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AMENDMENTS

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Draft report

Eva Joly

Countering money laundering by criminal law

Proposal for a directive

(COM(2016)0826 – C8-0534/2016 – 2016/0414(COD))

Amendment 1

Miguel Urbán Crespo, Fabio De Masi, Dimitrios Papadimoulis

Proposal for a directive

Recital 1

Text proposed by the Commission

(1) Money laundering and the associated financing of terrorism and organised crime remain significant problems at the Union level, thus damaging the integrity, stability and reputation of the financial sector and threatening the internal security and the internal market of the Union. In order to tackle those problems and also reinforce the application of Directive 2015/849/EU³⁴, this Directive aims to tackle money laundering by means of criminal law, allowing for better cross-border cooperation between competent authorities.

³⁴ Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p.73).

Amendment

(1) Money laundering and the associated financing of terrorism and organised crime remain significant problems at the Union level, thus damaging the integrity, stability and reputation of the financial sector and threatening the internal security and the internal market of the Union. In ***addition, significant intentional or unintentional legislative vacuums in national and Union legislation allow for the intensifying of the problem, damaging also sound economic development, fair and inclusive participation in economic activities, having further financial and political negative implications.*** In order to tackle those ***crucial and urgent*** problems and also reinforce the application of Directive 2015/849/EU³⁴, this Directive aims to tackle money laundering by means of criminal law, allowing for better cross-border cooperation between competent authorities.

³⁴ Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p.73).

Or. en

Amendment 2
Thomas Mann

Proposal for a directive
Recital 1

Text proposed by the Commission

(1) Money laundering and the *associated* financing of terrorism and organised crime remain significant problems at the Union level, thus damaging the integrity, stability and reputation of the financial sector and *threatening* the internal security and the internal market of the Union. In order to tackle *those* problems and also reinforce the application of Directive 2015/849/EU³⁴, this Directive aims to tackle money laundering by means of criminal law, allowing for better cross-border cooperation between competent authorities.

³⁴ Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p.73).

Amendment

(1) Money laundering and the *related* financing of terrorism and organised crime remain *very* significant problems at the Union level, thus damaging the integrity, stability and reputation of the financial sector and *economic activity*. *The opportunity for money laundering and the very fact of money laundering itself endangers* the internal security and the internal market of the Union *and destroys trust among market players*. In order to tackle *these serious* problems and also reinforce the application of Directive 2015/849/EU³⁴, this Directive aims to tackle money laundering by means of criminal law, allowing for better, *faster and more efficient* cross-border cooperation between competent authorities.

³⁴ Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and *of* the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73).

Or. de

Amendment 3
Eva Joly
on behalf of the Verts/ALE Group

Proposal for a directive

Recital 1

Text proposed by the Commission

(1) Money laundering and the associated financing of terrorism and organised crime remain significant problems at the Union level, thus damaging the integrity, stability and reputation of the financial sector and threatening the internal security and the internal market of the Union. In order to tackle those problems and also reinforce the application of Directive 2015/849/EU³⁴, this Directive aims to tackle money laundering by means of criminal law, allowing for better cross-border cooperation between competent authorities.

³⁴ Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p.73).

Amendment

(1) Money laundering and the associated financing of terrorism and organised crime remain significant problems at the Union level, thus damaging the integrity, stability and reputation of the financial sector and threatening the internal security and the internal market of the Union. In order to tackle those **urgent** problems and also reinforce the application of Directive 2015/849/EU³⁴, this Directive aims to tackle money laundering by means of criminal law, allowing for better cross-border cooperation between competent authorities.

³⁴ Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p.73).

Or. en

Amendment 4

Miguel Urbán Crespo, Fabio De Masi, Dimitrios Papadimoulis, Miguel Viegas

Proposal for a directive

Recital 1 a (new)

Text proposed by the Commission

Amendment

(1a) Existing rules failed to put an end to practices of tax heavens and secrecy

jurisdictions, which are used to obscure the real owners of assets, bank accounts and corporations.

Or. en

Amendment 5

Miguel Urbán Crespo, Fabio De Masi, Dimitrios Papadimoulis, Miguel Viegas

Proposal for a directive

Recital 3

Text proposed by the Commission

(3) Union action should *continue to take particular account of* the Financial Action Task Force (FATF) Recommendations and instruments of other international bodies active in the fight against money laundering and terrorist financing. The relevant Union legal acts should, where appropriate, be further aligned with the International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation adopted by the FATF in February 2012 (the ‘revised FATF Recommendations’). As a signatory to the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS No. 198), the Union should transpose the requirements of that Convention into its legal order.

