.

Amendment

3. Member States shall take measures to ensure that key preventive tools are in place, ***such as:***

Or. en

Amendment 27

Proposal for a directive Article 3 – paragraph 3 – point a (new)

Text proposed by the Commission

Amendment

(a) an anticorruption strategy and action plan elaborated with the participation of competent authorities and civil society;

Or. en

Amendment 28

Proposal for a directive Article 3 – paragraph 3 – point b (new)

Text proposed by the Commission

Amendment

(b) an open access to information of public interest;

Or. en

Amendment 29

Proposal for a directive Article 3 – paragraph 3 – point c (new)

Text proposed by the Commission

Amendment

(c) effective rules for the disclosure and management of conflicts of interest in the public sector, including ad-hoc disclosure of new conflicts as they arise, and establishing sanctions for failure to report substantial assets or interests;

Or. en

Amendment 30

Proposal for a directive Article 3 – paragraph 3 – point d (new)

Text proposed by the Commission

Amendment

(d) effective rules for the periodic and risk-based disclosure and verification of assets and interests of public officials and establishing sanctions for failure to report substantial assets or interests;

Or. en

Amendment 31

Proposal for a directive Article 3 – paragraph 3 – point e (new)

Text proposed by the Commission

Amendment

(e) effective rules addressing the interaction between the private and the public sector, including regulation of lobbying and revolving doors situations, proactive publication of lobby meetings, establishing a public legislative footprint, and establishing the obligation for associations, think tanks and non-profit organisations who engage in interest representation to register in transparency registers and disclose corporate membership;

Or. en

Amendment 32

Proposal for a directive Article 3 – paragraph 3 – point f (new)

Text proposed by the Commission

Amendment

(f) interoperable systems for the

publication and disclosure of all data listed under this Article, such as transparency registers. All data listed under this Article shall be made publicly available, updated in a timely manner, accessible in machine-readable formats and downloadable in bulk.

Or. en

Amendment 33

Proposal for a directive Article 3 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. *Member States shall take measures to ensure transparency in the funding of candidatures for elected public officials and political parties, through annual reporting mechanisms, such as effective rules for the reporting, audit and disclosure of political party finance, equal obligations to collect and publish all data on income, liabilities and expenditure for participants in election campaigns.*

Or. en

Amendment 34

Proposal for a directive Article 3 – paragraph 4 – introductory part

Text proposed by the Commission

Amendment

4. Member States shall adopt comprehensive and up-to-date measures to prevent corruption in both the public and private sectors, adapted to the specific risks of an area of activity. Such measures shall at least include actions to strengthen integrity and to prevent opportunities for corruption among:

4. Member States shall adopt comprehensive and up-to-date measures to prevent corruption in both the public and private sectors, adapted to the specific risks of an area of activity. Such **areas shall at least include common high-risk areas such as the health sector, public procurement and the construction sector.**

Such measures shall at least include actions to strengthen integrity and to prevent opportunities for corruption among:

Or. en

Amendment 35

Proposal for a directive

Article 3 – paragraph 4 – point b

Text proposed by the Commission

(b) members of law enforcement and the judiciary, including measures relating to their appointment and conduct, and by ensuring adequate remuneration and equitable pay scales.

Amendment

(b) members of law enforcement and the judiciary, including measures relating to their **merit-based** appointment, **promotion** and conduct, and by ensuring adequate remuneration and equitable pay scales.

Or. en

Amendment 36

Proposal for a directive

Article 3 – paragraph 5 – subparagraph 1

Text proposed by the Commission

Member States shall **regularly** perform an assessment to identify the sectors most at risk of corruption.

Amendment

Member States shall **annually** perform an assessment to identify the sectors most at risk of corruption.

Or. en

Amendment 37

Proposal for a directive

Article 3 – paragraph 5 – subparagraph 2 – point b

Text proposed by the Commission

(b) develop plans to address the main risks in the sectors identified.

Amendment

(b) develop **sectoral anti-corruption plans, with implementation and monitoring mechanisms** to address the main risks in the sectors identified; **and**

Or. en

Amendment 38

Proposal for a directive

Article 3 – paragraph 5 – subparagraph 2 – point b a (new)

Text proposed by the Commission

Amendment

(ba) ensure the results of the assessments are available to the public.

Or. en

Amendment 39

Proposal for a directive

Article 3 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. Member States shall take appropriate measures to promote transparency and accountability in the management of public finances. Member States shall, in particular, take the necessary steps to establish appropriate systems of procurement, based on transparency, competition and objective criteria in decision-making.

Member States shall publish information in open data formats including, but not limited to, government budgets, government spending, public procurement, voting records, permits and concessions, and state subsidies.

Amendment 40

Proposal for a directive Article 3 – paragraph 6

Text proposed by the Commission

6. *Where appropriate*, Member States shall *take measures to promote the participation of* civil society, non-governmental *organizations* and community-based *organizations* in anti-corruption activities.

Amendment

6. Member States shall *actively engage and consult* civil society, non-governmental *organisations* and community-based *organisations in anti-corruption activities and assessments. Member States shall establish an enabling environment for civil society to work and have meaningful engagement* in anti-corruption activities. .

Amendment 41

Proposal for a directive Article 3 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6a. *Member States shall take measures to prevent corruption involving the private sector through the development of codes of conduct, enhancing accounting and auditing standards, as well as internal controls and transparency, considering external auditing, particularly in high risk sectors and promoting cooperation with law enforcement.*

Amendment 42

Proposal for a directive

Article 4 – paragraph 3 – point a

Text proposed by the Commission

(a) are **functionally** independent from the government and have a sufficient number of qualified staff and the financial, technical and technological resources, as well as the powers and tools necessary to ensure the proper administration of their tasks;

Amendment

(a) are independent from the government **and able to autonomously take decisions on individual cases** and have a sufficient number of qualified staff and the financial, technical and technological resources, as well as the powers and tools necessary to ensure the proper administration of their tasks;

Or. en

Amendment 43

Proposal for a directive

Article 4 – paragraph 3 – point c a (new)

Text proposed by the Commission

Amendment

(ca) provide annual reports on their activities and their results;

Or. en

Amendment 44

Proposal for a directive

Article 4 – paragraph 3 – point c b (new)

Text proposed by the Commission

Amendment

(cb) provide and update annually a database on cases of corruption, including convictions, damages and assets recovered;

Or. en

Amendment 45

Proposal for a directive Article 5 – paragraph 1

Text proposed by the Commission

Member States shall take the necessary measures to ensure that national authorities competent for the detection, investigation, prosecution or adjudication of the criminal offences referred to in this Directive are continually provided with an adequate number of qualified staff and the financial, technical and technological resources necessary for the effective performance of their functions related to the implementation of this Directive.

Amendment

Member States shall take the necessary measures to ensure that national authorities competent for the detection, investigation, prosecution or adjudication of the criminal offences **and for the preventive measures** referred to in this Directive are continually provided with an adequate number of qualified staff and the financial, technical and technological resources necessary for the effective performance of their functions related to the implementation of this Directive.

