## **European Parliament**

2019-2024



### Plenary sitting

A9-0048/2024

21.2.2024

## \*\*\*I 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

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### 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

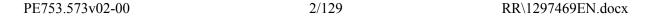
Deletions are indicated in *bold italics* in the left-hand column. Replacements are indicated in *bold italics* in both columns. New text is indicated in *bold italics* in the right-hand column.

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

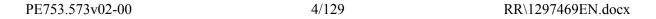
New text is highlighted in **bold italics**. Deletions are indicated using either the symbol or strikeout. Replacements are indicated by highlighting the new text in **bold italics** and by deleting or striking out the text that has been replaced.

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



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#### 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 opinions submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the Swedish Parliament and the Italian Chamber of Deputies, 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 (A9-0048/2024),
- 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 1 a (new)

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### Text proposed by the Commission

#### Amendment

(1a) Member States should be provided with the tools and measures to combat the most serious corrupt behaviour, involving abuse of high level power or causing serious harm to societies. In order to ensure improved track record of tackling high level corruption cases across all Member States, it is imperative that national authorities dispose of specific measures with regards to the prevention, repression, investigation and prosecution of cases involving high level officials or gross misappropriation of public funds or resources.

#### Amendment 2

Proposal for a directive Recital 1 b (new)

Text proposed by the Commission

#### Amendment

(1b) Combating corruption is essential for strengthening the quality of democracy and for the full realization of the Rule of Law. It is considered fundamental, for a good anti-corruption strategy, to act upstream of the phenomenon, preventing the existence of contexts that generate corrupt practices.

#### Amendment 3

## Proposal for a directive Recital 3

Text proposed by the Commission

(3) The existing legal framework should be updated and strengthened to facilitate an effective fight against corruption across the Union. This Directive aims to criminalise corruption offences

#### Amendment

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when committed intentionally. Intention and knowledge may be inferred from objective and factual circumstances. As this Directive provides for minimum rules, Member States remain free to adopt or maintain more stringent criminal law rules for corruption offences.

when committed intentionally. Intention and knowledge may be inferred from objective and factual circumstances. As this Directive provides for minimum rules, Member States remain free to adopt or maintain more stringent criminal law rules for corruption offences. Nothing in this Directive is to be interpreted as grounds for reduction in the level of protection already afforded by existing criminal law rules for corruption offences.

#### **Amendment 4**

## Proposal for a directive Recital 4

Text proposed by the Commission

(4) Corruption is a transnational phenomenon that affects all societies and economies. Measures adopted at national or Union level, should recognise this international dimension. Union action should therefore take into account the work of the Group of States against Corruption of the Council of Europe (GRECO), the Organisation for Economic Cooperation and Development (OECD) and the United Nations Office against Drugs and Crime (UNODC).

#### Amendment

Corruption is a transnational phenomenon that affects all societies and economies. Measures adopted at national or Union level, should recognise this international dimension. Diverse manifestations of corruption necessitate a coordinated and harmonized approach among Member States to address its root causes and consequences effectively. Union action should therefore take into account the work of the Group of States against Corruption of the Council of Europe (GRECO), the Organisation for **Economic Cooperation and Development** (OECD) and the United Nations Office against Drugs and Crime (UNODC).

#### Amendment 5

## 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

#### Amendment

(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.

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 in all Member States should build on measures to enhance transparency, ethics and integrity, as well as by regulating in areas considered to be enablers of corruption, such as conflict of interest, lobbying and revolving doors, public procurements and political parties financing. Public bodies should seek the highest standards of integrity, transparency and independence as an important part of tackling corruption more broadly. A fundamental pillar for efficient, transparent and effective Member States that are free of corruption, is a public service staffed with individuals of the highest level of skill and integrity. Such staffing of public service can be achieved through enhancing transparency, efficiency and the use of objective criteria in the recruitment and promotion of public officials.

#### Amendment 6

Proposal for a directive Recital 5 a (new)

Text proposed by the Commission

Amendment

(5a) Public procurement, as a key interface between the public and private sectors, is particularly vulnerable to corruption, given the significant financial interests at stake and the complexity of

procurement processes. Recognizing that these vulnerabilities can lead to inefficiencies, misallocation of public resources, and a loss of public trust in governmental institutions, robust measures are needed to enhance transparency, oversight, and accountability in public procurement processes. This includes establishing clear guidelines, promoting digital solutions for traceability, ensuring rigorous auditing mechanisms, and providing platforms for whistleblower protections and public scrutiny. 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.

#### Amendment 7

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.

**Amendment 8** 

Proposal for a directive Recital 5 c (new)

### Text proposed by the Commission

#### Amendment

(5c) Corruption phenomena strike at the heart of democracy, wounding it in its fundamental principles, namely those of equality, transparency, integrity, impartiality, legality, and fair redistribution of wealth. They have profoundly harmful economic effects, such as increased public spending, through interventions devoid of real interest, benefiting private individuals, deterring investors, and distorting competition rules.

#### Amendment 9

## Proposal for a directive Recital 6

Text proposed by the Commission

(6) Member States should have in place bodies or units specialised in the repression and specialised in the prevention of corruption. Member States may decide to entrust a body with a combination of preventive and law enforcement functions. In order to ensure that these bodies operate effectively, they should meet a number of conditions, including having the independence, resources and powers that are necessary to ensure the proper administration of their tasks.

#### Amendment

Member States should have in place (6) bodies or units specialised in the repression and investigation and specialised in the prevention of corruption. The management of the specialised bodies or units should be appointed through an open and transparent procedure in full compliance with the principle of legislative oversight, including several branches of government, to ensure public trust in the national anti-corruption bodies and avoid potential conflicts of interest. Providing such specialised bodies or units with a clear mandate enshrined in law is paramount not only to ensuring their permanence, but also to increasing awareness among the public as to what the body, unit or agency's powers and responsibilities are. Member States may decide to entrust a body with a combination of preventive and law enforcement functions. In order to ensure that these bodies operate effectively, they should meet a number of conditions, including having the independence,

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resources and powers that are necessary to ensure the proper administration of their tasks. All Member States should also create integrated services specifically tasked with duties related to the investigation and prosecution of corruption offences. Member States should equip such integrated anticorruption investigation and prosecution services with specialised personnel, adequate technical means, and financial resources to ensure their full autonomy and a high degree of professionalism.

#### Amendment 10

## Proposal for a directive Recital 6 a (new)

Text proposed by the Commission

#### Amendment

(6a) Raising citizens' awareness about the scope, characteristics, and effects of corruption requires the design of campaigns that, in accessible language, warn about daily improper behaviours associated with corruption phenomena, thereby helping a better detection of such phenomena, while also promoting their rejection. This approach is also essential for shaping more demanding, attentive, and less tolerant citizens to corrupt behaviour.

#### **Amendment 11**

## Proposal for a directive Recital 9

Text proposed by the Commission

(9) To avoid impunity for corruption offences in the public sector, the scope of application needs to be well defined. First of all, the concept of public official should also cover persons working in international

### Amendment

(9) To avoid impunity for corruption offences in the public sector, the scope of application needs to be well defined. First of all, the concept of public official should also cover persons working in international

organisations, including the institutions, agencies and bodies of the European Union and international courts. This should, amongst other things, encompass persons acting as members of collegial bodies responsible for deciding on the guilt of an accused person in the framework of a trial, as well as persons who by virtue of an arbitration agreement are called upon to render a legally binding decision in disputes submitted by the parties to the arbitration agreement. Secondly, many entities or persons nowadays exercise public functions without holding a formal office. Therefore, the concept of public official is defined to cover all relevant officials, whether appointed, elected or employed on the basis of a contract, holding a formal administrative or judicial office, as well as all persons providing a service, which have been vested with public authority or who are subject to the control or supervision of public authorities in relation to the carrying out of such a service, even if they do not hold formal office. For the purposes of this Directive, the definition should cover persons working in state-owned and statecontrolled enterprises, as well as in asset management foundations and privatelyowned companies performing public service functions and the legal persons established or maintained by them. Any person holding a legislative office should be treated as a public official for the purposes of this Directive.

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#### **Amendment 12**

Proposal for a directive Recital 9 a (new)

Amendment

With regard to the prevention of (9a) and contrast to corruption, the creation of specialised bodies, units or agencies with a mandate enshrined on a clear legal basis is paramount to ensure their permanence, but also to entrust them with a specific mandate, and to increase awareness among the general public as to what the body, unit or agency's powers and responsibilities are. The effectiveness of bodies, units or agencies specialised in the prevention of corruption depends, in particular, on their possibility to manage asset declarations of public officials, monitor compliance with transparency rules applying to public officials and public entities, as well as with statutory provisions and rules related to conflicts of interests in the public and private sector, and to the financing of political parties. As for the investigation and prosecution of corruption offences, integrated services need to be created in all EU Member States, but also equipped with specialised personnel and adequate technical capabilities and financial resources, so that their full autonomy and professionalism is guaranteed. Victims of corruption face serious challenges when attempting to establish and understand their rights and potential remedies. Therefore, it is essential that an independent coordinator for the rights of victims of corruption also be established at national level to ensure that the rights of persons affected by the crimes covered by this Directive are upheld, and that such persons are compensated for their loss.

**Amendment 13** 

Proposal for a directive Recital 9 b (new)

### Text proposed by the Commission

#### Amendment

(9b)State services must assess corruption and bribery risks associated with their type of activity, the nature of the services they provide, and the context in which these services are provided. For this purpose, State services will have to draft prevention or risk management plans, in which services or acts most susceptible to bribery, exploitation or diversion of funds, and personal favouritism or favouritism towards third parties are identified, as well as measures to reduce risks and ways to react to illicit practices. Those measures shall specifically focus on high-risk areas such as the financial, health, digital, construction and pharmaceutical sectors, as well as on public procurement.

#### **Amendment 14**

Proposal for a directive Recital 9 c (new)

Text proposed by the Commission

### Amendment

(9c) Associated with the drafting of prevention or risk management programs is the creation of codes of ethics or conduct, which succinctly, objectively, and clearly describe the expected behaviours of all workers. These instruments must be simple, easily understood by their intended recipients, and adapted to the specificities of the respective activity. To achieve these results, it is recommended to involve all stakeholders in the drafting process of prevention or risk management programs.

### **Amendment 15**

# Proposal for a directive Recital 9 d (new)

Text proposed by the Commission

Amendment

(9d) A Public Administration made up of agents with high ethical standards is a key condition for reducing corruption risks. Regardless of the type of public service entry exams, subsequent training, in all sectors of the administration, should incorporate content with a strong focus on probity and corruption prevention.

#### **Amendment 16**

Proposal for a directive Recital 9 e (new)

Text proposed by the Commission

#### Amendment

(9e) With a view to prevent corruption, Member States should take measures to implement education for public integrity in the school system and in the classroom. Member States should provide opportunities for educators to receive specialized training in anti-corruption education methodologies and strategies and to ensure the effective delivery of those programs. Member States should also take the necessary measures to prevent favouritism, nepotism or cronyism in public recruitment and in administrative procedures, and to ensure that all public human resource processes strive to develop a systematic approach based on: identification of possible risks; establishment of strong preventive mechanisms; ensuring policy compliance, reporting and sanctioning of misconduct.

Amendment 17

Proposal for a directive Recital 14

### Text proposed by the Commission

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.

#### Amendment

Obstruction of justice is a criminal (14)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 as well as the destruction, alteration, concealment or falsification of evidence 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.

#### **Amendment 18**

Proposal for a directive Recital 14 a (new)

Text proposed by the Commission

#### Amendment

(14a) Illicit political financing leaves democracies vulnerable to malign finance and undue influence in politics. Abuses of state resources conferring undue benefits on politicians and parties can be a major corruptive force in the electoral process as they can introduce or exacerbate power inequalities, give unfair electoral advantage to incumbents, compromise the integrity of an election, and reduce public trust in the legitimacy of the process and its outcomes. Furthermore, the private sector may use its influence and resources to pressure public authorities to adopt or implement policies and laws in their favour. On the other hand, the integrity of the private sector may be compromised by illicit political finance if politicians pressure companies for donations in

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exchange for continued business with the state, which can lead to policy capture. It is therefore necessary to lay down a criminal offence for illicit political financing.