Amendment

(3) Union action should *go beyond* the Financial Action Task Force (FATF) Recommendations and instruments of other international bodies active in the fight against money laundering and terrorist financing. *The Commission should carry its own assessment regarding the efficiency of measures proposed by FATF and the implementation and effectiveness of anti money laundering measures in general. The FATF itself should undertake a revision of existing standards, an assessment of its own output, and ensure better use of financial intelligence, regional representation, credibility and efficiency.* The relevant Union legal acts should, where appropriate, be further aligned with the International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation adopted by the FATF in February 2012 (the ‘revised FATF Recommendations’). As a signatory to the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS No. 198), the Union should transpose the requirements of that Convention into its legal order.

Or. en

Amendment 6

Miguel Urbán Crespo, Fabio De Masi, Dimitrios Papadimoulis, Miguel Viegas

Proposal for a directive

Recital 4

Text proposed by the Commission

(4) Council Framework Decision 2001/500/JHA³⁵ lays down requirements on the criminalisation of money laundering. That Framework Decision is not comprehensive enough, however, and the current incrimination of money laundering is not sufficiently coherent to effectively combat money laundering across the Union, thus leading to enforcement gaps and obstacles in the cooperation between the competent authorities in different Member States.

³⁵ Council Framework Decision 2001/500/JHA of 26 June 2001 on money laundering, the identification, tracing, freezing, seizing and confiscation of instrumentalities and the proceeds of crime (OJ L 182, 5.7.2001).

Amendment

(4) Council Framework Decision 2001/500/JHA³⁵ lays down requirements on the criminalisation of money laundering. That Framework Decision is not comprehensive enough, however, and the current incrimination of money laundering is not sufficiently coherent to effectively combat money laundering across the Union, thus leading to enforcement gaps and obstacles in the cooperation between the competent authorities in different Member States. . ***The Union's multi-tier system of law making creates additional loopholes, where several Member States still have not fully implemented Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (3rd anti money laundering directive) agreed in 2005.***

³⁵ Council Framework Decision 2001/500/JHA of 26 June 2001 on money laundering, the identification, tracing, freezing, seizing and confiscation of instrumentalities and the proceeds of crime (OJ L 182, 5.7.2001).

Or. en

Amendment 7

Miguel Urbán Crespo, Fabio De Masi, Dimitrios Papadimoulis

Proposal for a directive
Recital 5

Text proposed by the Commission

(5) The definition of criminal activities which constitute predicate offences for money laundering should be sufficiently uniform in all the Member States. Member States should include a range of offences within each of the categories designated by the FATF. Where categories of offences, such as terrorism or environmental crimes, are set out in Union law, this Directive refers to such legislation. This ensures that the laundering of the proceeds of the financing of terrorism and wildlife trafficking are punishable in the Member States. In cases where Union law allows Member States to provide for other sanctions than criminal sanctions, this Directive should not require Member States to establish those cases as predicate offences for the purposes of this Directive.

Amendment

(5) The definition of criminal activities which constitute predicate offences for money laundering should be sufficiently ***extended and*** uniform in all the Member States. Member States should include a range of offences within each of the categories designated by the FATF, ***including tax evasion, fraud and avoidance, as well as any fraudulent behaviour involving concealment of income or profits***. Where categories of offences, such as terrorism or environmental crimes, are set out in Union law, this Directive refers to such legislation. This ensures that the laundering of the proceeds of the financing of terrorism and wildlife trafficking are punishable in the Member States. In cases where Union law allows Member States to provide for other sanctions than criminal sanctions, this Directive should not require Member States to establish those cases as predicate offences for the purposes of this Directive.

Or. en

Amendment 8

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 6

Text proposed by the Commission

(6) Tax crimes relating to direct and indirect taxes should be included in the definition of criminal activity, in line with the revised FATF Recommendations.

Amendment

(6) Tax crimes relating to direct and indirect taxes should be included in the definition of criminal activity, in line with the revised FATF Recommendations.

Given that different tax offences may in each Member State constitute a criminal activity punishable by means of the sanctions referred to in this Directive, definitions of tax crimes may diverge in national law. However *no harmonisation of the definitions of tax crimes in Member States' national law is sought*.

Given that different tax offences may in each Member State constitute a criminal activity punishable by means of the sanctions referred to in this Directive, definitions of tax crimes may diverge in national law. However *tax crimes should be understood as including at least tax fraud, aggravated tax fraud and tax evasion offences and any fraudulent behaviour involving concealment of income or profits or the organisation of one's insolvency which aims at reducing or suppressing tax liability*. The definitions of tax crimes *should not include thresholds requiring the existence of a significant amount of unpaid taxes or the systematic use of fraudulent manoeuvres in national law*.

Or. en

Amendment 9

Miguel Urbán Crespo, Fabio De Masi, Dimitrios Papadimoulis, Miguel Viegas

Proposal for a directive

Recital 6

Text proposed by the Commission

(6) Tax crimes relating to direct and indirect taxes should be included in the definition of criminal activity, in line with the revised FATF Recommendations. Given that different tax offences may in each Member State constitute a criminal activity punishable by means of the sanctions referred to in this Directive, definitions of tax crimes may diverge in national law. *However no harmonisation of the definitions of tax crimes in Member States' national law is sought*.