Or. en

Amendment 46

Proposal for a directive Article 6 – paragraph 1

Text proposed by the Commission

1. Each Member State shall take the necessary measures to ensure adequate resources for and the provision of training for its national officials to be able to identify different forms of corruption and corruption risks that may occur in the exercise of their duties and to react in a timely and appropriate manner to any suspicious activity.

Amendment

1. Each Member State shall take the necessary measures to ensure adequate resources for and the provision of training for its national officials to be able to **prevent and** identify different forms of corruption and corruption risks that may occur in the exercise of their duties and to react in a timely and appropriate manner to any suspicious activity.

Or. en

Amendment 47

Proposal for a directive Article 6 – paragraph 2

Text proposed by the Commission

2. Each Member State shall take the necessary measures to ensure adequate resources for and the provision of specialised anti-corruption training at regular intervals for its members of law enforcement, the judiciary and the staff of authorities tasked with criminal investigations and proceedings of offences falling within the scope of this Directive.

Amendment

2. Each Member State shall take the necessary measures to ensure adequate resources for and the provision of specialised anti-corruption training at regular intervals for its members of law enforcement, the judiciary and the staff of authorities tasked with criminal **and administrative** investigations and proceedings of offences falling within the scope of this Directive.

Or. en

Amendment 48

**Proposal for a directive
Article 7 – paragraph 1 – point a**

Text proposed by the Commission

(a) the promise, offer **or** giving, directly or through an intermediary, of an advantage of any kind to a public official for that official or for a third party in order for the public official to act or refrain from acting **in accordance with his duty** or in the exercise of that official's functions (active bribery);

Amendment

(a) the promise, offer, giving **or rewarding**, directly or through an intermediary, of an **undue** advantage of any kind to a public official for that official or for a third party in order for the public official to act or refrain from acting or in the exercise of that official's functions (active bribery);

Or. en

Amendment 49

**Proposal for a directive
Article 7 – paragraph 1 – point b**

Text proposed by the Commission

(b) the request or receipt by a public official, directly or through an intermediary, of an advantage of any kind or the promise of such an advantage for

Amendment

(b) the request or receipt by a public official, directly or through an intermediary, of an **undue** advantage of any kind or the **acceptance of an offer or**

that official or for a third party, in order for the public official to act or to refrain from acting **in accordance with his duty** or in the exercise of that official's functions (passive bribery).

promise of such an advantage for that official or for a third party, in order for the public official to act or to refrain from acting or in the exercise of that official's functions (passive bribery).

Or. en

Amendment 50

Proposal for a directive Article 8 – paragraph 1 – point a

Text proposed by the Commission

(a) the promise, offer **or** giving, directly or through an intermediary, an undue advantage of any kind to a person who in any capacity directs or works for a private-sector entity, for that person or for a third party, in order for that person to act or to refrain from acting, in breach of that person's duties (active bribery);

Amendment

(a) the promise, offer, giving **or rewarding** directly or through an intermediary, **of** an undue advantage of any kind to a person who in any capacity directs or works for a private-sector entity, for that person or for a third party, in order for that person to act or to refrain from acting, in breach of that person's duties (active bribery);

Or. en

Amendment 51

Proposal for a directive Article 8 – paragraph 1 – point b

Text proposed by the Commission

(b) the request or receipt by a person, directly or through an intermediary, of an undue advantage of any kind or the promise of such an advantage, for that person or for a third party, while in any capacity directing or working for a private-sector entity, to act or to refrain from acting, in breach of that person's duties (passive bribery).

Amendment

(b) the request or receipt by a person, directly or through an intermediary, of an undue advantage of any kind **or the acceptance of an offer** or the promise of such an advantage, for that person or for a third party, while in any capacity directing or working for a private-sector entity, to act or to refrain from acting, in breach of that person's duties (passive bribery).

Or. en

Amendment 52

Proposal for a directive Article 12 – paragraph 1 – point 1

Text proposed by the Commission

1. the use, directly or through an intermediary, of physical force, threats or intimidation or the promise, offering or giving of an advantage to induce false testimony or to interfere in the giving of testimony or the production of evidence in a proceeding concerning ***any of the*** offences ***referred to in Article 7 to 11, 13 and 14***;

Amendment

1. the use, directly or through an intermediary, of physical force, threats or intimidation or the promise, offering or giving of an advantage to induce false testimony or to interfere in the giving of testimony or the production of evidence in a proceeding concerning ***corruption*** offences;

Or. en

Amendment 53

Proposal for a directive Article 12 – paragraph 1 – point 2

Text proposed by the Commission

2. the use, directly or through an intermediary, of physical force, threats or intimidation to interfere in the exercise of official duties by a person holding a judicial office or a member of law enforcement concerning ***any of the*** offences ***referred to in Article 7 to 11, 13 and 14***.

Amendment

2. the use, directly or through an intermediary, of physical force, threats or intimidation to interfere in the exercise of official duties by a person holding a judicial office or a member of law enforcement concerning ***corruption*** offences;

Or. en

Amendment 54

Proposal for a directive Article 12 – paragraph 1 – point 2 a (new)

Text proposed by the Commission

Amendment

2a. the destruction, alteration, concealment or falsification of evidence with the intent to interfere in a proceeding concerning corruption offences.

Or. en

Amendment 55

Proposal for a directive Article 13 – paragraph 1

Text proposed by the Commission

Member States shall take the necessary measures to ensure that the intentional acquisition, possession or use by a public official of property that ***that*** official ***knows is derived from the commission of any of the offences set out in Articles 7 to 12 and 14, is*** punishable as a criminal offence, ***irrespective of whether that official was involved*** in the commission of ***that*** offence.

Amendment

Member States shall take the necessary measures to ensure that the intentional acquisition, possession or use by a public official of property that ***is significantly disproportionate to and cannot be justified by the lawful income of the public*** official ***shall be*** punishable as a criminal offence, ***where the national court is satisfied that such property is derived from any kind of criminal involvement*** in the commission of ***an*** offence ***as set out in this Directive.***

Or. en

Amendment 56

Proposal for a directive Article 13 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

In determining whether the property in question is derived from any kind of criminal involvement in the commission of an offence as set out in this Directive, account shall be taken of all the circumstances of the case. It is not necessary to establish all the factual

elements or all circumstances relating to that criminal involvement, including the identity of the perpetrator and it is irrelevant whether the person committed, or was involved in, the criminal involvement from which the property was derived.

Or. en

Amendment 57

Proposal for a directive Article 13 a (new)

Text proposed by the Commission

Amendment

Article 13a

Concealment

Member States shall take the necessary measures to ensure that, when committed intentionally, the concealment or continued retention of property by a person having knowledge that such property is the result of any of the offences established in accordance with this Directive, even if that person was not involved in the commission of such offences, shall be punishable as a criminal offence.