#### **Amendment 19**

## Proposal for a directive Recital 15

Text proposed by the Commission

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

(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. Public officials should therefore be required to declare their assets and interests at regular intervals, including when taking up and completing duties, so that competent authorities, or independent entities, can assess whether the declared assets correspond to declared incomes, as well as detect potential conflict of interest and revolving doors situations. With the aim of preventing and combating corruption and of promoting transparency and accountability in the public and private sector, the Union should take the necessary measures to monitor and prevent situations of illicit enrichment and unexplained wealth, by establishing a complete registry of beneficial ownerships to a full set of financial and non-financial assets. This Directive paves the way for further measures to prevent and combat corruption at Union level, including the

establishment of an EU Asset Register, which would be built upon the Member States network of registries, allowing for corruption crimes to be better prevented, identified and duly investigated.

#### Amendment 20

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.

#### Amendment 21

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.

**Amendment 22** 

Proposal for a directive Recital 16

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### Amendment

The criminal offence of enrichment (16)builds upon the rules on the criminal offence of money laundering laid down in Directive (EU) 2018/1673 of the European Parliament and of the Council<sup>44</sup>. It is meant to address those cases where the judiciary considers that the corruption offence or offences cannot be proven. Like the predicate offence in money laundering, the burden of proof is of a different nature. This means that in criminal proceedings regarding the criminal offence of enrichment, when considering whether property is derived from any kind of criminal involvement in a corruption offence and whether the person had knowledge of that, the specific circumstances of each case should be taken into account, such as the fact that the value of the property is disproportionate to the lawful income of the accused person and that the criminal activity and acquisition of property occurred within the same time frame. It should not be necessary to establish knowledge of all the factual elements or all circumstances relating to the criminal involvement, including the identity of the perpetrator. When a person is convicted of a criminal offence as defined in this Directive, the competent authorities can recover the illicitly obtained property on the basis of Directive 2014/42/EU of the European Parliament and of the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union<sup>45</sup>.

The criminal offence of enrichment (16)builds upon the rules on the criminal offence of money laundering laid down in Directive (EU) 2018/1673 of the European Parliament and of the Council<sup>44</sup>. It is meant to address those cases where the judiciary considers that the corruption offence or offences cannot be proven. Like the predicate offence in money laundering, the burden of proof is of a different nature. This means that in criminal proceedings regarding the criminal offence of enrichment, when considering whether property is derived from any kind of criminal involvement in a corruption offence and whether the person had knowledge of that, the specific circumstances of each case should be taken into account, such as the fact that the value of the property is disproportionate to the lawful income of the accused person and that the criminal activity and acquisition of property occurred within the same time frame. It should not be necessary to establish that the official or person in question was involved in the commission of the criminal offence, to establish knowledge of all the factual elements or all circumstances relating to the criminal involvement, including the identity of the perpetrator. When a person is convicted of a criminal offence as defined in this Directive, the competent authorities can recover the illicitly obtained property on the basis of Directive 2014/42/EU of the European Parliament and of the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union<sup>45</sup>

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<sup>&</sup>lt;sup>44</sup> Directive (EU) 2018/1673 of the European Parliament and of the Council of 23 October 2018 on combating money laundering by criminal law (OJ L 284,

 <sup>&</sup>lt;sup>44</sup> Directive (EU) 2018/1673 of the
 European Parliament and of the Council of
 23 October 2018 on combating money
 laundering by criminal law (OJ L 284,

12.11.2018, p. 22).

<sup>45</sup> Directive 2014/42/EU of the European Parliament and of the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union (OJ L 127/39, 29.4.2014, p. 39).

## 12.11.2018, p. 22).

<sup>45</sup> Directive 2014/42/EU of the European Parliament and of the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union (OJ L 127/39, 29.4.2014, p. 39).

#### **Amendment 23**

## Proposal for a directive Recital 20

Text proposed by the Commission

(20) Legal persons should not be able to avoid responsibility by using intermediaries, including related legal persons, to offer, promise or give a bribe to a public official on its behalf. Moreover, fines for legal persons should be calculated considering the worldwide turnover of all legal entities related to the offender, including parent entities, subsidiary entities, linked trusts, or similar or comparable legal entities.

#### Amendment

(20)Legal persons should not be liable only for acts of a leading person in their organisation, nor should they be able to avoid responsibility by using intermediaries, including related legal persons, to offer, promise or give a bribe to a public official on its behalf. Moreover, fines for legal persons should be proportionate and commensurate to the gravity of the offence, and calculated considering the gross gain, or the gross loss, caused by the offence, or the worldwide turnover of all legal entities related to the offender, including parent entities, subsidiary entities, linked trusts, or similar or comparable legal entities. Corruption related offences are often resolved through non-trial resolutions processes, which are often viewed as a pragmatic and efficient way to resolve cases that would otherwise require tremendous time and resources to investigate and prosecute before reaching a court. However, non-trial resolutions also present legal, institutional and procedural challenges, and raise questions of transparency, the level of deterrence and victims' compensation. Member States should therefore also take the necessary measures to establish fair, effective, and transparent non-trial resolution processes that competent

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authorities can enter into with a legal person for any of the offences covered by this Directive.

#### Amendment 24

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.

#### **Amendment 25**

## Proposal for a directive Recital 25

Text proposed by the Commission

(25) In order to increase trust in prosecution services whilst reducing the perception of corruption in Member States,

Amendment

(25) In order to increase trust in prosecution services whilst reducing the perception of corruption in Member States,

discretionary powers under domestic law not to *the* prosecute persons for criminal offences referred to in this Directive on opportunity grounds should be exercised in accordance with clear rules and criteria and guarantee, with appropriate internal consultation, *as well as the aim of deterring* the commission of corruption offences and the effectiveness of the judicial process.

discretionary powers under domestic law not to prosecute persons for criminal offences referred to in this Directive on opportunity grounds should be exercised in accordance with clear rules and criteria and guarantee, with appropriate internal consultation, and decisions subject to review by the public concerned, subject to proportionality requirements as provided under national law. These rules and criteria and guarantees can contribute to deter the commission of corruption offences and to ensure the effectiveness of the judicial process.

#### Amendment 26

## Proposal for a directive Recital 28

Text proposed by the Commission

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 and the identification and quantification of proceeds of corruption in the context of freezing and confiscation. In addition, this

#### Amendment

Corruption offences are a difficult (28)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. Such tools should as a minimum include the tools listed in Directive 2014/41/EU of the European Parliament and of the Council<sup>1a</sup>, such as covert investigations, investigative measures implying the gathering of evidence in real time, continuously and over a certain period of time, interception of telecommunications, information on

 Directive facilitates the gathering of information and evidence by setting out mitigating circumstances for offenders that help the authorities.

## 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.

<sup>1a</sup> 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)

#### Amendment 27

Proposal for a directive Recital 28 a (new)

Text proposed by the Commission

Amendment

(28a) Corruption is not a victimless crime and the rights of victims of corruption should be safeguarded on the same level as those of victims of other crimes, including regarding the right to information, support and protection. Victims of corruption should be represented in court proceedings, consulted about corruption investigation and adequately compensated. This will ensure that the consequences and the damage of corruption to societies are recognised and will guarantee the rights of people suffering from corruption.

#### **Amendment 28**

## Proposal for a directive Recital 29 a (new)

Text proposed by the Commission

Amendment

(29a) The public concerned, including affected communities, should be entitled to obtain reparation of damages caused by the offences. For such purposes Member States should ensure that, in accordance with their national legal system, members of the public concerned have appropriate rights to participate in the proceedings covered by this Directive, for instance as a civil party. The public concerned should be entitled to participate in the proceedings covered by this Directive where as a result of a corruption offence, they have a sufficient interest and are entitled to maintain the impairment of a right, in accordance with national law. For the purposes of participating in the proceedings covered by this Directive, the public concerned including entities that wish to represent the rights of victims of corruption should meet minimum standards. First, they should have a nonprofit making nature. Second, there should be a direct relationship between the main objectives of the entity representing the public concerned and the action brought before the relevant court or competent administrative body. Third, the entity should have been established for at least five years prior to the date of its application to the relevant court or competent administrative body. Entities representing the public concerned should also make publicly available in plain and intelligible language by any appropriate means, in particular on their website, information that demonstrates their compliance with the criteria required to participate in the proceedings covered by this Directive, and information about the sources of their funding, organisational structure, statutory purpose and activities.

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#### **Amendment 29**

# Proposal for a directive Recital 29 b (new)

Text proposed by the Commission

#### Amendment

(29b) The preparation and adoption of coordinated strategies for the prevention of corruption and the promotion of public integrity emerged as a common standard to foster a coordinated and continuous approach to the challenges posed by corruption. This Directive requires all Member States to adopt, publish and periodically review national strategies on preventing and combating corruption to duly take into account the needs, specificities and challenges of the Member States. The strategies should be developed in cooperation with all level of governments concerned, including local governments and institutions translating national strategies into the specific context, and in consultation with civil society, independent experts, researchers and other stakeholders.

### **Amendment 30**

## 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-

#### Amendment

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.

corruption activities. The consistent 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.

#### **Amendment 31**

## 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 journalists<sup>49</sup>, as well as the *proposal* for a Directive<sup>50</sup> and a Commission Recommendation<sup>51</sup> 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

(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 should be transparent as regards funding the media through institutional advertising, preventing any administration from favouring the media of their choice. In addition, 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 journalists<sup>49</sup>, as well as the *proposals for a* Regulation establishing a common framework for media services in the internal market (European Media Freedom Act)<sup>49a</sup> and for a Directive<sup>50</sup> and a Commission Recommendation<sup>51</sup> 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

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

- <sup>49</sup> 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.
- <sup>49a</sup> 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.
- <sup>50</sup> 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.
- <sup>51</sup> 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.
- <sup>50</sup> 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.
- <sup>51</sup> 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.

#### **Amendment 32**

# 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 crucial. Member States should ensure that information is exchanged in an effective

#### Amendment

(33) To combat corruption effectively, efficient exchange of information between competent authorities responsible for the prevention, detection, investigation or prosecution of corruption offences is crucial. Member States should ensure that information is exchanged in an effective

<sup>&</sup>lt;sup>49</sup> 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.

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/2023<sup>52</sup>, (EU) 2019/1153<sup>53</sup>, (EU) 2016/681<sup>54</sup> of the European Parliament and of the Council, Regulations (EU) 2018/1240<sup>55</sup>, (EU) 2018/1862<sup>56</sup> and (EU) 603/2013<sup>57</sup> of the European Parliament and of the Council, Council Decision 2008/633/JHA<sup>58</sup>.

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/2023<sup>52</sup>, (EU) 2019/1153<sup>53</sup>, (EU) 2016/681<sup>54</sup> of the European Parliament and of the Council, Regulations (EU) 2018/1240<sup>55</sup>, (EU) 2018/1862<sup>56</sup> and (EU) 603/2013<sup>57</sup> 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 bodies, 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<sup>58a</sup>, should be mandatory for all Anti-Corruption Investigation bodies, units and agencies under this Directive.

<sup>&</sup>lt;sup>52</sup> 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.

<sup>53</sup> 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.

<sup>&</sup>lt;sup>54</sup> 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

<sup>&</sup>lt;sup>52</sup> 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.

<sup>&</sup>lt;sup>53</sup> 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.

<sup>&</sup>lt;sup>54</sup> 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.

<sup>55</sup> 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.

<sup>56</sup> 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.

<sup>57</sup> 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

119, 4.5.2016, p. 132), Annex II, point 6.

<sup>55</sup> 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.

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<sup>57</sup> 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).

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.

and justice (OJ L 180, 29.6.2013, p. 1).

<sup>58</sup> 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).

### **Amendment 33**

Proposal for a directive Recital 33 a (new)

Text proposed by the Commission

Amendment

(33a) In order to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.

**Amendment 34** 

Proposal for a directive Recital 33 b (new)

#### Amendment

(33b) 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.