Amendment

(6) Tax crimes *and tax avoidance* relating to direct and indirect taxes should be included in the definition of criminal activity, in line with *and beyond* the revised FATF Recommendations. Given that different tax offences may in each Member State constitute a criminal activity punishable by means of the sanctions referred to in this Directive, definitions of tax crimes may diverge in national law. The definitions of tax crimes in Member States' national law *should be extended and the punishment be stronger and properly implemented, being in this way both preventive and effective*.

Or. en

Amendment 10
Ashley Fox

Proposal for a directive
Recital 6

Text proposed by the Commission

(6) Tax crimes relating to direct and indirect taxes should be included in the definition of criminal activity, in line with the revised FATF Recommendations. Given that different tax offences may in each Member State constitute a criminal activity punishable by means of the sanctions referred to in this Directive, definitions of tax crimes may diverge in national law. **However** no harmonisation of the definitions of tax crimes in Member States' national law is sought.

Amendment

(6) Tax crimes relating to direct and indirect taxes should be included in the definition of criminal activity, in line with the revised FATF Recommendations. Given that different tax offences may in each Member State constitute a criminal activity punishable by means of the sanctions referred to in this Directive, definitions of tax crimes may diverge in national law. **As a result**, no harmonisation of the definitions of tax crimes in Member States' national law is sought.

Or. en

Amendment 11
Miguel Urbán Crespo, Fabio De Masi, Dimitrios Papadimoulis

Proposal for a directive
Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) A wider definition of predicate offences in the anti-money laundering directive is needed, so tax crimes would be captured independently of their legal classification at national level. Tax evasion should be a predicate offence for money laundering. The beneficial owners of corporations and legal entities need to be transparent and lawyers which increase opacity (25% of shares, substitute director) to be eliminated. The central registers should be accurate, up to date and fully accessible to the public.

Entities and trusts not registered in the central registers should not be allowed to operate.

Or. en

Amendment 12

Miguel Urbán Crespo, Fabio De Masi, Dimitrios Papadimoulis, Miguel Viegas

Proposal for a directive

Recital 8

Text proposed by the Commission

(8) Where money laundering activity does not simply amount to the mere possession or use, but also involves the transfer or the concealing and disguise of property through the financial system and results in further damage than that already caused by the predicate offence, such as damaging the integrity of the financial system, that activity should be punished separately. Member States should thus ensure that such conduct is also punishable when committed by the perpetrator of the criminal activity that generated that property (so-called self-laundering).

Amendment

(8) Where money laundering activity does not simply amount to the mere possession or use, but also involves the transfer or the concealing and disguise of property through the financial system and results in further damage than that already caused by the predicate offence, such as damaging ***both public good and*** the integrity of the financial system, that activity should be punished separately. Member States should thus ensure that such conduct is also punishable when committed by the perpetrator of the criminal activity that generated that property (so-called self-laundering).

Or. en

Amendment 13

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 9

Text proposed by the Commission

(9) In order for money laundering to be an effective tool against organised crime, it should not be necessary to identify the

Amendment

(9) In order for money laundering to be an effective tool against organised crime, it should not be necessary to identify the

specifics of the crime that generated the property, let alone require a prior or simultaneous conviction for that crime. Prosecutions for money laundering should also not be impeded by the mere fact that the predicate offence was committed in another Member State or third country, provided it is a criminal offence in that Member State or third country. Member States *may* establish as a prerequisite the fact that the *predicate offence* would have been a *crime* in its national law, had it been committed there.

specifics of the crime that generated the property, let alone require a prior or simultaneous conviction for that crime. Prosecutions for money laundering should also not be impeded by the mere fact that the predicate offence was committed in another Member State or third country, provided it is a criminal offence in that Member State or third country. Member States *should also be able to* establish as a prerequisite the fact that the *relevant conduct* would have been a *predicate offence* in its national law, had it been committed there. *However, insofar as the relevant conduct constitutes terrorism, organised crime, corruption, trafficking in human beings, environmental crimes, sexual exploitation or tax crimes, Member States should not require that the relevant conduct be a criminal offence in the Member State or country where that conduct took place.*

Or. en

Amendment 14 **Hugues Bayet**

Proposal for a directive **Recital 9**

Text proposed by the Commission

(9) In order for money laundering to be an effective tool against organised crime, it should not be necessary to identify the specifics of the crime that generated the property, let alone require a prior or simultaneous conviction for that crime. Prosecutions for money laundering should also not be impeded by the mere fact that the predicate offence was committed in another Member State or third country, provided it is a criminal offence in that Member State or third country. Member States may establish as a prerequisite the

Amendment

(9) In order for money laundering to be an effective tool against organised crime, it should not be necessary to identify the specifics of the crime that generated the property, let alone require a prior or simultaneous conviction for that crime, *nor all the factual elements or all circumstances relating to the criminal activity*. Prosecutions for money laundering should also not be impeded by the mere fact that the predicate offence was committed in another Member State or third country, provided it is a criminal

fact that the predicate offence would have been a crime in its national law, had it been committed there.

offence in that Member State or third country. Member States may establish as a prerequisite the fact that the predicate offence would have been a crime in its national law, had it been committed there.