Or. en

Amendment 58

Proposal for a directive Article 13 b (new)

Text proposed by the Commission

Amendment

Article 13b

Misconduct in public office

Member States shall take the necessary

measures to ensure that the culpable breach by a public official of an official duty, by failing to perform that duty or by performing it defectively, if it causes damage or injury to the rights or to the legitimate interests of a natural person or a legal person, shall be punishable as a criminal offence.

Or. en

Amendment 59

Proposal for a directive Article 14 – paragraph 1

Text proposed by the Commission

1. Member States shall take the necessary measures to ensure that inciting any of the offences referred to in Articles 7 to **13** is punishable as a criminal offence.

Amendment

1. Member States shall take the necessary measures to ensure that inciting any of the offences referred to in Articles 7 to **13a** is punishable as a criminal offence.

Or. en

Amendment 60

Proposal for a directive Article 14 – paragraph 2

Text proposed by the Commission

2. Member States shall take the necessary measures to ensure that aiding and abetting any of the offences referred to in Articles 7 to **13** is punishable as a criminal offence.

Amendment

2. Member States shall take the necessary measures to ensure that aiding and abetting any of the offences referred to in Articles 7 to **13a** is punishable as a criminal offence.

Or. en

Amendment 61

Proposal for a directive

Article 15 – paragraph 2 – point a

Text proposed by the Commission

(a) the criminal offences referred to in Article 7 and 12 are punishable by a maximum term of imprisonment of at least *six* years;

Amendment

(a) the criminal offences referred to in Article 7 and 12 are punishable by a maximum term of imprisonment of at least *seven* years;

Or. en

Amendment 62

Proposal for a directive

Article 15 – paragraph 2 – point b

Text proposed by the Commission

(b) the criminal offences referred to in Article 8 to 11 are punishable by a maximum term of imprisonment of at least *five* years; *and*

Amendment

(b) the criminal offences referred to in Article 8 to 11 are punishable by a maximum term of imprisonment of at least *six* years;

Or. en

Amendment 63

Proposal for a directive

Article 15 – paragraph 2 – point c

Text proposed by the Commission

(c) the criminal offence referred to in Article 13 is punishable by a maximum term of imprisonment of at least *four* years.

Amendment

(c) the criminal offence referred to in Article 13 *and 13a* is punishable by a maximum term of imprisonment of at least *five* years; *and*

Or. en

Amendment 64

Proposal for a directive Article 15 – paragraph 2 – point c a (new)

Text proposed by the Commission

Amendment

(ca) the criminal offence referred to in Article 13b is punishable by a maximum term of imprisonment of at least three years.

Or. en

Amendment 65

Proposal for a directive Article 15 – paragraph 3

Text proposed by the Commission

Amendment

3. Where a criminal offence referred to in Article 9 involves damage of less than EUR 10 000 or an advantage of less than EUR 10 000, Member States may provide for sanctions other than criminal sanctions.

deleted

Or. en

Amendment 66

Proposal for a directive Article 15 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Without prejudice to paragraphs 1 and 2, Member States shall take the necessary measures to ensure that natural persons who have been convicted of committing one of the criminal offences referred to in Articles 7 to 14 shall be subject to sanctions or measures imposed by a competent authority and that are not

*necessarily of a criminal nature,
including:*

*(a) the removal, suspension and
reassignment from a public office;*

(b) the disqualification from:

(i) holding a public office;

*(ii) exercising a public service
function;*

*(c) deprivation of the right to stand
for elections, proportionate to the
seriousness of the offence committed,
which shall be of at least two consecutive
mandates or ten years for high level
officials;*

*(d) exclusions from access to public
funding, including tender procedures,
grants and concessions.*

Or. en

Paragraph 3 a (new) is an adaptation of Article 15(4) of the Commission proposal.

Amendment 67

Proposal for a directive

Article 15 – paragraph 4 – point b

Text proposed by the Commission

Amendment

*(b) the removal, suspension and
reassignment from a public office;*

deleted

Or. en

Amendment 68

Proposal for a directive

Article 15 – paragraph 4 – point c – point i

Text proposed by the Commission

Amendment

(i) holding a public office;

deleted

Amendment 69

Proposal for a directive

Article 15 – paragraph 4 – point c – point ii

Text proposed by the Commission

Amendment

(ii) exercising a public service function; **deleted**

Or. en

Amendment 70

Proposal for a directive

Article 15 – paragraph 4 – point d

Text proposed by the Commission

Amendment

(d) deprivation of the right to stand for elections, proportionate to the seriousness of the offence committed; and **deleted**

Or. en

Amendment 71

Proposal for a directive

Article 15 – paragraph 4 – point f

Text proposed by the Commission

Amendment

(f) exclusions from access to public funding, including tender procedures, grants and concessions; **deleted**

Or. en

Amendment 72

Proposal for a directive Article 15 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Member States shall take into account the gravity of the offences concerned when considering the eventuality of suspended sentences, early release, parole or the pardoning of persons convicted of such offences.

Or. en

Amendment 73

Proposal for a directive Article 17 – paragraph 2 – point a

Text proposed by the Commission

Amendment

(a) criminal or non-criminal fines, the maximum limit of which **should** not be less than 5 percent of the total worldwide turnover of the legal person, including related entities, in the business year preceding the decision imposing the fine;

(a) criminal or non-criminal fines, the maximum limit of which **shall** not be less than 5 percent of the total worldwide turnover of the legal person, including related entities, in the business year preceding the decision imposing the fine;

Or. en

Amendment 74

Proposal for a directive Article 18 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) the **offender** is a high level official;

(a) the **offence involves a public official who** is a high level official;

Or. en

Amendment 75

Proposal for a directive

Article 18 – paragraph 1 – point b

Text proposed by the Commission

(b) the offender has been convicted before of an offence referred to Articles 7 to 14;

Amendment

(b) the offender, ***including parent entities or subsidiary entities if the offender is a legal person***, has been convicted before of an offence referred to Articles 7 to 14 ***in a Member State or equivalent offences in a third country***;

Or. en

Amendment 76

Proposal for a directive

Article 18 – paragraph 1 – point e

Text proposed by the Commission

(e) the offender exercises investigation, prosecution or adjudication functions;

Amendment

(e) the offender exercises investigation, prosecution, ***dispute resolution*** or adjudication functions;

Or. en

Amendment 77

Proposal for a directive

Article 19 – paragraph 1

Text proposed by the Commission

Member States shall take the necessary measures to ensure that privileges or immunities from investigation and prosecution granted to national officials for the offences referred to in this Directive ***can be lifted through an objective, impartial, effective and transparent process pre-established by law, based on clear criteria, and that is concluded within***

Amendment

1. Member States shall take the necessary measures to ensure that privileges or immunities from investigation and prosecution granted to national officials for the offences referred to in this Directive ***shall:***

a reasonable timeframe.