#### **Amendment 35**

## 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

### Amendment

(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 corruption<sup>59</sup>. and should therefore be included in the assessments of the sectors most at risk of corruption and the trainings to be conducted by Member States as provided for by this Directive.

therein, as long as the risks are assessed and the measures are reviewed regularly. For instance, investor residence *and citizenship* schemes are among the sectors that bear high risks for corruption<sup>59</sup> and should therefore be *completely banned by the* Member States.

#### **Amendment 36**

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.

**Amendment 37** 

Proposal for a directive Recital 34 b (new)

Text proposed by the Commission

Amendment

(34b) The EU network against

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<sup>&</sup>lt;sup>59</sup> 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.

<sup>&</sup>lt;sup>59</sup> 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.

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.

#### **Amendment 38**

Proposal for a directive Recital 34 c (new)

Text proposed by the Commission

Amendment

(34c) To ensure coordinated EU oversight over the efforts of Member States to tackle corruption, Member States should facilitate the tasks of an EU Anti-Corruption Coordinator. The Coordinator should be responsible for improving coordination and coherence among EU institutions, EU agencies and Member States and should contribute to the effective application of this Directive. To ensure implementation of the countryspecific recommendations in regards to combatting corruption set out in the Commission annual Rule of Law Report, the Coordinator should report on the actions that Member States take to address and fulfil them. On its own initiative, or upon the request of the Commission, the Anti-Corruption Coordinator may draw up opinions regarding national measures which may have a significant impact on the implementation of this Directive, including the national anti-corruption strategies of the Member States.

#### Amendment 39

## Proposal for a directive Recital 34 d (new)

Text proposed by the Commission

#### Amendment

(34d) In order to ensure a comprehensive overview and assessment of the corruption related trends and systemic corruption issues across the EU, including the identification of areas that have been affected most by the misappropriation of EU funds, the Commission should develop a yearly Anticorruption Report, which should provide concrete and actionable recommendations to Member States to act upon in order to address identified shortcomings.

#### Amendment 40

## Proposal for a directive Recital 35

Text proposed by the Commission

(35) To provide for an equivalent level of protection between the Union's and the national financial interests, the provisions of Directive (EU) 2017/1371<sup>60</sup> 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.

#### Amendment

(35)To provide for an equivalent level of protection between the Union's and the national financial interests, the provisions of Directive (EU) 2017/1371<sup>60</sup> should be aligned with the standards set out in this Directive. To this end. Member States should ensure that 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.

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<sup>&</sup>lt;sup>60</sup> Directive (EU) 2017/1371 of the

<sup>&</sup>lt;sup>60</sup> 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.

#### Amendment 41

# Proposal for a directive Article 1 – paragraph 1

Text proposed by the Commission

This Directive establishes minimum rules concerning the definition of criminal offences and sanctions in the area of corruption, as well as measures to *better* prevent and fight corruption.

#### Amendment

This Directive establishes minimum rules concerning the definition of criminal offences and sanctions in the area of corruption, as well as measures to prevent and fight corruption *at the national and Union level*.

### **Amendment 42**

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

Text proposed by the Commission

1. 'prevention of corruption' refers to the detection and elimination of the causes of and conditions for corruption, through development and implementation of a system of appropriate measures, as well as *deterrence against* corruption-related acts.

### Amendment

1. 'prevention of corruption' refers to the *proactive identification*, detection and elimination of the causes of and conditions for corruption *in the public and private sector*, through development and implementation of a *comprehensive* system of appropriate measures *and necessary tools to reduce the potential for corruption*, as well as *to deter* corruption-related acts *at the national and Union level* 

#### **Amendment 43**

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

### Text proposed by the Commission

2. 'property' means funds or assets of any kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or an interest in, such assets.

#### Amendment

2. 'property' means funds or assets of any kind, *including crypto assets*, whether corporeal or incorporeal, movable or immovable, *financial or non-financial* tangible or intangible, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or an interest in, such assets.

#### Amendment 44

### Proposal for a directive Article 2 – paragraph 1 – point 3 – point b

Text proposed by the Commission

(b) any other person assigned *and* exercising a public service function in Member States or third countries, for an international organisation or for an international court.

#### Amendment

(b) any other person assigned *or* exercising a public service function *or providing a public service* in Member States or third countries, for an international organisation or for an international court.

#### Amendment 45

### 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;

#### **Amendment 46**

# 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 or any other person assigned or exercising a public service function at national, regional or local level, whether appointed or elected, whether permanent or temporary, whether paid or unpaid, irrespective of that person's seniority, or any person entrusted with tasks of public interest or in charge of a public service. 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 47

Proposal for a directive Article 2 – paragraph 1 – point 6 a (new)

Text proposed by the Commission

## Amendment

6a. 'conflict of interests' means a situation where the impartial and objective exercise of the functions of a public official is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other direct or indirect personal interest:

## **Amendment 48**

Proposal for a directive Article 2 – paragraph 1 – point 7

*Text proposed by the Commission* 

7. 'legal person' means any entity

Amendment

7. 'legal person' means any entity

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having legal personality under the applicable national law, except for States or public bodies in the exercise of State authority and for public international organisations.

recognised as having legal personality under the applicable national law, except for States or public bodies in the exercise of State authority and for public international organisations.

## **Amendment 49**

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

'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 at Union level, such as the President of the European Council, or at national level, 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, managing officials of political parties whose members or candidates are members of a parliament, and members of Supreme Audit Institutions;

## Amendment 50

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

Text proposed by the Commission

## Amendment

8a. 'victim' means a victim as defined in Article 2(1), point (a), of Directive 2012/29/EU of the European Parliament

and of the Council, as well as a legal person, as defined in national law, that has suffered harm as a result of any of the offences within the scope of this Directive;

## **Amendment 51**

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

Text proposed by the Commission

## Amendment

8b. 'public concerned' means the persons affected or likely to be affected by the criminal offences within the scope of this Directive; for the purposes of this definition, non-governmental organisations meeting any proportionate requirements under national law shall be deemed to have an interest.

## Amendment 52

# Proposal for a directive Article 3 – paragraph 1

Text proposed by the Commission

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

## Amendment

1. Member States, as well as the institutions, bodies, offices and agencies of the Union, shall take appropriate action, including information and awareness-raising campaigns and research and education for public integrity programmes, to raise public awareness among the public and private sector on the harmfulness and real impact of corruption, including on public budgets and to reduce the overall commission of corruption offences as well as the risk of corruption.

## Amendment 53

# 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, as well the institutions, bodies, offices and agencies of the Union shall, within the limits of their respective administrations and public decision-making processes, take measures to ensure the highest degree of integrity, transparency and accountability, through merit-based recruitment and promotion, while ensuring that citizens are adequately informed, with a view to prevent corruption.

## **Amendment 54**

# 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:* 

## **Amendment 55**

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

Text proposed by the Commission

## Amendment

(a) an anticorruption strategy and action plan drafted with the participation of competent authorities, including the relevant specialised bodies referred to in

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Article 4, and with the involvement of civil society;

## **Amendment 56**

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;

## Amendment 57

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 interests 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;

## **Amendment 58**

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;

## **Amendment 59**

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

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## Amendment

- (e) effective rules addressing the interaction between the private and the public sector, including regulation of interest representation and revolving doors situations comprising of:
- establishing a code of conduct for public officials, including rules for their interactions with persons or private entities carrying out interest representation;
- establishing minimum required information to be publically disclosed in regards to the interaction between public officials and persons or private entities carrying out interest representation, including the proactive publication of lobby meetings;
- establishing of a public legislative footprint;
- establishing the obligation for all persons or private entities, including associations, who engage in interest representation to disclose corporate membership and to register in a transparency register, which shall provide public and easily accessible information through a single gateway; and
- regulating the movement of public officials from positions of public office to positions in the same field in the private sector as well as enforcing restrictions on post-term employment.

## Amendment 60

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

Text proposed by the Commission

Amendment

(f) elimination of administrative barriers and regulatory complexity that

hinder timely decision-making on citizens' requests and condition their access to information and the decision-making process;

## Amendment 61

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

Text proposed by the Commission

Amendment

(g) effective measures to ban citizenship by investment and residency by investment schemes.

## **Amendment 62**

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

Text proposed by the Commission

Amendment

3a. Member States shall ensure that information to be disclosed according to measures listed in points (b), (c), (d) and (e) of paragraph 3 is accessible via electronic systems, and available in machine readable format across the Union. Access to such information shall be provided in accordance with applicable national law and in full compliance with fundamental rights, as enshrined in Union law.

## **Amendment 63**

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

Text proposed by the Commission

Amendment

3b. Institutions, bodies, offices and agencies of the Union shall take measures to ensure that key preventive tools,

including at least the preventive tools listed under paragraphs 3 and 3a of this Article, are in place in their respective administrations.

## Amendment 64

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

Text proposed by the Commission

## Amendment

3c. 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.

## **Amendment 65**

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

Text proposed by the Commission

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:

## Amendment

4. Member States shall adopt comprehensive and *periodically reviewed* measures to prevent corruption in both the public and private sectors, *tailored* to the specific risks of an area of activity. Such measures shall at least *target common high-risk areas and shall at least include actions to identify and fight against organised crime or other serious crime*, to strengthen integrity, *transparency and accountability* and to prevent opportunities for corruption among:

## **Amendment 66**

# Proposal for a directive Article 3 – paragraph 4 – point a

Text proposed by the Commission

(a) high level officials;

## Amendment

(a) high level officials, including measures relating to the conduct to be followed during and after the performance of their public function;

## Amendment 67

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, intelligence agencies and the judiciary, including measures relating to their meritbased appointment, promotion and dismissal, and measures related to conduct, and by ensuring adequate remuneration and equitable pay scales.

## **Amendment 68**

Proposal for a directive Article 3 – paragraph 4 a (new)

Text proposed by the Commission

## Amendment

4a. The institutions, bodies, offices and agencies of the Union shall put in place comprehensive and up-to-date measures to prevent corruption of Union officials, adapted to the specific risks of the areas of activity covered by their respective administrations. Such measures shall at least include actions to strengthen integrity, transparency and accountability, and to prevent opportunities for corruption among high level Union officials, including measures relating to their appointment and the conduct to be followed during and after

## the performance of their public function.

#### Amendment 69

Proposal for a directive Article 3 – paragraph 4 b (new)

Text proposed by the Commission

## Amendment

4b. Member States shall take measures to create a strong public service culture, based on integrity, transparency and accountability, ensuring that national officials are adequately remunerated, have the appropriate information, training and support to deal with both the increased professional standards and the tasks in implementing their mandate, and that they are aware of conflict of interest situations and of the risks of corruption and financial and economic crimes.

## Amendment 70

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, as well the institutions, bodies, offices and agencies of the Union, shall annually perform an assessment to identify the sectors most at risk of corruption. In performing such assessment, Member States shall take into account, in particular, the Commission's annual Rule of Law Report and the EU Anti-corruption Report referred to in Article 26a of this Directive.

## **Amendment 71**

Proposal for a directive Article 3 – paragraph 5 – subparagraph 2 – introductory part

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Amendment

Following that assessment, Member States shall:

Following that assessment, Member States as well the institutions, bodies, offices and agencies of the Union shall, within the limits of their respective competences and mandate:

## **Amendment 72**

Proposal for a directive Article 3 – paragraph 5 – subparagraph 2 – point b

Text proposed by the Commission

Amendment

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

(b) develop anti-corruption action plans, with implementation and monitoring mechanisms to address the main risks in the sectors identified; these plans shall identify trends in the corruption offences covered by this Directive as well as measures to reduce risks and ways to react to illicit practices;

## Amendment 73

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

Text proposed by the Commission

Amendment

(ba) monitor that sectors identified as at risk of corruption adequately implement the actions indicated in the plans referred to in point (b) of this paragraph, and effectively apply the key preventive tools referred to in paragraph 3 of this Article;

## Amendment 74

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

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

#### Amendment 75

Proposal for a directive Article 3 – paragraph 5 a (new)

Text proposed by the Commission

## Amendment

Member States shall take 5a. 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 76

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 as well the institutions, bodies, offices and agencies of the Union shall actively and regularly engage with and consult civil society, nongovernmental organizations and community-based organizations and academia in the development, monitoring, and assessment of anti-corruption laws and policies. Member States shall establish an enabling environment for

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civil society to work and have meaningful engagement in anti-corruption activities. Member States shall further promote available reporting mechanisms and publicising rights relating to the protection of persons who report breaches of Union law.