Or. en

Amendment 15

Ashley Fox

Proposal for a directive

Recital 10

Text proposed by the Commission

(10) This Directive aims to criminalise money laundering when committed intentionally. Intention and knowledge may be inferred from objective, factual circumstances. As this Directive provides for minimum rules, Member States are free to adopt or maintain *more stringent* criminal law rules for money laundering. Member States may, for example, provide that money laundering committed recklessly or by serious negligence constitutes a criminal offence.

Amendment

(10) This Directive aims to criminalise money laundering when committed intentionally. Intention and knowledge may be inferred from objective, factual circumstances. As this Directive provides for minimum rules, Member States are free to adopt or maintain *existing* criminal law rules for money laundering *where they are as stringent or more so than this Directive and in line with the principle of subsidiarity*. Member States may, for example, provide that money laundering committed recklessly or by serious negligence constitutes a criminal offence.

Or. en

Amendment 16

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 11

Text proposed by the Commission

(11) In order to deter money laundering throughout the Union, Member States

Amendment

(11) In order to deter money laundering throughout the Union, Member States

should lay down minimum types and levels of penalties when the criminal offences defined in this Directive are committed. Where the offence is committed within a criminal organisation within the meaning of Council Framework Decision 2008/841/JHA³⁷ **8 or** where the perpetrator abused their professional position to enable money laundering, Member States should **provide for aggravating circumstances** in accordance with the **applicable rules established by their legal systems**.

should lay down minimum types and levels of penalties when the criminal offences defined in this Directive are committed. **Minimum types and levels of penalties should also be laid down with respect to inciting, aiding and abetting the commission of such criminal offences. Member States should provide for aggravating circumstances in accordance with the applicable rules established by their legal systems, in the following circumstances:** where the offence is committed within a criminal organisation within the meaning of Council Framework Decision 2008/841/JHA³⁷; where the perpetrator abused their professional position to enable money laundering; **where the money or property being laundered is derived from terrorist activities as defined in Directive 2017/541 or illicit arms trafficking; or where the offender is a Politically Exposed Person as defined by Directive 2015/849 or involved in corruption of elected officials.** Member States should **calculate the amount of fines** in accordance with the **gross principle, i.e. based on the profit stemming from the criminal action without deducting any costs incurred, so as to ensure that the sanction is higher than the economic value of the crime.**

³⁷ Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime, (OJ L 300, 11.11.2008, p. 42)

³⁷ Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime, (OJ L 300, 11.11.2008, p. 42)

Or. en

Amendment 17
Miguel Urbán Crespo, Fabio De Masi, Dimitrios Papadimoulis

Proposal for a directive
Recital 11

Text proposed by the Commission

(11) In order to deter money laundering throughout the Union, Member States should lay down minimum types and levels of penalties when the criminal offences defined in this Directive are committed. Where the offence is committed within a criminal organisation within the meaning of Council Framework Decision 2008/841/JHA³⁷ 8 or where the perpetrator abused their professional position to enable money laundering, Member States should provide for aggravating circumstances in accordance with the applicable rules established by their legal systems.

³⁷ Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime, (OJ L 300, 11.11.2008, p. 42)

Amendment

(11) In order to deter money laundering throughout the Union, Member States should **increase and** lay down **clearly defined** minimum types and levels of **high** penalties when the criminal offences defined in this Directive are committed, **also with respect to covering, inciting, aiding and abetting the commission of such criminal offences**. Where the offence is committed within a criminal organisation within the meaning of Council Framework Decision 2008/841/JHA³⁷ 8 or where the perpetrator abused their professional position to enable money laundering, Member States should provide for aggravating circumstances in accordance with the applicable rules established by their legal systems.

³⁷ Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime, (OJ L 300, 11.11.2008, p. 42)

Or. en

Amendment 18
Thomas Mann

Proposal for a directive
Recital 11

Text proposed by the Commission

(11) In order to deter money laundering throughout the Union, Member States should lay down minimum types and levels of penalties when the criminal offences defined in this Directive are committed. Where the offence is committed within a criminal organisation within the meaning of Council Framework Decision 2008/841/JHA³⁷ 8 or where the perpetrator

Amendment

(11) In order to deter money laundering throughout the Union, Member States should lay down **in a catalogue** minimum types and **minimum** levels of penalties when the criminal offences defined in this Directive are committed. Where the offence is committed within a criminal organisation within the meaning of Council Framework Decision 2008/841/JHA³⁷ or

abused their professional position to enable money laundering, Member States should **provide** for aggravating circumstances in accordance with the applicable rules established by their legal systems.

where the perpetrator abused their professional position to enable money laundering, Member States should **make effective provision** for aggravating circumstances in accordance with the applicable rules established by their **national** legal systems **and should make arrangements for its effective implementation**.