Or. en

Amendment 78

Proposal for a directive

Article 19 – paragraph 1 – point a (new)

Text proposed by the Commission

Amendment

(a) be limited to acts carried out in the performance of official duties;

Or. en

Amendment 79

Proposal for a directive

Article 19 – paragraph 1 – point b (new)

Text proposed by the Commission

Amendment

(b) only apply to acts carried out during a person's term in office or period of service as a public official; and

Or. en

Amendment 80

Proposal for a directive

Article 19 – paragraph 1 – point c (new)

Text proposed by the Commission

Amendment

(c) be lifted through an objective, impartial, effective and transparent process pre-established by law, based on clear criteria, and that is concluded within a reasonable timeframe.

Or. en

Amendment 81

Proposal for a directive Article 19 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Member States shall implement measures to eliminate functional immunity from investigation and prosecution for national and Union officials in cases of grand corruption.

Or. en

Amendment 82

Proposal for a directive Article 19 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. Member States shall establish procedures through which a public official accused of an offence as referred to in this Directive may, where appropriate, be removed, suspended or reassigned by the appropriate authority, bearing in mind respect for the principle of the presumption of innocence.

Or. en

Amendment 83

Proposal for a directive Article 19 – paragraph 1 c (new)

Text proposed by the Commission

Amendment

1c. Member States shall take the necessary measures to ensure that any discretionary legal powers under its domestic law relating to the prosecution

of persons for offences referred to in this Directive are exercised with the appropriate internal consultation and with due regard to the need to deter the commission of such offences.

Or. en

Amendment 84

Proposal for a directive Article 19 – paragraph 1 d (new)

Text proposed by the Commission

Amendment

1d. Without prejudice to the rights afforded to victims of crime under Directive 2012/29/EU in the event of a decision not to prosecute, Member States shall ensure that any organisation that aims to counter corruption has the right to a review of a prosecutorial decision related to:

- (a) the opening or not opening of the investigation or prosecution;*
- (b) the suspension of the investigation or prosecution;*
- (c) the discontinuation of the investigation or prosecution.*

Or. en

Amendment 85

Proposal for a directive Article 19 – paragraph 1 e (new)

Text proposed by the Commission

Amendment

1e. The determination of the scope and conditions under which judicial review as referred to in paragraph 3 shall be governed by national law and shall include safeguards against vexatious

complaints.

Or. en

Amendment 86

Proposal for a directive Article 19 – paragraph 1 f (new)

Text proposed by the Commission

Amendment

1f. Member States shall take the necessary measures to ensure that there is no personal immunity from investigation and prosecution granted to national officials over property owned through legal persons or arrangements that are personal asset-holding vehicles.

Or. en

Amendment 87

Proposal for a directive Article 20 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) the offence is committed for the benefit of a legal person established in the territory of that Member State.

(c) the offence is committed for the benefit of a legal person established in the territory of that Member State;

Or. en

Amendment 88

Proposal for a directive Article 20 – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(ca) the offence is committed in any Member State, in the case of grand

corruption.

Or. en

Amendment 89

Proposal for a directive

Article 21 – paragraph 2 – point c

Text proposed by the Commission

(c) eight years from the time when the offence was committed, for the criminal offences referred to in Articles 13 *and* 14.

Amendment

(c) eight years from the time when the offence was committed, for the criminal offences referred to in Articles 13 *to* 14.

Or. en

Amendment 90

Proposal for a directive

Article 21 – paragraph 3 – point c

Text proposed by the Commission

(c) five years for the criminal offences referred to in Articles 13 *and* 14.

Amendment

(c) five years for the criminal offences referred to in Articles 13 *to* 14.

Or. en

Amendment 91

Proposal for a directive

Article 21 – paragraph 4 – point c

Text proposed by the Commission

(c) eight years from the date of the final conviction for any of the criminal offences referred to in Articles 13 *and* 14.

Amendment

(c) eight years from the date of the final conviction for any of the criminal offences referred to in Articles 13 *to* 14.

Or. en

Amendment 92

Proposal for a directive Article 21 – paragraph 5 – point c

Text proposed by the Commission

(c) five years from the date of the final conviction for any of the criminal offences referred to in Articles 13 *and* 14.

Amendment

(c) five years from the date of the final conviction for any of the criminal offences referred to in Articles 13 *to* 14.

Or. en

Amendment 93

Proposal for a directive Article 22 – paragraph 1

Text proposed by the Commission

1. Member States shall take the necessary measures to ensure that Directive (EU) 2019/1937 is applicable to the reporting of the offences referred to in Articles 7 to 14 and the protection of persons reporting such offences.

Amendment

1. Member States shall take the necessary measures to ensure that Directive (EU) 2019/1937 is applicable to the reporting of the offences referred to in Articles 7 to 14 and the protection of persons, *including investigative journalists*, reporting such offences.

Or. en

Amendment 94

Proposal for a directive Article 23 – paragraph 1

Text proposed by the Commission

Member States shall take the necessary measures to ensure that effective investigative tools, such as those used in countering organised crime or other serious crimes, are available to persons, units or services responsible for investigating or prosecuting the criminal offences referred to in this Directive.

Amendment

Member States shall take the necessary measures to ensure that effective investigative tools, such as those used in countering organised crime or other serious crimes, *including those listed in Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation*

Order in criminal matters, or those used in the area of financial crime, such as the single access point to bank account registries in accordance with the Directive (EU) 2019/1153 or other tools which help to obtain company information to detect the beneficial ownership are available to persons, units or services responsible for investigating or prosecuting the criminal offences referred to in this Directive.

Or. en

Amendment 95

Proposal for a directive Article 23 a (new)

Text proposed by the Commission

Amendment

Article 23a

Exchange of information

Member States shall ensure that all specialised bodies, as referred to in Article 4, have direct access to SIENA and use the SIENA system for exchanging information in cross-border investigations.

Or. en

Amendment 96

Proposal for a directive Article 23 b (new)

Text proposed by the Commission

Amendment

Article 23b

Rights of victims and compensation for damage

1. Member States shall protect and enable victims to have their views and

concerns presented and considered at appropriate stages during criminal proceedings against offenders, in a manner that is not prejudicial to the rights of the defence.

2. Member States shall take the necessary measures to ensure that the rights afforded to victims under Directive (EU) 2012/29 are also applicable to the victims of corruption, and to ensure that any victim of corruption:

(a) is identified and notified of their status as a victim of corruption at the earliest possible opportunity;

(b) without prejudice to Art. 11(5) of Directive (EU) 2012/29, has the right to a review of a decision not to prosecute or a decision to enter into a non-trial resolution;

(c) has the right to satisfaction including, but not limited to, an acknowledgement of the breach, an expression of regret, a formal apology or another appropriate modality;

(d) has the right to a guarantee of non-repetition; and

(e) is entitled to injunctive relief where applicable.