## Amendment 77

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 78

# Proposal for a directive Article 4 – paragraph 1

Text proposed by the Commission

1. Member States shall take the necessary measures to ensure that one or several bodies, or organisation units specialised in the prevention of corruption is or are in place.

## Amendment

1. Member States shall take the necessary measures to ensure that one or several bodies, or organisation units specialised in the prevention of corruption is or are in place.

The tasks of such bodies or organisation units shall include:

- (a) the management of asset declarations of public officials;
- (b) monitoring compliance with transparency rules applicable to public officials and public entities and to the

- financing of political parties, and the enforcement of sanctions related to breaches of such provisions and rules;
- (c) monitoring compliance with the statutory provisions and rules related to conflicts of interests in the public and private sectors, and the enforcement of sanctions related to breaches of such provisions and rules;
- (d) the issuing of warnings related to risks of corruption;
- (e) cooperation with competent authorities, bodies or organizational units specialized in the repression of corruption.

# Proposal for a directive Article 4 – paragraph 2

Text proposed by the Commission

2. Member States shall take the necessary measures to ensure that one or several bodies, or organisational units specialised in the repression of corruption is or are in place.

## Amendment

2. Member States shall take the necessary measures to ensure that one or several bodies, or organisational units specialised in the repression and investigation of corruption is or are in place. The tasks of such bodies shall include the detection, investigation and prosecution of the offences referred to in this Directive, including through evidence gathering and inter-agency cooperation, and the enforcement of sanctions.

# **Amendment 80**

Proposal for a directive Article 4 – paragraph 2 a (new)

Text proposed by the Commission

## Amendment

2a. Member States shall take the necessary measures to ensure that an organisational unit specialised in the

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identification, notification, representation and coordination of victims of corruption is in place.

## **Amendment 81**

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

Text proposed by the Commission

3. Member States shall take the necessary measures to ensure that the body or bodies, or an organisation unit or units as referred to in paragraph 1 *and* 2:

## Amendment

3. Member States shall take the necessary measures to ensure that the body or bodies, or an organisation unit or units as referred to in paragraph 1, 2 and 2a:

## Amendment 82

# 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, carry out their functions free from undue political interferences, and are continually provided with a sufficient number of qualified staff, including on the operational level, and the financial, technical and technological resources, as well as the powers and tools necessary to ensure the effective performance and the proper administration of their tasks;

## **Amendment 83**

Proposal for a directive Article 4 – paragraph 3 – point a a (new)

Text proposed by the Commission

# Amendment

(aa) are managed by executive member or members who, in the performance of

their tasks and exercise of their powers in accordance with this Directive, shall remain free from external influence whether direct or indirect, and shall neither seek nor take instructions from anybody, and who shall be provided with an adequate and sufficient term of office, ensuring political independence; the executive member or members shall be appointed through a transparent, open and non-discriminatory procedure in accordance with the principle of legislative oversight; the selection criteria shall be predictable and known no less than 1 year before the planned appointment;

## **Amendment 84**

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, submit those reports to the relevant executive and legislative bodies and publish them on their websites;

**Amendment 85** 

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;

**Amendment 86** 

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# Proposal for a directive Article 4 – paragraph 3 – point c c (new)

Text proposed by the Commission

Amendment

(cc) receive and process complaints related to breaches of rules on the prevention of corruption, including those adopted under the key preventing tools referred to in Article 3(3);

## **Amendment 87**

Proposal for a directive Article 4 – paragraph 3 – point c d (new)

Text proposed by the Commission

Amendment

(cd) are consulted in the process of development and formulation of a national anti-corruption strategy referred to in point (a) of Article 3(3);

## **Amendment 88**

Proposal for a directive Article 4 – paragraph 3 – point d

Text proposed by the Commission

(d) operate and take decisions in accordance with transparent procedures established by law, with the effect of

ensuring integrity and accountability.

Amendment

(d) operate and take decisions in accordance with transparent procedures established by law *and subject to internal oversight* and accountability *mechanisms*;

# **Amendment 89**

Proposal for a directive Article 4 – paragraph 3 – point d a (new)

Text proposed by the Commission

Amendment

(da) operate in line with the objective of increasing their efficiency.

# Proposal for a directive Article 4 – paragraph 3 a (new)

Text proposed by the Commission

## Amendment

3a. The bodies and units referred to in paragraph 1 shall cooperate with the corresponding units in other Member States.

## **Amendment 91**

# 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 consistently proactively and 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 92**

# 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

## Amendment

1. Each Member State shall take the necessary measures to ensure adequate resources for and the provision of training *at a regular interval* for its national officials to be able to *prevent and* identify different forms of corruption and corruption risks that may occur in the

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timely and appropriate manner to any suspicious activity.

exercise of their duties and to react in a timely and appropriate manner to any suspicious activity.

## **Amendment 93**

Proposal for a directive Article 6 – paragraph 1 a (new)

Text proposed by the Commission

## Amendment

1a. The institutions, bodies, offices and agencies of the Union shall take necessary measures to ensure adequate resources for and the provision of training for Union 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 94

# 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 and the *delivery of dedicated* anti-corruption training. *This training shall be conducted* 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.

## **Amendment 95**

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

(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 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 the exercise of that official's functions (active bribery);

## **Amendment 96**

# 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 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).

#### Amendment

(b) the request or receipt by a public official, directly or through an intermediary, of an advantage of any kind *or the request or 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 in the exercise of that official's functions (passive bribery).

## Amendment 97

# 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 request or 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).

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# Proposal for a directive Article 10 – paragraph 1 – point a

Text proposed by the Commission

(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;

## Amendment

(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, including when acting or refraining from acting in accordance with that public official's duties;

#### **Amendment 99**

# Proposal for a directive Article 10 – paragraph 1 – point b

Text proposed by the Commission

(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.

## Amendment

(b) the request or receipt, directly or through an intermediary, of an undue advantage of any kind or the *request or acceptance of* 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, *including when acting or refraining from acting in accordance with that public official's duties*.

# **Amendment 100**

# Proposal for a directive Article 11 – paragraph 1 – point 1

Text proposed by the Commission

1. the performance of or failure to perform an act, in violation of laws, by a public official in the exercise of *his* 

## Amendment

1. the performance of or failure to perform an act, in violation of laws, by a public official in the exercise of *that public* 

functions for the purpose of obtaining an undue advantage for that official or for a third party;

official's functions for the purpose of obtaining an undue advantage of any nature for that official or for a third party;

## Amendment 101

## Proposal for a directive Article 11 – paragraph 1 – point 2

Text proposed by the Commission

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.

# Amendment

2. the performance of or failure to perform an act, *in violation of laws or* 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 *of any nature* for that person or for a third party.

#### Amendment 102

# 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 *inducements*, physical force, threats or intimidation or the promise, offering or giving of an advantage to induce false testimony, to interfere in the giving of testimony or the production of evidence *or to influence*, *pressure or coerce witnesses*, *experts or any involved parties to abstain from participating*, *communicating or cooperating with judicial authorities* in a proceeding concerning offences referred to in *this Directive*:

## **Amendment 103**

# 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 offences referred to in *this Directive*;

## **Amendment 104**

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, including digital evidence, with the intent to interfere in a proceeding concerning offences referred to in this Directive.

## **Amendment 105**

Proposal for a directive Article 12 a (new)

Text proposed by the Commission

Amendment

Article 12a

Illicit political financing

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

1. the promise, offer or giving, directly or through an intermediary, of substantial financial contributions in favour of persons holding presidential, secretarial, political or administrative

management positions within political parties or elected into parliaments or governments on regional, national, European and international level or organisations actively campaigning in favour of one specific political party, in violation of applicable laws on political financing, or of applicable transparency rules;

2. the request or receipt, directly or through an intermediary, of substantial financial contributions, by persons holding presidential, secretarial, political or administrative management positions within political parties or elected into parliaments or governments on regional, national, European and international level or organisations actively campaigning in favour of one specific political party, in violation of laws on political financing, or of applicable transparency rules.

## **Amendment 106**

# 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 such property is derived from the commission of an offence as set out in this Directive.

## **Amendment 107**

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

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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, including the specific facts and available evidence.

**Amendment 108** 

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 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, is punishable as a criminal offence.

**Amendment 109** 

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

substantial damage or injury to the rights or to the legitimate interests of a natural person or a legal person, is punishable as a criminal offence.

## **Amendment 110**

# 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.

## **Amendment 111**

# 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.

## **Amendment 112**

# 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, 12 and 12a are punishable by a maximum term of imprisonment of at least seven years, and the criminal offences referred to in Article 7 which have been committed to obtain a lawful act are punishable by a maximum term of imprisonment of at least five years;

# 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;

## **Amendment 114**

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 *offences* referred to in Article 13 *and 13a are* punishable by a maximum term of imprisonment of at least *five* years; *and* 

## **Amendment 115**

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.

## **Amendment 116**

Proposal for a directive Article 15 – paragraph 3

## 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

## **Amendment 117**

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

Text proposed by the Commission

## Amendment

- 3a. Without prejudice to paragraphs 1 and 2 of this Article, 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 are 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) exclusions from access to public funding, including tender procedures, grants and concessions.

## **Amendment 118**

Proposal for a directive Article 15 – paragraph 4 – point a

Amendment

(a) fines;

(a) fines proportionate to the gravity and duration of the offence, and of the damage caused, as well as to the financial benefits accrued by committing the offence;

## **Amendment 119**

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

**Amendment 120** 

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 121** 

Proposal for a directive Article 15 – paragraph 4 – point c – point ii

Text proposed by the Commission

Amendment

(ii) exercising a public service deleted function;

**Amendment 122** 

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

## Amendment

(iiia) holding a leading position within a legal person of the type used for committing the offence;

## **Amendment 123**

Proposal for a directive Article 15 – paragraph 4 – point d

Text proposed by the Commission

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

## Amendment

(d) 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; and

## **Amendment 124**

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

## **Amendment 125**

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

Text proposed by the Commission

Amendment

4a. Member States shall take the necessary measures to enable courts or other competent authorities to take into account the gravity of the offences concerned when considering the eventuality of suspended sentences, early release or parole.

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

Text proposed by the Commission

## Amendment

4b. Member States shall take the necessary measures to prohibit any pardoning or amnesty of persons who have been held liable for any of the criminal offenses referred to in Articles 7 to 14.

## Amendment 127

# Proposal for a directive Article 16 – paragraph 1 – introductory part

Text proposed by the Commission

1. Member States shall take the necessary measures to ensure that legal persons can be held liable for any of the criminal offences referred to in Articles 7 to 14 committed for the benefit of those legal persons by any natural person, acting either individually or as part of an organ of the legal person, and having a leading position within the legal person, based on one or more of the following:

## Amendment

1. Member States shall take the necessary measures to ensure that legal persons can be held liable for any of the criminal offences referred to in Articles 7 to 14, when such offences are committed for the benefit of those legal persons by any natural person performing services, in any capacity, for or on behalf of the legal person.

## **Amendment 128**

Proposal for a directive Article 16 – paragraph 1 – point a

Text proposed by the Commission

(a) a power of representation of the legal person;

Amendment

deleted

## **Amendment 129**

# Proposal for a directive Article 16 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) the authority to take decisions on behalf of the legal person; or

deleted

Amendment 130

Proposal for a directive Article 16 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) the authority to exercise control within the legal person.

deleted

Amendment 131

2.

Proposal for a directive Article 16 – paragraph 2

Text proposed by the Commission

necessary measures to ensure that legal persons can be held liable where the lack of supervision or control by a person referred to in paragraph 1 has made possible the commission, including by any of the persons under his authority, of any of the criminal offences referred to in Articles 7 to 14 for the benefit of that legal

Member States shall take the

Amendment 132

person.