³⁷ Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime, (OJ L 300, 11.11.2008, p. 42)

³⁷ Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime (OJ L 300, 11.11.2008, p. 42).

Or. de

Amendment 19

Miguel Urbán Crespo, Fabio De Masi, Dimitrios Papadimoulis, Miguel Viegas

Proposal for a directive

Recital 11 a (new)

Text proposed by the Commission

Amendment

(11a) The Union and the Member States should provide the necessary legal measures for the protection of whistle-blowers, when reporting information in relation to money laundering, including in third countries.

Or. en

Amendment 20

Miguel Urbán Crespo, Fabio De Masi, Dimitrios Papadimoulis, Miguel Viegas

Proposal for a directive

Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) Third countries should be

regularly assessed and those not fulfilling high standards should be considered high risk countries. The Commission should have the necessary resources to contact an appropriate autonomous analysis, which should be public six months after being made available to Member States. Up to now, the FATF has approached this issue exacerbating the perception that stronger economies are using this list in a politically motivated way, causing financial exclusion, country blacklisting and competitive disadvantage only for countries that are outside their area of influence.

Or. en

Amendment 21
Ashley Fox

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

Text proposed by the Commission

(1) "criminal activity" means any kind of criminal involvement in the commission of the following crimes:

Amendment

(1) "criminal activity" means any kind of criminal involvement in the commission of the following crimes, *subject to national legislation*:

Or. en

Amendment 22
Miguel Urbán Crespo, Fabio De Masi, Dimitrios Papadimoulis, Miguel Viegas

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

Text proposed by the Commission

Amendment

(ha) tax crimes, including tax evasion and fraud and tax avoidance and any fraudulent action;

Amendment 23

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

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

Text proposed by the Commission

Amendment

(pa) tax crimes relating to direct taxes and indirect taxes, including evading taxes by concealing income, earned either legally or illegally, from detection and collection by the tax authorities;

Or. en

Amendment 24

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Article 2 – paragraph 1 – point 1 – point v

Text proposed by the Commission

Amendment

(v) all offences, including tax crimes relating to direct taxes and indirect taxes as defined in the national law of the Member States, which are punishable by deprivation of liberty or a detention order for a maximum of more than one year or, as regards Member States that have a minimum threshold for offences in their legal system, all offences punishable by deprivation of liberty or a detention order for a minimum of more than six months;

(v) all offences which are punishable by deprivation of liberty or a detention order for a maximum of more than one year or, as regards Member States that have a minimum threshold for offences in their legal system, all offences punishable by deprivation of liberty or a detention order for a minimum of more than six months;

Or. en

Amendment 25

Thomas Mann

**Proposal for a directive
Article 3 – paragraph 1 – point c**

Text proposed by the Commission

(c) the acquisition, possession or use of property, knowing at the time of receipt, ***that such property*** was derived from criminal activity or from an act of participation in such ***an*** activity.

Amendment

(c) the acquisition, possession or use of property, knowing, at the time of receipt ***or subsequently, or having the possibility of coming to know, that it*** was derived from criminal activity or from an act of participation in such activity,

Or. de

Amendment 26

Eva Joly
on behalf of the Verts/ALE Group

**Proposal for a directive
Article 3 – paragraph 1 – point c**

Text proposed by the Commission

(c) the acquisition, possession or use of property, ***knowing at the time of receipt,*** that such property was derived from criminal activity or from an act of participation in such an activity.

Amendment

(c) the acquisition, possession or use of property, that such property was derived from criminal activity or from an act of participation in such an activity.

Or. en

Amendment 27

Hugues Bayet

**Proposal for a directive
Article 3 – paragraph 2 – point a**

Text proposed by the Commission

(a) a prior or simultaneous conviction for the criminal activity ***that generated*** the property;

Amendment

(a) a prior or simultaneous conviction for the criminal activity ***from which*** the property ***was derived, as referred to in***

paragraph 1;

Or. en

Amendment 28
Hugues Bayet

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

Text proposed by the Commission

Amendment

(ba) all the factual elements or all circumstances relating to a criminal activity, where it is established that the property has been derived from such activity, as referred to in paragraph 1;

Or. en

Amendment 29
Eva Joly
on behalf of the Verts/ALE Group

Proposal for a directive
Article 3 – paragraph 2 – point c

Text proposed by the Commission

Amendment

(c) whether the criminal activity that generated the property was carried out in the territory of another Member State or in that of a third country, when the relevant conduct *is* a criminal *offence* under the national law of the Member *State or the third country where the conduct was committed and would be* a criminal offence under the national law of the Member State *implementing or applying this Article had it been committed there;*