3. Member States shall ensure that any qualified public interest non-governmental organisation as determined by national law may, as representatives of the interests of victims of corruption and in accordance with national law, take action before the courts or competent administrative bodies to ensure that their rights under paragraph 2 are protected.

4. Member States shall take such measures as necessary to ensure that entities or persons who have suffered damage as a result of an act of corruption have the right to initiate legal proceedings against those responsible for that damage in order to obtain compensation.

Amendment 97**Proposal for a directive****Article 24 – paragraph 1***Text proposed by the Commission*

Without prejudice to the rules on cross-border cooperation and mutual legal assistance in criminal matters, Member States' authorities, Europol, Eurojust, the European Public Prosecutor's Office, the European Anti-Fraud Office (OLAF) and the Commission shall, within their respective competences, cooperate with each other in the fight against the criminal offences referred to in this Directive. To that end, where appropriate, Europol, Eurojust, the European **Public Prosecutor's Office, the European** Anti-Fraud Office (OLAF), and the Commission shall provide technical and operational assistance in accordance with their respective mandates to facilitate the coordination of investigations and prosecutions by the competent authorities.

Amendment

Without prejudice to the rules on cross-border cooperation and mutual legal assistance in criminal matters, Member States' authorities, Europol, Eurojust, the European Public Prosecutor's Office, the European Anti-Fraud Office (OLAF) and the Commission shall, within their respective competences, cooperate with each other in the fight against the criminal offences referred to in this Directive. To that end, where appropriate, Europol, Eurojust, the European Anti-Fraud Office (OLAF), and the Commission shall provide technical and operational assistance in accordance with their respective mandates to facilitate the coordination of investigations and prosecutions by the competent authorities **and the European Public Prosecutor's Office** .

Or. en

Amendment 98**Proposal for a directive****Article 25 – paragraph 3 – point a***Text proposed by the Commission*

(a) facilitate cooperation and exchange of best practices among Member States' practitioners, experts, researchers and other stakeholders;

Amendment

(a) facilitate cooperation and exchange of best practices among Member States' practitioners, **civil society, independent** experts, researchers and other stakeholders;

Or. en

Amendment 99

Proposal for a directive Article 26 – paragraph 2 – point f a (new)

Text proposed by the Commission

Amendment

(fa) the number of freezing and confiscation orders, as well as their estimated value;

Or. en

Amendment 100

Proposal for a directive Article 26 – paragraph 2 – point k

Text proposed by the Commission

Amendment

(k) the number of convictions pardoned, with specification of the number of pardons to public officials and to high level **official**.

(k) the number of convictions pardoned, with specification of the number of pardons to public officials and to high level **officials**.

Or. en

Amendment 101

Proposal for a directive Article 26 – paragraph 3

Text proposed by the Commission

Amendment

3. Member States shall, on an annual basis and by 1 June, publish, in a machine-readable **and** disaggregated format, the statistical data referred to in paragraph 2 for the previous year and inform the Commission thereof.

3. Member States shall, on an annual basis and by 1 June, publish, in a **format that is open**, machine-readable, **accessible, findable and re-usable, together with their metadata and as defined in Directive (EU) 2019/1024 of the European Parliament and of the Council of 20 June 2019 on open data and the re-use of public sector information and in a** disaggregated format, the statistical data referred to in

paragraph 2 for the previous year and inform the Commission thereof.

Or. en

Amendment 102

Proposal for a directive

Article 28 – paragraph 1 – point 2

Directive (EU) 2017/1371

Article 4 – paragraph 2

Text proposed by the Commission

(2) In Article 4(2), *the words ‘passive and active corruption’, ‘passive corruption’ and ‘active corruption’ are replaced respectively by ‘passive and active bribery in the public sector’, ‘passive bribery in the public sector’ and ‘active bribery in the public sector’.*

Amendment

(2) Article 4(2) *is replaced by the following:*

‘(1) Member States shall take the necessary measures to ensure that the following conduct is punishable as a criminal offence, when committed intentionally: (a) the promise, offer, giving or rewarding, directly or through an intermediary, of an undue advantage of any kind to a public official for that official or for a third party in order for the public official to act or refrain from acting or in the exercise of that official’s functions in a way which damages or is likely to damage the Union’s financial interests (active bribery);

(b) the request or receipt by a public official, directly or through an intermediary, of an undue advantage of any kind or the acceptance of an offer or the promise of such an advantage for that official or for a third party, in order for the public official to act or to refrain from acting or in the exercise of that official’s functions in a way which damages or is likely to damage the Union’s financial interests (passive bribery).

Member States shall take the necessary measures to ensure that it is presumed that any act of passive bribery or committed by a 'Union official', has the aim of deviating resources from the lawful exercise of their public office and, as such, implies a damage to Union's financial interests.

(2) Member States shall take the necessary measures to ensure that the following conduct shall be punishable as a criminal offence, when committed intentionally and in the course of economic, financial, business or commercial activities:

(a) the promise, offer, giving or rewarding, directly or through an intermediary, of an undue advantage of any kind to a person who in any capacity directs or works for a private-sector entity, for that person or for a third party, in order for that person to act or to refrain from acting, in breach of that person's duties in a way which damages or is likely to damage the Union's financial interests (active bribery);

(b) the request or receipt by a person, directly or through an intermediary, of an undue advantage of any kind or the promise of such an advantage, for that person or for a third party, while in any capacity directing or working for a private-sector entity, to act or to refrain from acting, in breach of that person's duties in a way which damages or is likely to damage the Union's financial interests (passive bribery).'

Or. en

Amendment 103

Proposal for a directive
Article 28 – paragraph 1 – point 2 a (new)
Directive (EU) 2017/1371

Article 4 – paragraph 3

Present text

3. Member States shall take the necessary measures to ensure that ***misappropriation***, when committed intentionally, ***constitutes a criminal offence***.

For the purposes of this Directive, ‘misappropriation’ means the action of a public official who is directly or indirectly entrusted with the management of funds or assets to commit or disburse funds or appropriate or use assets contrary to the purpose for which they were intended in any way which damages the Union's financial interests.

Amendment

(2a) Article 4(3) is replaced by the following:

‘3. Member States shall take the necessary measures to ensure that ***the following conduct is punishable as a criminal offence***, when committed intentionally:

(a) the committing, disbursing, appropriation or use by a public official of property whose management is directly or indirectly entrusted to him contrary to the purpose for which it was intended in any way which damages the Union’s financial interests or is likely to damage the Union’s financial interests;

(b) the committing, disbursing, appropriation or use, in the course of economic, financial, business or commercial activities, by a person who directs or works, in any capacity, in a private sector entity, of any property whose management is directly or indirectly entrusted to him contrary to the purpose for which it was intended in any way which damages the Union’s financial interests or is likely to damage the Union’s financial interests.’