Proposal for a directive Article 17 – paragraph 1

Text proposed by the Commission

1. Member States shall take the

Amendment

2. Member States shall take the necessary measures to ensure that legal persons can be held liable where the lack of *effective* supervision or control by a person referred to in paragraph 1 has made possible the commission, including by any of the persons under his authority, of any of the criminal offences referred to in Articles 7 to 14 for the benefit of that legal person.

Amendment

1. Member States shall take the

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necessary measures to ensure that a legal person held liable for criminal offences pursuant to Article 16 *are* punishable by effective, proportionate and dissuasive sanctions.

necessary measures to ensure that a legal person held liable for criminal offences pursuant to Article 16 is punishable by effective, proportionate and dissuasive sanctions. The level of sanctions shall be adapted to reflect the degree of severity and duration of the offence, and of the damage caused.

## **Amendment 133**

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

Text proposed by the Commission

(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;

## Amendment

(a) criminal or non-criminal fines, which are proportionate and commensurate to the gravity of the offence. The maximum limit of such fines shall not be less than 10 percent of the total worldwide turnover of the legal person, including related entities, in the business year preceding the decision imposing the fine;

## **Amendment 134**

Proposal for a directive Article 17 – paragraph 2 – point i a (new)

Text proposed by the Commission

Amendment

(ia) the national or Union-wide publication of all or part of the judicial decision that relates to the criminal offence committed and the sanctions or measures imposed, including by referring them to relevant Union institutions.

## **Amendment 135**

Proposal for a directive Article 17 – paragraph 2 a (new)

## Amendment

2a. Member States shall take the necessary measures to establish effective and transparent non-trial resolutions processes that competent authorities can enter into with a legal person for any of the offences referred to in Articles 7 to 14.

## **Amendment 136**

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;

## **Amendment 137**

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 or its parent entities or subsidiary entities if the offender is a legal person, have been convicted before of an offence referred to Articles 7 to 14 in a Member State or of equivalent offences in a third country;

## **Amendment 138**

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;

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Proposal for a directive Article 18 – paragraph 1 – point g a (new)

Text proposed by the Commission

Amendment

(ga) the offender took advantage of the vulnerable situation of a person involved in the commission of the offence;

## **Amendment 140**

Proposal for a directive Article 18 – paragraph 1 – point g b (new)

Text proposed by the Commission

Amendment

(gb) the offender resorted to ingenious deception or instrumentalisation of public officials in the course of committing the offence;

## **Amendment 141**

Proposal for a directive Article 18 – paragraph 1 – point g c (new)

Text proposed by the Commission

Amendment

(gc) the offender did not provide assistance to enforcement authorities when legally required to do so;

## **Amendment 142**

Proposal for a directive Article 18 – paragraph 1 – point g d (new)

Text proposed by the Commission

Amendment

(gd) in the case of legal persons, the offence was committed by a person having a leading positions within that legal person.

# Proposal for a directive Article 18 – paragraph 2 – point b

Text proposed by the Commission

(b) where the offender is a legal person and it has implemented effective internal controls, ethics awareness, and compliance programmes to prevent corruption prior to *or after* the commission of the offence; and

## Amendment

(b) where the offender is a legal person and it has implemented effective internal controls, *prevention tools*, ethics awareness, and compliance programmes to prevent corruption prior to the commission of the offence; and

## Amendment 144

# 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 a reasonable timeframe.

#### Amendment

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:* 

## **Amendment 145**

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;

## **Amendment 146**

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# 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.

#### **Amendment 147**

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

Text proposed by the Commission

Amendment

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:

- (a) shall be lifted at the national official's own initiative;
- (b) can be lifted through an objective, impartial, effective and transparent process pre-established by law, based on clear criteria, that is concluded within a reasonable timeframe.

#### **Amendment 148**

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

Text proposed by the Commission

Amendment

Union institutions, offices, agencies and bodies shall ensure that when taking any decision on waving of immunities, related to the offences in this Directive, they shall do so through an objective, impartial, effective and transparent process, based on clear criteria, that is concluded within

#### a reasonable timeframe.

#### **Amendment 149**

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

Text proposed by the Commission

#### Amendment

Member States shall take the necessary measures to ensure that, concerning the offences referred to in this Directive, no privileges, immunities or other legal concepts shield national officials from investigation and prosecution related to property owned through legal persons or arrangements that are personal assetholding vehicles.

#### Amendment 150

# 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 *12a and 13* to 14

#### **Amendment 151**

# Proposal for a directive Article 21 – paragraph 3 – introductory part

Text proposed by the Commission

3. By way of derogation from paragraph 2, Member States may establish a shorter limitation period, provided that the period may be interrupted or suspended in the event of specified *acts* and that the applicable rules on the suspension and limitation periods do not hamper the

#### Amendment

3. By way of derogation from paragraph 2, Member States may establish a shorter limitation period, provided that the period may be interrupted or suspended in the event of specified *procedural acts or judicial decisions* and that the applicable rules on the suspension and limitation

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effectiveness of the judicial process and the dissuasive application of penalties. This period shall not be shorter than:

periods do not hamper the effectiveness of the judicial process and the dissuasive application of penalties. This period shall not be shorter than:

#### Amendment 152

# 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 *12a to* 14.

#### **Amendment 153**

# 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 *12a to* 14.

# **Amendment 154**

# 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 *12a to* 14.

#### **Amendment 155**

Proposal for a directive Article 22 – paragraph 1

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.

#### **Amendment 156**

Proposal for a directive Article 22 – paragraph 2 a (new)

Text proposed by the Commission

#### Amendment

2a. Member States shall put in place adequate reporting mechanisms, which enable persons to anonymously disclose information related to offences covered by this Directive.

#### **Amendment 157**

# 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, are available to persons, units or services responsible for investigating or prosecuting the criminal offences referred to in this Directive.

#### **Amendment 158**

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# Proposal for a directive Article 23 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

Member States shall take the necessary measures to ensure that their competent authorities freeze or confiscate, as appropriate, in accordance with Directive [OJ: Please insert in the text the number of the Directive in PE-CONS 3/4 (2022/0167 (COD)) and insert the number, date, title and OJ reference of that Directive in the footnote - Directive on asset recovery and confiscation COM(2022) 245 final], the proceeds derived from the commission or contribution to the commission of any of the offences referred to in this Directive.

**Amendment 159** 

Proposal for a directive Article 23 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

Considering the evolving nature of corruption and the increasing use of digital platforms, Member States shall ensure the availability of digital investigative tools and capabilities.

**Amendment 160** 

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 or units referred to in Article 4, have direct access to SIENA

and use the SIENA system for exchanging information in cross-border investigations.

#### **Amendment 161**

Proposal for a directive Article 23 b (new)

Text proposed by the Commission

Amendment

# Article23b

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 Article 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.

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3. 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 proportionate and adequate compensation.

**Amendment 162** 

Proposal for a directive Article 23 c (new)

Text proposed by the Commission

Amendment

Article 23c

National strategies

To ensure a coherent approach to preventing and combating corruption, Member States shall adopt, publish and periodically review a national strategy on preventing and combating corruption, establishing objectives, priorities and corresponding measures and resources needed. Such national strategy shall be developed in consultation with civil society, the relevant specialised bodies or units referred to in Article 4, independent experts, researchers and other stakeholders, and shall take into account the needs, specificities and challenges of the Member States.

**Amendment 163** 

Proposal for a directive Article 23 d (new)

Text proposed by the Commission

Amendment

Article 23d

Rights for the public concerned to participate in proceedings

- 1. Member States shall take the necessary measures to ensure that the public concerned has appropriate rights to participate in the proceedings covered by this Directive, for instance as a civil party, where as a result of a corruption offence such public has a sufficient interest, and is entitled to maintain the impairment of a right, in accordance with national law.
- 2. Member States shall take the necessary measures to ensure that members of the public concerned may participate in the proceedings covered by this Directive, including by taking action before the courts or competent administrative bodies.
- 3. Member States shall take the necessary measures to ensure that members of the public concerned as referred to in paragraph 2 have 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.
- 4. 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.

Proposal for a directive Article 23 e (new)

Text proposed by the Commission

Amendment

Article 23e

Suspension or reassignment of a public

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# official

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

#### Amendment 165

# Proposal for a directive Article 23 f (new)

Text proposed by the Commission

Amendment

# Article 23f

# Exercise of discretionary powers

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.

#### **Amendment 166**

# Proposal for a directive Article 24 – paragraph 1

Text proposed by the Commission

Without prejudice to the rules on crossborder 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* 

#### Amendment

1. Without prejudice to the rules on cross-border cooperation and mutual legal assistance in criminal matters, Member States' authorities, including the specialised bodies or units referred to in Article 4, 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

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.

the fight against the criminal offences referred to in this Directive.

2. In the pursuit of that objective, 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, including the European Public Prosecutor's Office.

# **Amendment 167**

Proposal for a directive Article 24 – paragraph 3 (new)

Text proposed by the Commission

#### Amendment

3. The results of the cooperation established under the present provision shall be reported by Europol, Eurojust, the EPPO and OLAF and the Commission, without prejudice to their obligation of discretion and confidentiality as regards individual cases and personal data, in a specific section of their annual reports to the European Parliament and to the Council.

**Amendment 168** 

Proposal for a directive Article 24 a (new)

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#### Article 24a

# Platform on prevention and repression of corruption

- 1. A platform on prevention and repression of corruption (the 'platform') shall be established under the aegis of the Commission. The platform shall be composed of representatives from specialised bodies or units referred to in Article 4 and the EU Anti-Corruption Coordinator referred to in Article 25a and shall be chaired by a representative from the Commission. The platform shall be convened at regular intervals.
- 2. The platform shall:
- (a) advise the Commission in relation to the implementation of the measures provided for in this Directive, promote identification and exchange of best practices in prevention and repression of corruption;
- (b) promote the exchange of information and operational cooperation among the specialised bodies referred to in Article 4 in relation to the implementation of this Directive;
- (c) enable the exchange of best practices to enhance cooperation with third countries.
- 3. Representatives from Europol, Eurojust, the European Public Prosecutor's Office and the European Anti-Fraud Office (OLAF) and, where appropriate, from the Anti-Money Laundering Authority (AMLA) may be invited to participate in the meetings of the platform, also in order to facilitate the cooperation referred to in Article 24.

#### **Amendment 169**

# Proposal for a directive Article 25 – paragraph 3 – introductory part

Text proposed by the Commission

3. The Commission, through the EU network against corruption, shall in particular:

#### Amendment

3. The Commission, through the EU network against corruption *and the European Union Anti-Corruption coordinator*, shall in particular:

#### **Amendment 170**

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 representatives*, *independent* experts, researchers and other stakeholders;

#### **Amendment 171**

Proposal for a directive Article 25 – paragraph 4 a (new)

Text proposed by the Commission

#### Amendment

4a. The Commission shall inform Member States about financial resources at Union level to promote and facilitate Member States international cooperation on anti-corruption, including coordination of investigations and prosecutions, and to support their competent authorities in cooperating with third countries through technical assistance programmes and projects.

**Amendment 172** 

Proposal for a directive Article 25 a (new)

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#### Article 25a

Coordination of the Union strategy on combating corruption

- 1. In order to contribute to a coordinated and consolidated Union strategy on combating corruption, Member States shall facilitate the tasks of a European Union Anti-Corruption Coordinator ('the Coordinator'). In particular, Member States shall transmit to the Coordinator, when requested, information referred to in Article 26 of this Directive.
- 2. The Coordinator shall assist the Commission in promoting the effective and consistent application of this Directive and in monitoring the implementation of Articles 3 and 4 of this Directive.
- 3. The Coordinator shall, where relevant, advise the Commission on the implementation of the country-specific recommendations related to combatting corruption, set out in the Commission annual Rule of Law Reports, or on national measures which might have a significant impact on their implementation.

**Amendment 173** 

Proposal for a directive Article 26 – title

Text proposed by the Commission

Amendment

Data collection *and* statistics

Data collection, statistics and reporting

**Amendment 174** 

Proposal for a directive Article 26 – paragraph 1

# 1. Member States shall collect statistical data on the criminal offences as referred to in Articles 7 to 14 of this Directive.