(c) whether the criminal activity that generated the property was carried out in the territory of another Member State or in that of a third country, when the relevant conduct *would constitute* a criminal *activity* under the national law of the Member *implementing or applying this Article had it been carried out there. Member States may, however, require that the relevant conduct, insofar as it does not fall within the categories referred to in Article 2, paragraph 1, points (a), (b), (c), (d), (h) (l) and (pa), constitutes* a criminal offence under the national law of the *other* Member State *or of that of the third*

country;

Or. en

Amendment 30

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Article 3 – paragraph 2 – point c a (new)

Text proposed by the Commission

Amendment

(ca) whether the criminal activity that generated the property was carried out in the territory of a third country mentioned in the list of countries at high risk of money laundering as referred to in Directive 2015/849, when the relevant conduct would constitute a criminal activity under the national law of the Member State implementing or applying this Article had it been carried out there;

Or. en

Amendment 31

Hugues Bayet

Proposal for a directive

Article 4 – paragraph 1

Text proposed by the Commission

Amendment

Each Member State shall ensure that *inciting, aiding and abetting and attempting* an offence referred to in Article 3 *shall be punishable.*

Each Member State shall ensure that *the following is punishable:*
a) the fact to incite or to attempt an offence referred to in Article 3
b) the fact to aid or to abet an offence referred to in Article 3

Or. en

Amendment 32

Miguel Urbán Crespo, Fabio De Masi, Dimitrios Papadimoulis, Miguel Viegas

Proposal for a directive

Article 4 – paragraph 1

Text proposed by the Commission

Each Member State shall ensure that inciting, aiding and abetting and attempting an offence referred to in Article 3 shall be punishable.

Amendment

Each Member State shall ensure that **covering**, inciting, aiding and abetting and attempting an offence referred to in Article 3 shall be punishable.

Or. en

Amendment 33

Thomas Mann

Proposal for a directive

Article 5 – paragraph 1

Text proposed by the Commission

1. *Each Member State* shall ensure that *the conduct* referred to in Articles 3 and 4 *shall be punishable by effective, proportionate and dissuasive criminal penalties.*

Amendment

1. *The Member States* shall ensure that *perpetrators of the criminal activities* referred to in Articles 3 and 4 *are subsequently prosecuted and punished and that the punishments will have a dissuasive effect on imitators.*

Or. de

Amendment 34

Thierry Cornillet

Proposal for a directive

Article 5 – paragraph 1

Text proposed by the Commission

1. Each Member State shall ensure that the conduct referred to in Articles 3 and 4 shall be punishable by effective, proportionate and dissuasive criminal

Amendment

1. Each Member State shall ensure that the conduct referred to in Articles 3 and 4 shall be punishable by effective, proportionate and dissuasive criminal penalties, **with strict respect for**

penalties.

fundamental rights and the general principles of criminal law which protect the rights of defence and of the accused.

Or. fr

Amendment 35

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Article 5 – paragraph 1

Text proposed by the Commission

1. Each Member State shall ensure that the conduct referred to in Articles 3 and 4 shall be punishable by effective, proportionate and dissuasive criminal penalties.

Amendment

1. Each Member State shall ensure that the conduct referred to in Articles 3 and 4 shall be punishable by effective, proportionate and dissuasive criminal penalties, *including criminal or non-criminal fines, based on the gross value of the total amount stemming from criminal activity.*

Or. en

Amendment 36

Hugues Bayet

Proposal for a directive

Article 5 – paragraph 2

Text proposed by the Commission

2. Each Member State shall ensure that the offences referred to in Article 3 shall be punishable by a maximum term of imprisonment of at least *four* years, *at least in serious cases.*

Amendment

2. Each Member State shall ensure that the offences referred to in Article 3 *and in Article 4(b)* shall be punishable by a maximum term of imprisonment of at least *five* years.

Or. en

Amendment 37

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Article 5 – paragraph 2

Text proposed by the Commission

2. Each Member State shall ensure that the offences referred to in Article 3 shall be punishable by a maximum term of imprisonment of at least **four** years, **at least in serious cases**.

Amendment

2. Each Member State shall ensure that the offences referred to in Article 3 shall be punishable by a maximum term of imprisonment of at least **five** years.

Or. en

Amendment 38

Thomas Mann

Proposal for a directive

Article 5 – paragraph 2

Text proposed by the Commission

2. Each Member State shall ensure that the offences referred to in Article 3 shall be punishable by a maximum term of imprisonment of at least **four** years, at least in serious cases.

Amendment

2. Each Member State shall ensure that the offences referred to in Article 3 shall be punishable by a maximum term of imprisonment of at least **three and a half** years, at least in serious cases.

Or. de

Amendment 39

Miguel Urbán Crespo, Fabio De Masi, Dimitrios Papadimoulis, Miguel Viegas

Proposal for a directive

Article 5 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Each Member State shall ensure that all natural persons, who ultimately own or control a legal entity through direct or indirect ownership, punishable

under Articles 3 and 4, are banned from any financial and commercial activity with the public authorities.