Or. en

Amendment 104

Proposal for a directive

Article 28 – paragraph 1 – point 2 b (new) – introductory part

Text proposed by the Commission

Amendment

(2b) In Article 4 the following paragraphs are inserted:

Amendment 105

Proposal for a directive

Article 28 – paragraph 1 – point 2 b (new)

Directive (EU) 2017/1371

Article 4 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

‘3a. Member States shall take the necessary measures to ensure that the following conduct is punishable as a criminal offence, when committed intentionally:

(a) the promise, offer or giving, directly or through an intermediary, of an undue advantage of any kind to a person or a third party in order for that person to exert real or supposed influence with a view to obtaining an undue advantage from a public official in a way which damages or is likely to damage the Union’s financial interests;

(b) the request or receipt, directly or through an intermediary, of an undue advantage of any kind or the promise of such an advantage to a person or a third party in order for that person to exert real or supposed influence with a view to obtaining an undue advantage from a public official in a way which damages or is likely to damage the Union’s financial interests.

In order for the conduct referred to in points (a) and (b) to be punishable as a criminal offence, it shall be irrelevant whether or not the influence is exerted or whether or not the supposed influence leads to the intended results.

Or. en

Amendment 106

Proposal for a directive

Article 28 – paragraph 1 – point 2 b (new)

Directive (EU) 2017/1371

Article 4 – paragraph 3 b (new)

Text proposed by the Commission

Amendment

3b. Member States shall take the necessary measures to ensure that the following conduct is punishable as a criminal offence, when committed intentionally:

1. the performance of or failure to perform an act, in violation of laws, by a public official in the exercise of his functions for the purpose of obtaining an undue advantage for that official or for a third party in a way which damages or is likely to damage the Union's financial interests;

2. the performance of or failure to perform an act, in breach of duties, by a person who in any capacity directs or works for a private-sector entity in the course of economic, financial, business or commercial activities for the purpose of obtaining an undue advantage for that person or for a third party in a way which damages or is likely to damage the Union's financial interests.

Or. en

Amendment 107

Proposal for a directive

Article 28 – paragraph 1 – point 2 b (new)

Directive (EU) 2017/1371

Article 4 – paragraph 3 c (new)

Text proposed by the Commission

Amendment

3c. Member States shall take the necessary measures to ensure that the

following conduct is punishable as a criminal offence, when committed intentionally:

- 1. the use, directly or through an intermediary, of physical force, threats or intimidation or the promise, offering or giving of an advantage to induce false testimony or to interfere in the giving of testimony or the production of evidence in a proceeding concerning the commission of offences as referred to in this Directive;*
- 2. the use, directly or through an intermediary, of physical force, threats or intimidation to interfere in the exercise of official duties by a person holding a judicial office or a member of law enforcement in relation to the commission of offences as referred to in this Directive.*
- 3. the destruction, alteration, concealment or falsification of evidence with the intent to interfere in a proceeding concerning the commission of offences as referred to in this Directive.*

Or. en

Amendment 108

Proposal for a directive

Article 28 – paragraph 1 – point 2 b (new)

Directive (EU) 2017/1371

Article 4 – paragraph 3 d (new)

Text proposed by the Commission

Amendment

3d. Member States shall take the necessary measures to ensure that the intentional acquisition, possession or use by a public official of property that is significantly disproportionate to and cannot be justified by the lawful income of the public official shall be punishable as a criminal offence, where the national court is satisfied that such property is derived from any kind of criminal involvement in the commission of an

offence as set out in this Directive.

In determining whether the property in question is derived from any kind of criminal involvement in the commission of an offence as set out in this Directive, account shall be taken of all the circumstances of the case. It is not necessary to establish all the factual elements or all circumstances relating to that criminal involvement, including the identity of the perpetrator and it is irrelevant whether the person committed, or was involved in, the criminal involvement from which the property was derived.

Or. en

Amendment 109

Proposal for a directive

Article 28 – paragraph 1 – point 2 b (new)

Directive (EU) 2017/1371

Article 4 – paragraph 3 e (new)

Text proposed by the Commission

Amendment

3e. Member States shall take the necessary measures to ensure that, when committed intentionally, the concealment or continued retention of property by a person having knowledge that such property is the result of any of the offences established in accordance with this Directive, even without having participated in their commission, is punishable as a criminal offence.

Or. en

Amendment 110

Proposal for a directive

Article 28 – paragraph 1 – point 2 b (new)

Directive (EU) 2017/1371

Article 4 – paragraph 3 f (new)

Text proposed by the Commission

Amendment

3f. *Member States shall take the necessary measures to ensure that, when committed in a way which damages or is likely to damage the Union’s financial interests, the culpable breach by a public official of an official duty, by failing to perform it or performing it defectively, if it causes damage or injury to the rights or legitimate interests of a natural person or a legal person, shall be punishable as a criminal offence.*

Or. en

Amendment 111

Proposal for a directive

Article 28 – paragraph 1 – point 2 c (new)

Directive (EU) 2017/1371

Article 5 – paragraph 2

Present text

Amendment

2. Member States shall take the necessary measures to ensure that ***an attempt to commit any of the criminal offences*** referred to in Article 3 and Article 4(3) is punishable as a criminal offence.

(2c) *Article 5(2) is replaced by the following:*

‘2. Member States shall take the necessary measures to ensure that ***attempting an offence*** referred to in Articles 3 and 4(3), ***(3b) to (3d) of this Directive*** is punishable as a criminal offence.’

Or. en

Amendment 112

Proposal for a directive

Article 28 – paragraph 1 – point 3

Directive (EU) 2017/1371

Article 7 – paragraph 3 – subparagraph 1

Text proposed by the Commission

Member States shall take the necessary measures to ensure that the criminal offences referred to in Articles 3, 4(1) **and (2)** are punishable by a maximum penalty of at least **six** years of imprisonment **when they involve considerable damage or advantage**.

Amendment

Member States shall take the necessary measures to ensure that the criminal offences referred to in Articles 3, 4(1), **(2(1)) and (3c)** are punishable by a maximum penalty of at least **seven** years of imprisonment.

Or. en

Amendment 113

Proposal for a directive

Article 28 – paragraph 1 – point 3

Directive (EU) 2017/1371

Article 7 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Member States shall take the necessary measures to ensure that the criminal offence referred to in Article **4(3)** is punishable by a maximum penalty of at least **five** years of imprisonment **when it involves considerable damage or advantage**.

Amendment

Member States shall take the necessary measures to ensure that the criminal offence referred to in Article **4(2(2)) to 4(3b)** is punishable by a maximum penalty of at least **six** years of imprisonment.

Or. en

Amendment 114

Proposal for a directive

Article 28 – paragraph 1 – point 3

Directive (EU) 2017/1371

Article 7 – paragraph 3 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

Member States shall take the necessary measures to ensure that the criminal offence referred to in Article 4(3d) and (3e) is punishable by a maximum penalty

of at least five years of imprisonment.