#### Amendment

1. Member States shall collect *disaggregated* statistical data on *each of* the criminal offences as referred to in Articles 7 to 14 of this Directive.

# **Amendment 175**

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

Text proposed by the Commission

#### Amendment

(aa) the number of cases involving high level officials reported and investigated;

#### **Amendment 176**

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

Text proposed by the Commission

Text proposed by the Commission

(b) the number of cases investigated;

#### Amendment

(b) the number of cases investigated, including those involving cross-border cooperation;

#### **Amendment 177**

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

Text proposed by the Commission

(d) the average length of the criminal investigations of cases;

#### Amendment

(d) the average *and maximum* length of the criminal investigations of cases;

#### **Amendment 178**

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

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#### Amendment

- (e) the average length of courts proceedings of cases in first instance, second instance and cassation;
- (e) the average *and maximum* length of courts proceedings of cases in first instance, second instance and cassation;

# **Amendment 179**

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

Text proposed by the Commission

Amendment

- (f) the number of convictions;
- (f) the number of convictions, including offenses committed by a public official;

#### **Amendment 180**

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;

#### **Amendment 181**

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

Text proposed by the Commission

Amendment

(ja) the number and form of non-trial resolutions;

#### **Amendment 182**

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

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

#### **Amendment 183**

# Proposal for a directive Article 26 – paragraph 3

Text proposed by the Commission

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*.

#### Amendment

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

#### Amendment

- 3. Member States shall, on an annual basis and by 1 June:
- (a) publish, in a disaggregated and machine-readable format that is open, accessible, findable and re-usable, within the meaning of Directive (EU) 2019/1024 of the European Parliament and of the Council<sup>1a</sup>, the statistical data referred to in paragraph 2 for the previous year, together with their metadata;
- (b) produce a quantitative and qualitative assessment carried out based on the statistical data referred to in paragraph 2 for the previous year;
- (c) transmit the data and assessment referred to in points (a) and (b) to the Commission and the European Anti-Corruption Coordinator.

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<sup>&</sup>lt;sup>1a</sup> Directive (EU) 2019/1024 of the European Parliament and of the Council of 20 June 2019 on open data and the reuse of public sector information (recast) (OJ L 172, 26.6.2019, p. 56; ELI: http://data.europa.eu/eli/dir/2019/1024/oj).

Proposal for a directive Article 26 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. The Commission shall adopt an implementing act within one year from the entry into force of this Directive, in which it sets out tools and processes to facilitate the reporting referred to in paragraph 3, including standard formats for the different types of reported data, to ensure their relevance and objectivity. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 30a(2) of this Directive.

#### **Amendment 185**

Proposal for a directive Article 26 – paragraph 3 b (new)

Text proposed by the Commission

Amendment

3b. The Commission shall, on an annual basis and by 31 December, carry out a comparative analysis of the statistical data and of the quantitative and qualitative assessments reported by the Member States pursuant to paragraph 3. The comparative analysis shall be carried out in cooperation with members of the EU anti-corruption network. It shall identify any deficiencies in data collection, and offer support to Member States in order to address them.

**Amendment 186** 

Proposal for a directive Article 26 a (new)

#### Article 26a

# EU Anti-Corruption Report

- 1. The results of the comparative analysis referred to in Article 26 shall be made public by the Commission, on an annual basis and by 1 April, in the form of a yearly EU Anti-Corruption Report. The Anti-Corruption Report shall include:
- (a) a comprehensive country-specific assessment of anti-corruption efforts and related results achieved in each Member State in key public and private sectors for the previous year;
- (b) a comprehensive overview of the public and private sectors most affected by misappropriation of EU funds in each Member State;
- (c) the identification of corruptionrelated trends across Member States, and a detailed description of systemic corruption issues at the Union level for the previous year;
- (d) sector-specific recommendations for each Member States, taking into account the severity and impact of the corruption-related challenges, and modulated according to the scale of potential impact for a wider range of Union policies.
- 2. Within three months from the publication of the Anti-Corruption Report, Member States shall provide written replies to the Commission, indicating measures and follow-up actions to be taken to address the identified country-specific and sector-specific shortcomings. The Commission shall promptly review and publish the replies provided by the Member States.

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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:
- '2. 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 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 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 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 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 the Union's financial interests.'

#### **Amendment 188**

Proposal for a directive Article 28 – paragraph 1 – point 2 a (new) Directive (EU) 2017/1371 Article 4 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

- (2a) In Article 4, the following paragraph 2a is inserted:
- '2a. 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 or giving 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 request or 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 in a way which damages or is likely to damage the Union's financial interests (passive bribery).'

Proposal for a directive Article 28 – paragraph 1 – point 2 b (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

- (2b) 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 that public official 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 that public official 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.'

# **Amendment 190**

Proposal for a directive Article 28 – paragraph 1 – point 2 c (new) Directive (EU) 2017/1371 Article 4 – paragraph 3 a (new)

- (2c) In Article 4, the following paragraph is inserted:
- '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 request or acceptance of an offer 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.

#### **Amendment 191**

Proposal for a directive Article 28 – paragraph 1 – point 2 c (new) Directive (EU) 2017/1371 Article 4 – paragraph 3 b (new)

- '3b. Member States shall take the necessary measures to ensure that the following conduct is punishable as a criminal offence, when committed intentionally:
- (a) the performance of or failure to perform an act, in violation of laws, by a public official in the exercise of that public official's functions for the purpose of obtaining an undue advantage of any nature for that official or for a third party in a way which damages or is likely to damage the Union's financial interests;
- (b) the performance of or failure to perform an act, in violation of laws or 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 of any nature for that person or for a third party in a way which damages or is likely to damage the Union's financial interests.';

# **Amendment 192**

Proposal for a directive Article 28 – paragraph 1 – point 2 c (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:
- (a) the use, directly or through an intermediary, of inducements, physical force, threats or intimidation or the promise, offering or giving of an

advantage to induce false testimony, to interfere in the giving of testimony or the production of evidence or to influence, pressure or coerce witnesses, experts or any involved parties to abstain from participating, communicating or cooperating with judicial authorities in a proceeding concerning the commission of offences referred to in this Directive;

- (b) 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 referred to in this Directive;
- (c) the destruction, alteration, concealment or falsification of evidence, including digital evidence, with the intent to interfere in a proceeding concerning the commission of offences as referred to in this Directive.';

#### **Amendment 193**

Proposal for a directive Article 28 – paragraph 1 – point 2 c (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 that public official shall be punishable as a criminal offence where such property is derived from 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,

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account shall be taken of all the circumstances of the case, including the specific facts and available evidence.';

#### **Amendment 194**

Proposal for a directive Article 28 – paragraph 1 – point 2 c (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 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, is punishable as a criminal offence.';

# **Amendment 195**

Proposal for a directive Article 28 – paragraph 1 – point 2 c (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 substantial damage or injury to the rights or legitimate interests of a natural person or a legal person, is punishable as a criminal offence.';

Proposal for a directive Article 28 – paragraph 1 – point 2 d (new) Directive (EU) 2017/1371 Article 5 – paragraph 2

#### Present text

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.

#### **Amendment 197**

Proposal for a directive Article 28 – paragraph 1 – point 3 Directive (EU) 2017/1371 Article 7 – paragraph 3

Text proposed by the Commission

- (3) Article 7(3) is replaced by the following:
- '3. 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.

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*.

The damage or advantage resulting from

#### Amendment

- (2d) 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 Article 3 and *in Article 4(3), (3b), (3c) and (3d)* is punishable as a criminal offence.'

#### Amendment

- (3) Article 7(3) is replaced by the following:
- '3. Member States shall take the necessary measures to ensure that the criminal offences referred to in *Article* 3 and *in Article* 4(1), (2) *and* (3c) are punishable by a maximum penalty of at least seven years of imprisonment; offences referred to in Article 4(2) which have been committed to obtain a lawful act are punishable by a maximum term of imprisonment of at least five years.

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

Member States shall take the necessary

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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.

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.'

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.

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.'

#### **Amendment 198**

Proposal for a directive Article 28 – paragraph 1 – point 4 Directive (EU) 2017/1371 Article 7 – paragraph 4

Text proposed by the Commission

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

#### Amendment

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

#### **Amendment 199**

Proposal for a directive Article 28 – paragraph 1 – point 7 a (new) Directive (EU) 2017/1371 Article 11 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(7a) In Article 11(1), the following wording is added at the end of point (b): 'or a habitual resident in its territory'.

Proposal for a directive Article 28 – paragraph 1 – point 7 b (new) Directive (EU) 2017/1371 Article 11 – paragraph 1 – point c (new)

Text proposed by the Commission

#### Amendment

- (7b) In Article 11(1), the following point (c) is added:
- '(c) the offence is committed for the benefit of a legal person established in its territory'.

#### **Amendment 201**

Proposal for a directive Article 28 – paragraph 1 – point 7 c (new) Directive (EU) 2017/1371 Article 11 – paragraph 3

Present text

- 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.

#### Amendment

- (7c) 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 *Articles* 3, 4 or 5 which have been committed outside its territory *when the offender is one of its officials who acts in official duty.*

**Amendment 202** 

# 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 Article 3 and in Article 4(1), (2) and (3c);

#### **Amendment 203**

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 offences referred to in Article 4(2a), (3), (3a) and (3b);

# **Amendment 204**

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), (3e) and (3f), and in Article 5.

#### **Amendment 205**

Proposal for a directive Article 28 – paragraph 1 – point 8 Directive (EU) 2017/1371 Article 12 – paragraph 3 – introdutory part

# Text proposed by the Commission

3. By way of derogation from paragraph 2, Member States may establish a shorter limitation period, provided that the period may be interrupted or suspended in the event of specified *acts* and that the applicable rules on the suspension and limitation periods do not hamper the effectiveness of the judicial process and the dissuasive application of penalties. This period shall not be shorter than:

#### Amendment

3. By way of derogation from paragraph 2, Member States may establish a shorter limitation period, provided that the period may be interrupted or suspended in the event of specified *procedural acts or judicial decisions* and that the applicable rules on the suspension and limitation periods do not hamper the effectiveness of the judicial process and the dissuasive application of penalties. This period shall not be shorter than:

#### **Amendment 206**

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 Article 3 and in Article 4(1), (2) and (3c);

#### **Amendment 207**

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(2b), (3), (3a) and (3b);

#### **Amendment 208**

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# 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 Article 4(3d), (3e) and (3f) and in Article 5.

# **Amendment 209**

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 Article 3 *and in Article 4(1), (2) and (3c)*;

#### **Amendment 210**

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(2a), (3), (3a) and (3b);

#### **Amendment 211**

Proposal for a directive
Article 28 – paragraph 1 – point 8
Directive (EU) 2017/1371
Article 12 – paragraph 4 – point b a (new)

#### Amendment

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

#### **Amendment 212**

Proposal for a directive Article 28 – paragraph 1 – point 8 Directive (EU) 2017/1371 Article 28 – 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 Article 3 *and in Article 4(1)*, (2) and (3c);

#### **Amendment 213**

Proposal for a directive Article 28 – paragraph 1 – point 8 Directive (EU) 2017/1371 Article 28 – 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(2a), (3), (3a) and (3b);

#### **Amendment 214**

Proposal for a directive Article 28 – paragraph 1 – point 8 Directive (EU) 2017/1371 Article 28 – paragraph 5 – point b a (new)

#### Amendment

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

#### **Amendment 215**

Proposal for a directive Article 28 – paragraph 1 – point 8 a (new) Directive (EU) 2017/1371 Article 12 a (new)

Text proposed by the Commission

Amendment

(8a) The following Article 12a is inserted:

'Article 12a

Privileges or immunity from investigation and prosecution of corruption offences

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

#### **Amendment 216**

Proposal for a directive Article 28 – paragraph 1 – point 8 b (new) Directive (EU) 2017/1371 Article 12 b (new)

Text proposed by the Commission

Amendment

(8b) The following Article 12b is inserted:

'Article 12b

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.'

#### **Amendment 217**

# 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 218**

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

Text proposed by the Commission

#### 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*.

#### Amendment

2a. The Commission shall analyse the submissions provided by Member States under paragraph 2 and include its conclusions in the annual Anti-Corruption report, as referred to in Article 26a, assessing the extent to which Member States implement this Directive.