Or. en

Amendment 40
Thierry Cornillet

Proposal for a directive
Article 5 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The Commission shall arrange for harmonisation and coordination of the degrees of severity of the penalties, both minimum and maximum, provided for in this field in the various Member States, with due regard for the specific features of the legal system of each Member State.

Or. fr

Amendment 41
Hugues Bayet

Proposal for a directive
Article 5 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Each Member State shall ensure that the offences referred to in Article 4(a) shall be punishable by a maximum term of imprisonment of at least three years.

Or. en

Amendment 42
Eva Joly
on behalf of the Verts/ALE Group

Proposal for a directive
Article 5 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. *Each Member State shall ensure that the offences referred to in Article 4 shall be punishable by a maximum term of imprisonment of at least three years.*

Or. en

Amendment 43
Eva Joly
on behalf of the Verts/ALE Group

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

Text proposed by the Commission

Amendment

2b. *Each Member State shall ensure that the offences referred to in Article 3 and 4 may also be punishable, at the judge's discretion, by complementary, temporary or permanent sanctions including:*

(a) a ban on entering into contracts with public authorities;

(b) a disqualification from the practice of certain commercial activities; and

(c) a ban to run for elected offices.

Or. en

Amendment 44
Eva Joly
on behalf of the Verts/ALE Group

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

Text proposed by the Commission

Amendment

(ba) the money or property being laundered is derived from terrorist activities as defined in Directive 2017/541 or illicit arms trafficking;

Or. en

Amendment 45
Hugues Bayet

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

Text proposed by the Commission

Amendment

(ba) the offender is a Politically Exposed Person as defined by national transpositions of Directive 2015/849;

Or. en

Amendment 46
Eva Joly
on behalf of the Verts/ALE Group

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

Text proposed by the Commission

Amendment

(bb) the offender is a Politically Exposed Person as defined by Directive 2015/849 or involving corruption of elected officials;

Or. en

Amendment 47
Thomas Mann

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

Text proposed by the Commission

Amendment

(c) the criminal activity was committed and funded by offshore companies; letterbox companies are involved in the criminal acts; illegal transfers of funds have taken place; money couriers and NGOs have been involved; there is a presumption of a professional activity as a money launderer if the person concerned is, for example, active in more than two money laundering syndicates or criminal groups.

Or. de

Amendment 48
Hugues Bayet

Proposal for a directive
Article 7 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. Each Member State shall ensure that legal persons can be held liable for any of the offences referred to in Articles 3 and 4 committed for the benefit of ***those legal persons*** by any 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:

1. Each Member State shall ensure that legal persons can be held liable for any of the offences referred to in Articles 3 and 4 committed for ***their benefit or for*** the benefit of ***a third person*** by any 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:

Or. en

Amendment 49
Hugues Bayet

Proposal for a directive
Article 7 – paragraph 2

Text proposed by the Commission

2. Member States shall 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 of any of the offences referred to in Articles 3 and 4 for the benefit of **that legal** person by a person under its authority.

Amendment

2. Member States shall 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 of any of the offences referred to in Articles 3 and 4 for **their benefit or for** the benefit of **a third** person by a person under its authority.

Or. en

Amendment 50
Thierry Cornillet

Proposal for a directive
Article 8 – paragraph 1 – introductory part

Text proposed by the Commission

Each Member State shall ensure that a legal person held liable for offences pursuant to Article 6 shall be punishable by effective, proportionate and dissuasive sanctions, which shall include criminal or non-criminal fines and may include other sanctions, such as:

Amendment

Each Member State shall ensure that a legal person held liable for offences pursuant to Article 6 shall be punishable by effective, proportionate and dissuasive sanctions, which shall include criminal or non-criminal fines and may include other sanctions, **with strict respect for fundamental rights and the general principles of criminal law which protect the rights of defence and of the accused**, such as:

Or. fr

Amendment 51
Eva Joly
on behalf of the Verts/ALE Group

Proposal for a directive
Article 8 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

Each Member State shall ensure that a legal person held liable for offences pursuant to Article 6 shall be punishable by effective, proportionate and dissuasive sanctions, which shall include criminal or non-criminal fines and may include other sanctions, *such as*:

Each Member State shall ensure that a legal person held liable for offences pursuant to Article 7 shall be punishable by effective, proportionate and dissuasive sanctions, which shall include criminal or non-criminal fines, *based on the gross value of the total amount stemming from criminal activity*, and may, *at the judge's discretion*, include other *temporary or permanent* sanctions, *including*:

Or. en

Amendment 52
Hugues Bayet

Proposal for a directive
Article 8 – paragraph 1 – introductory part

Text proposed by the Commission

Each Member State shall ensure that a legal person held liable for offences pursuant to Article 6 shall be punishable by effective, proportionate and dissuasive sanctions, which shall include criminal *or* non-criminal fines and *may* include other sanctions, such as:

Amendment

Each Member State shall ensure that a legal person held liable for offences pursuant to Article 7 shall be punishable by effective, proportionate and dissuasive sanctions, which shall include criminal *and* non-criminal fines and *shall* include other sanctions, such as:

Or. en

Amendment 53
Miguel Urbán Crespo, Fabio De Masi, Dimitrios Papadimoulis, Miguel Viegas

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

Text proposed by the Commission

(1) the exclusion of that legal person from entitlement to public benefits or aid;

Amendment

(1) the exclusion of that legal person from entitlement to public *positions, contracts benefits or aid, including Union related* benefits or aid;

Amendment 54

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

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

Text proposed by the Commission

Amendment

(1a) the exclusion of that person from entitlement to Union funds;

Or. en

Amendment 55

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Article 8 – paragraph 1 – point 1 b (new)

Text proposed by the Commission

Amendment

(1b) a ban on entering into contracts with public authorities;

Or. en

Amendment 56

Hugues Bayet

Proposal for a directive

Article 8 – paragraph 1 – point 2

Text proposed by the Commission

Amendment

(2) the temporary or permanent disqualification of that legal person from the practice of commercial activities;

(2) the temporary or permanent disqualification of that legal person from the practice of commercial activities, **including withdrawal of business licences;**

Amendment 57

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Article 9 – paragraph 1 – point a

Text proposed by the Commission

(a) the offence is committed in whole or in part in its territory;

Amendment

(a) the offence is committed in whole or in part in its territory **or**;

Or. en

Amendment 58

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Article 9 – paragraph 1 – point b

Text proposed by the Commission

(b) the offender is one of its nationals.

Amendment

(b) the offender is one of its nationals **or**;

Or. en

Amendment 59

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Article 9 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(ba) the offences referred to in Articles 3 and 4 are committed outside its territory but the offender is a habitual resident in

its territory or;

Or. en

Amendment 60

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Article 9 – paragraph 1 – point b b (new)

Text proposed by the Commission

Amendment

(bb) the offences referred to in Articles 3 and 4 are committed outside its territory but the offence is committed for the benefit of a legal person established in its territory.

Or. en

Amendment 61

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Article 9 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. When an offence falls within the jurisdiction of more than one Member State and when any of the Member States concerned can validly prosecute on the basis of the same facts, Member States shall take into account the following factors, listed in order of priority, to decide which of them will prosecute the offenders:

(a) the territory of the Member State where the offence was committed;

(b) the nationality or residency of the offender;

- (c) the country of origin of the victims;*
- (d) the territory of the Member State where the offender was found.*

Or. en

Amendment 62

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Article 9 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. Member States may have recourse to Eurojust in order to facilitate cooperation between their judicial authorities and the coordination of their action.

Or. en

Amendment 63

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Article 9 – paragraph 2

Text proposed by the Commission

Amendment

2. A Member State shall inform the Commission where it decides to establish further jurisdiction over the offences referred to in Articles 3 and 4 committed outside its territory where:

deleted

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

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

Amendment 64

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Article 10 – title

Text proposed by the Commission

Investigative tools

Amendment

Investigative tools ***and cooperation***

Amendment 65

Thomas Mann

Proposal for a directive

Article 10 – paragraph 1

Text proposed by the Commission

Each Member State shall 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 offences referred to in Articles 3 and 4.

Amendment

Each Member State shall 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 offences referred to in Articles 3 and 4.

The Member States shall ensure, as soon as possible, the availability of the requisite material resources and personnel who are properly trained to pursue the investigations so that these may be conducted without delay. This is especially important to ensure effective cooperation between the relevant authorities in each country and the participating authorities in other Member States affected, as well as the EU institutions.

Amendment 66

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Article 10 – paragraph 1

Text proposed by the Commission

Each Member State shall 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 offences referred to in Articles 3 and 4.

Amendment

1. Each Member State shall 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 offences referred to in Articles 3 and 4.

Or. en

Amendment 67

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Article 10 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Each Member State shall ensure that adequate and sufficient human and financial resources, as well as trainings are allocated to investigate and prosecute the offences referred to in Articles 3 and 4.

Or. en

Amendment 68

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Article 10 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. Each Member State shall ensure that their national authorities investigating or prosecuting offences referred to in Articles 3 and 4 are empowered to cooperate with other national authorities and their counterparts in other Member States.

Or. en

Amendment 69

Miguel Urbán Crespo, Fabio De Masi, Dimitrios Papadimoulis, Miguel Viegas

Proposal for a directive

Article 12 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Amendment

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [24 months after adoption] at the latest. They shall immediately communicate the text of those provisions to the Commission.

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [24 months after adoption] at the latest, ***ensuring all the necessary resources for it.*** They shall immediately communicate the text of those provisions to the Commission.

Or. en