Or. en

Amendment 115

Proposal for a directive

Article 28 – paragraph 1 – point 3

Directive (EU) 2017/1371

Article 7 – paragraph 3 – subparagraph 2 b (new)

Text proposed by the Commission

Amendment

Member States shall take the necessary measures to ensure that the criminal offence referred to in Article 4(3f) is punishable by a maximum penalty of at least three years of imprisonment.

Or. en

Amendment 116

Proposal for a directive

Article 28 – paragraph 1 – point 3

Directive (EU) 2017/1371

Article 7 – paragraph 3 – subparagraph 3

Text proposed by the Commission

Amendment

The damage or advantage resulting from the criminal offences referred to in points (a), (b) and (c) of Article 3(2) and in Article 4 shall be presumed to be considerable where the damage or advantage involves more than EUR 100 000.

deleted

Or. en

Amendment 117

Proposal for a directive

Article 28 – paragraph 1 – point 3

Directive (EU) 2017/1371

Article 7 – paragraph 3 – subparagraph 4

Text proposed by the Commission

Amendment

The damage or advantage resulting from the criminal offences referred to in point (d) of Article 3(2) and subject to Article 2(2) shall always be presumed to be considerable.

deleted

Or. en

Amendment 118

Proposal for a directive

Article 28 – paragraph 1 – point 4

Directive (EU) 2017/1371

Article 7 – paragraph 4

Text proposed by the Commission

Amendment

(4) In Article 7, paragraph (4) is replaced by the following:

(4) In Article 7, paragraph (4) is deleted.

4. Where a criminal offence referred to in points (a), (b) or (c) of Article 3(2) or in Article 4(1) and (3) involves damage of less than EUR 10 000 or an advantage of less than EUR 10 000, Member States may provide for sanctions other than criminal sanctions.

Or. en

Amendment 119

Proposal for a directive

Article 28 – paragraph 1 – point 7 a (new)

Directive (EU) 2017/1371

Article 11 – paragraph 1

Text proposed by the Commission

Amendment

(7a) *In Article 11(1) ‘or a habitual resident in its territory’ is added to point (b).*

In Article 11(1) the following point (c) is added: ‘the offence is committed for the benefit of a legal person established in its territory.’

Or. en

Amendment 120

Proposal for a directive

Article 28 – paragraph 1 – point 7 b (new)

Directive (EU) 2017/1371

Article 11 – paragraph 3

Present text

Amendment

3. A Member State shall inform the Commission where it decides to extend its jurisdiction to criminal offences referred to in Article 3, 4 or 5 which have been committed outside its territory ***in any of the following situations:***

(a) the offender is a habitual resident in its territory;

(b) the criminal offence is committed for the benefit of a legal person established in its territory; or

(c) the offender is one of its officials who acts in his or her official duty.

(7b) Article 11(3) is replaced by the following:

‘3. A Member State shall inform the Commission where it decides to extend its jurisdiction to criminal offences referred to in Article 3, 4 or 5 which have been committed outside its territory ***when*** the offender is one of its officials who acts in ***his or her*** official duty.’

Or. en

Amendment 121

Proposal for a directive

Article 28 – paragraph 1 – point 8

Directive (EU) 2017/1371

Article 12 – paragraph 2 – point a

Text proposed by the Commission

(a) fifteen years from the time when the offence was committed, for the criminal offences referred to in Articles 3, 4(1) **and (2)**;

Amendment

(a) fifteen years from the time when the offence was committed, for the criminal offences referred to in Articles 3, 4(1) **(2(1)) and (3c)** ;

Or. en

Amendment 122

Proposal for a directive

Article 28 – paragraph 1 – point 8

Directive (EU) 2017/1371

Article 12 – paragraph 2 – point b

Text proposed by the Commission

(b) ten years from the time when the offence was committed for the criminal offence referred to in Article **4(3)**.

Amendment

(b) ten years from the time when the offence was committed for the criminal offence referred to in Article **4 (2(2)) to (3b)**;

Or. en

Amendment 123

Proposal for a directive

Article 28 – paragraph 1 – point 8

Directive (EU) 2017/1371

Article 12 – paragraph 2 – point b a (new)

Text proposed by the Commission

Amendment

(ba) eight years from the time when the offence was committed, for the criminal offences referred to in Article 4(3d) to (3f) and 5.

Amendment 124

Proposal for a directive

Article 28 – paragraph 1 – point 8

Directive (EU) 2017/1371

Article 12 – paragraph 3 – point a

Text proposed by the Commission

(a) ten years for the criminal offences referred to in Articles 3, 4(1) **and (2)**;

Amendment

(a) ten years for the criminal offences referred to in Articles 3, 4(1) **(2(1)) and (3c)**;

Or. en

Amendment 125

Proposal for a directive

Article 28 – paragraph 1 – point 8

Directive (EU) 2017/1371

Article 12 – paragraph 3 – point b

Text proposed by the Commission

(b) eight years for the criminal offence referred to in Article **4(3)**.

Amendment

(b) eight years for the criminal offence referred to in Article **4 (2(2)) to (3b)**;

Or. en

Amendment 126

Proposal for a directive

Article 28 – paragraph 1 – point 8

Directive (EU) 2017/1371

Article 12 – paragraph 3 – point b a (new)

Text proposed by the Commission

Amendment

(ba) five years for the criminal offences referred to in Articles 4(3d) to (3f) and 5.

Amendment 127

Proposal for a directive

Article 28 – paragraph 1 – point 8

Directive (EU) 2017/1371

Article 12 – paragraph 4 – point a

Text proposed by the Commission

(a) fifteen years from the date of the final conviction for any of the criminal offences referred to in Articles 3, 4(1) **and (2)**;

Amendment

(a) fifteen years from the date of the final conviction for any of the criminal offences referred to in Articles 3, 4(1) **(2(1)) and (3c)**;

Or. en

Amendment 128

Proposal for a directive

Article 28 – paragraph 1 – point 8

Directive (EU) 2017/1371

Article 12 – paragraph 4 – point b

Text proposed by the Commission

(b) ten years from the date of the final conviction for the criminal offence referred to in Article **4(3)**.

Amendment

(b) ten years from the date of the final conviction for the criminal offence referred to in Article **4 (2(2)) to (3b)**;

Or. en

Amendment 129

Proposal for a directive

Article 28 – paragraph 1 – point 8

Directive (EU) 2017/1371

Article 12 – paragraph 4 – point b a (new)

Text proposed by the Commission

Amendment

(ba) eight years from the date of the final conviction for any of the criminal

offences referred to in Articles 4(3d) to (3f) and 5.

Or. en

Amendment 130

Proposal for a directive

Article 28 – paragraph 1 – point 8

Directive (EU) 2017/1371

Article 12 – paragraph 5 – point a

Text proposed by the Commission

(a) ten years from the date of the final conviction for any of the criminal offences referred to in Articles 3, 4(1) **and 4(2)**;

Amendment

(a) ten years from the date of the final conviction for any of the criminal offences referred to in Articles 3, 4(1) **(2(1)) and (3c)**;

Or. en

Amendment 131

Proposal for a directive

Article 28 – paragraph 1 – point 8

Directive (EU) 2017/1371

Article 12 – paragraph 5 – point b

Text proposed by the Commission

(b) eight years from the date of the final conviction for the criminal offence referred to in Article **4(3)**.