**Amendment 219** 

Proposal for a directive Article 30 – paragraph 3

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3. By [48 months after the deadline for implementation of this Directive], the Commission shall submit a report to the European Parliament and to the Council, assessing the added value of this Directive with regard to combating corruption. The report shall also cover the impact of this Directive on fundamental rights and freedoms. On the basis of this evaluation, the Commission shall, if necessary, decide on appropriate follow-up actions.

# Amendment

3. By [48 months after the deadline for implementation of this Directive], the Commission, *in consultation with the Anti-Corruption Coordinator*, shall submit a report to the European Parliament and to the Council, assessing the added value of this Directive with regard to combating corruption. The report shall also cover the impact of this Directive on fundamental rights and freedoms. On the basis of this evaluation, the Commission shall, if necessary, decide on appropriate follow-up actions.

#### **Amendment 220**

Proposal for a directive Article 30 a (new)

Text proposed by the Commission

#### Amendment

# Article 30a

# Committee procedure

- 1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
- 2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

#### **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 whistle-blowers 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.

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.

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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.

# ANNEX: ENTITIES OR PERSONS FROM WHOM THE RAPPORTEUR HAS RECEIVED INPUT

Pursuant to Article 8 of Annex I to the Rules of Procedure, the rapporteur declares that she has received input from the following entities or persons in the preparation of the report, until the adoption thereof in committee:

Entity and/or person	
1. Transparency International Liaison Office to the European Union	
2. European Union Agency for Law Enforcement Cooperation (Europol)	
3. European Public Prosecutor's Office	

#### OPINION OF THE COMMITTEE ON BUDGETARY CONTROL

for the Committee on Civil Liberties, Justice and Home Affairs

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))

Rapporteur for opinion (\*): Caterina Chinnici

(\*) Associated committee – Rule 57 of the Rules of Procedure

#### **AMENDMENTS**

The Committee on Budgetary Control calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to take the following into account:

#### Amendment 1

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

Text proposed by the Commission

1. 'prevention of corruption' refers to the detection and elimination of the causes of and conditions for corruption, through development and implementation of a system of appropriate measures, as well as deterrence against corruption-related acts.

# **Amendment**

1. 'prevention of corruption' refers to the detection and elimination of the causes of and conditions for corruption, through development and implementation of a system of appropriate measures *and necessary tools*, as well as deterrence against corruption-related acts.

#### Amendment 2

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

# Text proposed by the Commission

#### Amendment

1a. 'financial and economic crimes' refers to illegal acts committed by an individual or a group of individuals, from the civil society or those with a political or administrative accountability, to obtain economic or professional gain or political influence and includes, inter alia, corruption, misappropriation, fraud, coercion, collusion, obstruction, money laundering and terrorist financing, including when such crimes affect the Union's financial interests;

#### Amendment 3

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

Text proposed by the Commission

#### Amendment

1b. 'nepotism' or 'cronyism' refers to the practice where a public official gives a preferential treatment to family members, friends or associates, by restricting access to public positions or services or distributing financial resources under his/her control only on the ground of his/her personal or political connections;

#### Amendment 4

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

Text proposed by the Commission

2. 'property' means funds or assets of any kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or an interest in, such assets.

#### Amendment

2. 'property' means funds or assets of any kind, *including crypto assets*, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or an interest in, such

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#### Amendment 5

Proposal for a directive Article 2 – paragraph 1 – point 3 – point b a (new)

Text proposed by the Commission

Amendment

(ba) any other person assigned and exercising a public service function in relation with the implementation of the EU budget.

#### Amendment 6

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, or any person entrusted with tasks of public interest or in charge with a public service. Any person holding a legislative office at national, regional or local level is considered a national official for the purpose of this Directive.

#### Amendment 7

Proposal for a directive Article 2 – paragraph 1 – point 6 a (new)

Text proposed by the Commission

#### Amendment

6a. 'conflict of interests' exists where the impartial and objective exercise of the functions of any person as referred to in this article is compromised for reasons

involving family, emotional life, political or national affinity, economic interest or any other direct or indirect personal interest.

#### **Amendment 8**

# Proposal for a directive Article 3 – paragraph 1

Text proposed by the Commission

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

#### Amendment 9

Proposal for a directive Article 3 – paragraph 1 a (new)

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 *and real impact on public budgets* of corruption and reduce the *risk and* overall commission of corruption offences.

#### Amendment

1 a. Member States shall take measures to implement education for public integrity in the school system and in the classroom with a view to prevent corruption.

Member States shall provide opportunities for educators to receive specialized training in anti- corruption education methodologies and strategies to ensure the effective delivery of these programs.

#### **Amendment 10**

Proposal for a directive Article 3 – paragraph 1 b (new)

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## Text proposed by the Commission

#### Amendment

1b. Member States shall take the necessary measures to prevent favouritism, nepotism or cronyism in public recruitment and in administrative procedures, and to ensure that all public human resource processes strive to develop a systematic approach based on: identification of possible risks; establishment of strong preventive mechanisms; ensuring policy compliance, reporting and sanctioning of misconduct.

#### **Amendment 11**

# 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 in public administration and public decision-making, *ensuring that citizens are adequately informed*, with a view to prevent corruption, *in particular through the development of national anti-corruption strategies in consultation with the relevant specialised bodies referred to in Article 4*.

# **Amendment 12**

Proposal for a directive Article 3 – paragraph 2 a (new)

Text proposed by the Commission

#### Amendment

2a. Member states shall implement the highest standard of transparency regarding public procurement processes, establishing open, competitive bidding procedures, with clear and standardized procurement rules accessible to all stakeholders. Public procurement procedures should be channelled through

e-procurement systems, making processes more transparent and accountable.

Member states shall take measures to publish all information online, whether it be tender notices, contract awards and details of awarded contracts. Member states shall conduct regular audits of public procurement activities to detect irregularities and misconduct that could amount to fraud and corruption.

#### Amendment 13

Proposal for a directive Article 3 – paragraph 2 b (new)

Text proposed by the Commission

#### Amendment

2 a. Member States shall take measures to create a strong public service culture, based on integrity, transparency and accountability, ensuring that national officials are adequately remunerated, have the appropriate information, training and support to deal with both the increased professional standards and the tasks in implementing their mandate, and that they are aware of conflict of interest situations and of the risks of corruption and financial and economic crimes.

Member States shall furthermore establish specific anti-corruption training for public procurement officials, evaluators and contractors.

#### **Amendment 14**

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

Text proposed by the Commission

# Amendment

3 a. Member States shall take the necessary measures to digitalise all aspects of corruption prevention covered by this article and to ensure that relevant

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information, in particular on anticorruption policies and legal framework, is disseminated by means of a digitally accessible publication on interoperable databases open to individuals and entities whose activity may be involved in a corruption scheme.

Member States shall furthermore take the necessary measures to ensure an open access to information of public interest, by means of a digitally accessible publication on interoperable databases, making data available in a timely manner, in a standardized, machine-readable format, downloadable in bulk.

The databases shall be designed to create a more unified and interoperable information system at EU level, allowing comparing, crosschecking and aggregating the data. The information accessible via the digital channel shall be suitable for legitimate use.

**Amendment 15** 

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

Text proposed by the Commission

Amendment

3 b. Member States shall adopt effective rules regulating, where appropriate, interactions between the private and public sector such as: regulating revolving doors and interest representation, enforcing cooling off periods, during which former public officials are restricted from engaging in activities that could exploit their previous positions or relationships; regulating lobbying activities of all organisations engaging in representation of interest, through mandatory registration in transparency registers.

#### Amendment 16

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

Text proposed by the Commission

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:

#### 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 *identify and fight against organised crime or other serious crime and to* strengthen integrity and to prevent opportunities for corruption among:

#### Amendment 17

# 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, *intelligence agencies* and the judiciary, including measures relating to their appointment and conduct, and by ensuring adequate remuneration and equitable pay scales.

# **Amendment 18**

Proposal for a directive Article 3 – paragraph 5 a (new)

Text proposed by the Commission

# Amendment

- 5 a. In any case and irrespective of the level of risk, Member States shall adopt or update a minimum set of measures, including:
- (i) a policy on gifts and entertainment;
- (ii) effective rules for the disclosure and management of conflicts of interests in

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the public sector, including procedure for public officials to recuse themselves in situations of conflict of interests and sanctions for failure to report these situations;

- (iii) effective rules for disclosure and verification of assets, income and financial interest of public officials, establishing sanctions for failure to report substantial assets or interests; and
- (iv) a corruption reporting system easily accessible and made adequately known to the public.

The reporting system may be linked to a wider whistle-blowing policy or by setting clear internal and external reporting channels that can guarantee confidentiality for whistle-blowers in both public and private sectors, also in order to protect the EU financial interests.

The corruption risk assessment under this paragraph is intended to be the continuous and systematic process of identifying, analysing, evaluating, prioritising, controlling and monitoring situations that are liable to result in corruption. In performing such assessment, Member States shall take into account, in particular, the Commission's annual Rule of Law Report.

#### **Amendment 19**

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, nongovernmental organizations and community-based organizations in anticorruption activities.

#### Amendment

6. Member States shall take measures to promote the participation of civil society, non-governmental organizations and community-based organizations in anti-corruption activities by promoting available reporting mechanisms and publicising rights relating to the

protection of persons who report breaches of EU law.

#### **Amendment 20**

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

Text proposed by the Commission

#### Amendment

6a. Member states shall implement laws that protect whistleblowers who report corruption or wrongdoing, ensuring their safety and preventing retaliation; establishing confidential reporting mechanisms that allow witnesses or victims of corruption to disclose information through secure channels.

#### Amendment 21

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

Text proposed by the Commission

### Amendment

6a. Member States should take all necessary measures to promote media pluralism and media freedom and guarantee an enabling space for journalists;

#### Amendment 22

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

#### Amendment

(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

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exercise of that official's functions (active bribery);

exercise of that official's functions, or to act in excess of his powers (active bribery);

#### Amendment 23

# 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 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).

#### Amendment

(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 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, *or to act in excess of his powers* (passive bribery).

#### Amendment 24

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

Text proposed by the Commission

#### Amendment

(fa) When a national official is convicted of a criminal offense under this Directive, the conviction by national judicial authorities shall trigger a comprehensive assessment of the entire wealth associated with that official, as well as their close relatives and partners. This assessment encompasses all financial assets, movable and immovable properties, with the purpose of determining whether the wealth held by the official, relatives, or partners corresponds to the income officially reported by these individuals. In cases where a significant disparity exists between the reported income and the actual assets possessed by the national official or their affiliated individuals,

national competent authorities shall initiate a distinct investigation into the matter. If this separate investigation reveals that the assets in question are unexplained wealth or the proceeds of illicit activities, such assets should be subject to seizure and confiscation by national authorities.

#### **Amendment 25**

# Proposal for a directive Article 24 – paragraph 1

Text proposed by the Commission

Without prejudice to the rules on crossborder 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, *including the specialised bodies referred to in Article 4*, 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.

# **Amendment 26**

Proposal for a directive Article 24 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

In the pursuit of this objective, Europol, Eurojust, the European Public Prosecutor's Office, the European Anti-Fraud Office (OLAF), and the

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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 27

Proposal for a directive Article 24 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

In order to do that, effective data collection and sharing shall be guaranteed among all the authorities involved, including the swift processing of requests for access by a Member State's investigation services.

**Amendment 28** 

Proposal for a directive Article 24 – paragraph 1 c (new)

Text proposed by the Commission

Amendment

The entities referred to in this article shall ensure the avoidance of duplication.

Amendment 29

Proposal for a directive Article 24 – paragraph 1 d (new)

Text proposed by the Commission

Amendment

Where appropriate, the working arrangements established under Chapter X of the Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') shall be amended accordingly.

Amendment 30

# Proposal for a directive Article 24 – paragraph 1 e (new)

Text proposed by the Commission

Amendment

The results of the cooperation established under the present provision shall be reported by Europol, Eurojust, the EPPO and OLAF and the Commission, without prejudice to their obligation of discretion and confidentiality as regards individual cases and personal data, in a specific section of their annual reports to the European Parliament and to the Council.