Amendment

(b) eight years from the date of the final conviction for the criminal offence referred to in Article **4(2(2)) to (3b)**;

Or. en

Amendment 132

Proposal for a directive

Article 28 – paragraph 1 – point 8

Directive (EU) 2017/1371

Articles 12 – paragraph 5 – point b a (new)

Text proposed by the Commission

Amendment

(ba) five years from the date of the final conviction for any of the criminal offences referred to in Articles 4(3d) to (3f) and 5.

Or. en

Amendment 133

Proposal for a directive

Article 28 – paragraph 1 – point 8 a (new)

Directive (EU) 2017/1371

Articles 12 a (new)

Text proposed by the Commission

Amendment

***(8a) Article 12a is inserted:
‘Privileges or immunity from investigation and prosecution of corruption offences***

Member States shall ensure that the provisions in Article 19 of Directive (EU) XXX on combating corruption are applicable for the offences referred to in this Directive.

Or. en

Amendment 134

Proposal for a directive

Article 28 – paragraph 8 b (new)

Directive (EU) 2017/1371

Articles 12 b (new)

Text proposed by the Commission

Amendment

***(8b) Article 12b is inserted:
‘Protection of persons who report offences or assist the investigation***

In addition to the measures provided under Directive (EU) 2019/1937, Member States shall ensure that persons reporting offences referred to in this Directive and providing evidence or otherwise cooperating with the investigation, prosecution or adjudication of such offences are provided the necessary protection, support and assistance in the context of criminal proceedings.'

Or. en

Amendment 135

Proposal for a directive Article 30 – paragraph 2

Text proposed by the Commission

2. Every two years as of [12 months after the deadline for implementation of this Directive], Member States shall send the Commission a report within three months which includes a summary about implementation of and actions taken in accordance with *Articles 3 to 6*.

Amendment

2. Every two years as of [12 months after the deadline for implementation of this Directive], Member States shall send the Commission a **comprehensive** report within three months which includes a summary about implementation of and actions taken in accordance with **this Directive**.

Or. en

Amendment 136

Proposal for a directive Article 30 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The Commission shall analyse the submissions provided by Member States under paragraph 2 and include its conclusions in the annual Rule of Law Report assessing the extent to which Member States implement this Directive.

Or. en

EXPLANATORY STATEMENT

Corruption is one of the greatest contemporary threats to the proper functioning of both national and Union institutions. Corruption erodes the foundations of democracy, undermines trust in public institutions, and deprives our citizens of the opportunities and services they deserve. Significant financial resources flow from public budgets into the pockets of perpetrators of corruption every year. This robs us of valuable resources that could otherwise be invested in education, healthcare, and infrastructure. Corruption not only damages our economies but also corrodes the very fabric of our societies.

If we want a corruption-free Europe, we must acknowledge that the battle is multifaceted. It requires us to tackle corruption at all levels, from petty bribery to grand corruption schemes. It necessitates reforms in our legal frameworks, robust enforcement mechanisms, and the cultivation of a culture of ethics and accountability. It also involves empowering whistleblowers who play a vital role in exposing corruption, often at great personal risk. And we can only make significant progress in the fight against corruption through the collective efforts of Member States, institutions, civil society, and the private sector.

Corruption-related offences are notoriously difficult to investigate and uncover as they are often committed by highly sophisticated groups of individuals skilled at utilising loopholes in the system. It is therefore needed to update the EU secondary legislation, which aims at setting minimum standards of combating corruption by means of primarily, but not exclusively criminal law.

The proposal at hand offers a robust update of definitions of criminal offences already defined in EU law, including bribery in both public and private sector, and adds new criminal offences, which are needed to make the fight against corruption more effective. It is also most welcome that the proposal brings EU legislation into line with the UN Convention against corruption. The draft report is aligned with the main objective of the proposal of achieving a comprehensive and unified framework for addressing corruption, thus ensuring that our efforts to combat corruption are consistent and effective across the European Union. The draft report builds on the proposal to tighten up the definitions of criminal offences and to add further two offences, namely concealment of property gained by means of corruption and misconduct in public office. Corruption rings often engage in or rely on activities falling within those two newly defined offences, and it is equally important to prosecute and punish those offences.

Beyond defining criminal offences, the proposal introduces new rules on sanctions and procedural safeguards aiming to eliminate any avenues of avoiding prosecution of corruption. The draft report raises some of the minimum sentences of imprisonment to bring them in line with the seriousness of the conduct in question. It also introduces the concept of grand corruption where special care needs to be taken that criminal investigations are not hindered by jurisdictional disputes or immunity of the suspects.

The draft report further introduces additional rules to protect victims of corruption and to ensure that perpetrators cannot escape the consequences of their criminal activities by hiding behind legal entities or other legal schemes. Certain modifications to the Commission's text are also proposed to strike the proper balance between the need to effectively investigate and

prosecute corruption offences on one hand and to respect fundamental rights of all persons involved on the other.

The Commission has correctly recognised that the fight against corruption cannot be limited solely to means of criminal law and proposed measures on prevention of corruption. Prevention is often the most cost-effective way to combat corruption and enhancing this dimension should be at the heart of the Union's approach. The draft report therefore strengthens those provisions in order to make the Member States' obligations in this area clear and unambiguous. It is important to monitor phenomena, which are often corruption related, such as revolving doors between the public and private sector, potential conflicts of interest and unexplained assets of public officials. Corruption can be best prevented when relevant information is available to both the public and the relevant authorities in an easily accessible manner, which allows for efficient analysis. Proper regulation of lobbying activities, as well as having clear and transparent rules for the financing of political parties and electoral campaigns financing is also essential.

The proposal already recognizes the important role that civil society plays as watchdog (alerting on threats to rule of law, holding public authorities accountable and ensuring respect for fundamental rights) and requires Member States to promote their role in anti-corruption activities. The draft report strengthens the role of civil society in the prevention of and the fight against corruption, including by recognizing any organisation that aims to counter this phenomenon the right to a review of a prosecutorial decisions to open or not an investigation and by enabling civil society to act in defence of the rights of the victims of corruption. Finally, the Commission's proposal correctly reacts to the close link between legislation on corruption criminal offences and the PIF Directive (EU) 2017/1371. Since the perpetrators of corruption often also engage in criminal fraud against the Union's financial interests, it is important to keep the two pieces of legislation aligned not only in terms of definitions, but also in terms of procedural instruments employed by them. The draft report proposes additional provisions to ensure the smooth implementation of both pieces of legislation, including addressing jurisdiction of the European Public Prosecutor's Office.