**Amendment 31** 

Proposal for a directive Article 24 – paragraph 1 f (new)

Text proposed by the Commission

Amendment

The entities referred to in the first paragraph will make all necessary efforts to carry out joint actions and to contribute to the design and implementation of EU sectoral policies and spending programmes, as well as in the external action and enlargement process, with a view to building a common anticorruption culture based on an EU-wide approach.

# ANNEX: LIST OF ENTITIES OR PERSONS FROM WHOM THE RAPPORTEUR FOR THE OPINION HAS RECEIVED INPUT

The following list is drawn up under the exclusive responsibility of the rapporteur for the opinion. The rapporteur has received input from the following entities or persons in the preparation of the [draft opinion / opinion, until the adoption thereof in committee]:

Entity and/or person	
The Rapporteur declares that she did not receive input from any entity or person.	

# PROCEDURE - COMMITTEE ASKED FOR OPINION

Title	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
References	COM(2023)0234 - C9-0162/2023 - 2023/0135(COD)
Committee responsible Date announced in plenary	LIBE 1.6.2023
Opinion by Date announced in plenary	CONT 1.6.2023
Associated committees - date announced in plenary	14.9.2023
Rapporteur for the opinion Date appointed	Caterina Chinnici 18.7.2023
Discussed in committee	12.10.2023
Date adopted	7.11.2023
Result of final vote	+: 23 -: 0 0: 1
Members present for the final vote	Matteo Adinolfi, Gilles Boyer, Joachim Stanisław Brudziński, Olivier Chastel, Caterina Chinnici, Ilana Cicurel, Carlos Coelho, Beatrice Covassi, Corina Creţu, Ryszard Czarnecki, Luke Ming Flanagan, Daniel Freund, Isabel García Muñoz, Monika Hohlmeier, Jean-François Jalkh, Mislav Kolakušić, Joachim Kuhs, Alin Mituţa, Victor Negrescu, Jan Olbrycht, Younous Omarjee, Markus Pieper, Michèle Rivasi, Sándor Rónai, Petri Sarvamaa, Nico Semsrott, Eleni Stavrou, Cristian Terheş, Angelika Winzig, Lara Wolters
Substitutes present for the final vote	Jorge Buxadé Villalba, Katalin Cseh, Arnaud Danjean, Bas Eickhout, Eider Gardiazabal Rubial, Maria Grapini, Hannes Heide, Niclas Herbst, Sophia in 't Veld, David Lega, Jeroen Lenaers, Bogusław Liberadzki, Marian-Jean Marinescu, Andrey Novakov, Mikuláš Peksa, Tsvetelina Penkova, Sabrina Pignedoli, Wolfram Pirchner, Elżbieta Rafalska, Antonio Maria Rinaldi, Pirkko Ruohonen-Lerner, Ramona Strugariu, Viola von Cramon-Taubadel, Michal Wiezik, Juan Ignacio Zoido Álvarez
Substitutes under Rule 209(7) present for the final vote	Dominique Bilde, José Manuel Fernandes, Seán Kelly

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# FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

23	+
ECR	Pirkko Ruohonen-Lerner
ID	Joachim Kuhs
PPE	Carlos Coelho, José Manuel Fernandes, Seán Kelly, Marian-Jean Marinescu, Jan Olbrycht, Markus Pieper, Eleni Stavrou, Angelika Winzig
Renew	Gilles Boyer, Olivier Chastel, Ilana Cicurel, Alin Mituţa
S&D	Beatrice Covassi, Isabel García Muñoz, Maria Grapini, Hannes Heide, Tsvetelina Penkova, Sándor Rónai
The Left	Luke Ming Flanagan
Verts/ALE	Daniel Freund, Mikuláš Peksa

0	-

1	0
ID	Dominique Bilde

Key to symbols: + : in favour - : against 0 : abstention

# PROCEDURE - COMMITTEE RESPONSIBLE

States of the European Union and amending Directive (EU) 2017/1371 of the European Parliament and of the Council   References		
Date submitted to Parliament   3.5.2023	Title	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
Committee responsible Date announced in plenary  COMT JURI 1.6.2023  CONT JURI 1.6.2023  Not delivering opinions Date of decision  Associated committees Date announced in plenary  Ramona Strugariu 6.7.2023  Discussed in committee  Date adopted  Result of final vote  ### 63  ##	References	COM(2023)0234 - C9-0162/2023 - 2023/0135(COD)
Date announced in plenary   1.6.2023	Date submitted to Parliament	3.5.2023
Date announced in plenary   1.6.2023   1.6.2023		
Date of decision   26.6.2023		
Date announced in plenary		
Date appointed   Strugariu 6.7.2023		
Date adopted   31.1.2024		Strugariu
Hesult of final vote	Discussed in committee	25.10.2023
Carrión, Emmanouil Fragkos, José Manuel García-Margallo y Marfil, Vlad Gheorghe, Svenja Hahn, Petra Kammerevert, Miapetra Kumpula-Natri, Georgios Kyrtsos, Antonio López-Istúriz White, Francisco José    Carèmetra Buelvoyer, Petro Bartolo, Theresa Bielowski, Vladimír Bilčík, Karolin Braunsberger-Reinhold, Patrick Breyer, Saskia Bricmont, Annika Bruna, Jorge Buxadé Villalba, Damien Carême, Patricia Chagnon, Clare Daly, Lena Düpont, Lucia Ďuriš Nicholsonová, Cornelia Ernst, Nicolaus Fest, Sylvie Guillaume, Andrzej Halicki, Sophia in 't Veld, Marina Kaljurand, Assita Kanko, Moritz Körner, Jeroen Lenaers, Juan Fernando López Aguilar, Nuno Melo, Nadine Morano, Javier Moreno Sánchez, Maite Pagazaurtundúa, Paulo Rangel, Karlo Ressler, Diana Riba i Giner, Birgit Sippel, Martin Sonneborn, Tineke Strik, Ramona Strugariu, Annalisa Tardino, Tomas Tobé, Elena Yoncheva    Substitutes present for the final vote	Date adopted	31.1.2024
Karolin Braunsberger-Reinhold, Patrick Breyer, Saskia Bricmont, Annika Bruna, Jorge Buxadé Villalba, Damien Carême, Patricia Chagnon, Clare Daly, Lena Düpont, Lucia Ďuriš Nicholsonová, Cornelia Ernst, Nicolaus Fest, Sylvie Guillaume, Andrzej Halicki, Sophia in 't Veld, Marina Kaljurand, Assita Kanko, Moritz Körner, Jeroen Lenaers, Juan Fernando López Aguilar, Nuno Melo, Nadine Morano, Javier Moreno Sánchez, Maite Pagazaurtundúa, Paulo Rangel, Karlo Ressler, Diana Riba i Giner, Birgit Sippel, Martin Sonneborn, Tineke Strik, Ramona Strugariu, Annalisa Tardino, Tomas Tobé, Elena Yoncheva  Substitutes present for the final vote  Delara Burkhardt, Susanna Ceccardi, Gwendoline Delbos-Corfield, Daniel Freund, José Gusmão, Beata Kempa, Jaak Madison, Philippe Olivier, Anne-Sophie Pelletier, Paul Tang, Róża Thun und Hohenstein, Loránt Vincze, Petar Vitanov, Juan Ignacio Zoido Álvarez  Substitutes under Rule 209(7) present for the final vote  Isabel Benjumea Benjumea, Ana Collado Jiménez, Margarita de la Pisa Carrión, Emmanouil Fragkos, José Manuel García-Margallo y Marfil, Vlad Gheorghe, Svenja Hahn, Petra Kammerevert, Miapetra Kumpula- Natri, Georgios Kyrtsos, Antonio López-Istúriz White, Francisco José	Result of final vote	-: 2
Daniel Freund, José Gusmão, Beata Kempa, Jaak Madison, Philippe Olivier, Anne-Sophie Pelletier, Paul Tang, Róża Thun und Hohenstein, Loránt Vincze, Petar Vitanov, Juan Ignacio Zoido Álvarez  Substitutes under Rule 209(7) present for the final vote  Isabel Benjumea Benjumea, Ana Collado Jiménez, Margarita de la Pisa Carrión, Emmanouil Fragkos, José Manuel García-Margallo y Marfil, Vlad Gheorghe, Svenja Hahn, Petra Kammerevert, Miapetra Kumpula- Natri, Georgios Kyrtsos, Antonio López-Istúriz White, Francisco José	Members present for the final vote	Karolin Braunsberger-Reinhold, Patrick Breyer, Saskia Bricmont, Annika Bruna, Jorge Buxadé Villalba, Damien Carême, Patricia Chagnon, Clare Daly, Lena Düpont, Lucia Ďuriš Nicholsonová, Cornelia Ernst, Nicolaus Fest, Sylvie Guillaume, Andrzej Halicki, Sophia in 't Veld, Marina Kaljurand, Assita Kanko, Moritz Körner, Jeroen Lenaers, Juan Fernando López Aguilar, Nuno Melo, Nadine Morano, Javier Moreno Sánchez, Maite Pagazaurtundúa, Paulo Rangel, Karlo Ressler, Diana Riba i Giner, Birgit Sippel, Martin Sonneborn, Tineke Strik, Ramona Strugariu, Annalisa Tardino, Tomas Tobé, Elena
for the final vote  Carrión, Emmanouil Fragkos, José Manuel García-Margallo y Marfil, Vlad Gheorghe, Svenja Hahn, Petra Kammerevert, Miapetra Kumpula- Natri, Georgios Kyrtsos, Antonio López-Istúriz White, Francisco José	Substitutes present for the final vote	Daniel Freund, José Gusmão, Beata Kempa, Jaak Madison, Philippe Olivier, Anne-Sophie Pelletier, Paul Tang, Róża Thun und Hohenstein,
Millan Mon, Alin Mituţa, Dolors Montserrat, Hermann Tertsch	· · =	Vlad Gheorghe, Svenja Hahn, Petra Kammerevert, Miapetra Kumpula-
Date tabled 21.2.2024	Date tabled	21.2.2024

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# FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

63	+
ECR	Jorge Buxadé Villalba, Emmanouil Fragkos, Assita Kanko, Beata Kempa, Margarita de la Pisa Carrión, Hermann Tertsch
ID	Annika Bruna, Patricia Chagnon, Jaak Madison, Philippe Olivier
NI	Martin Sonneborn
PPE	Isabel Benjumea Benjumea, Vladimír Bilčík, Karolin Braunsberger-Reinhold, Ana Collado Jiménez, Lena Düpont, José Manuel García-Margallo y Marfil, Andrzej Halicki, Jeroen Lenaers, Antonio López-Istúriz White, Nuno Melo, Francisco José Millán Mon, Dolors Montserrat, Nadine Morano, Paulo Rangel, Karlo Ressler, Tomas Tobé, Loránt Vincze, Juan Ignacio Zoido Álvarez
Renew	Lucia Ďuriš Nicholsonová, Vlad Gheorghe, Svenja Hahn, Sophia in 't Veld, Moritz Körner, Georgios Kyrtsos, Alin Mituţa, Maite Pagazaurtundúa, Ramona Strugariu, Róża Thun und Hohenstein
S&D	Katarina Barley, Pietro Bartolo, Theresa Bielowski, Delara Burkhardt, Sylvie Guillaume, Marina Kaljurand, Petra Kammerevert, Miapetra Kumpula-Natri, Juan Fernando López Aguilar, Javier Moreno Sánchez, Birgit Sippel, Paul Tang, Petar Vitanov, Elena Yoncheva
The Left	Cornelia Ernst, José Gusmão, Anne-Sophie Pelletier
Verts/ALE	Patrick Breyer, Saskia Bricmont, Damien Carême, Gwendoline Delbos-Corfield, Daniel Freund, Diana Riba i Giner, Tineke Strik

2	-
ID Susanna Ceccardi, Annalisa Tardino	

2	0
ID	Nicolaus Fest
The Left	Clare Daly

Key to symbols: + : in favour - : against 0 : abstention