



**2013/0432(COD)**

17.3.2016

# **AMENDMENTS**

## **52 - 192**

**Draft report**

**Kaja Kallas**

(PE575.381v01-00)

Directive of the European Parliament and of the Council on the Union legal framework for customs infringements and sanctions

Proposal for a directive

(COM(2013)0884 – C8-0033/2014 – 2013/0432(COD))



**Amendment 52**  
**Daniel Dalton**

**Draft legislative resolution**  
**Paragraph 1**

*Draft legislative resolution*

*Amendment*

**1. Adopts its position at first reading hereinafter set out;**

**1. Rejects the Commission proposal;**

Or. en

*Justification*

*Believes that an evidence based justification for an EU Directive on customs infringements and sanctions has yet to be made. This is particularly true where the justification has been made that the directive is needed to tackle so-called 'forum shopping' for which no persuasive evidence has been provided. The fundamental questions around whether the Directive is compatible with the principles of proportionality and subsidiarity and even its legal basis have not been adequately answered. There is a very real risk that the proposal will damage legitimate trade and particularly hit SMEs, whilst increasing customs fraud by reducing the ability of Member states to tackle non-compliant behaviour.*

**Amendment 53**  
**Marlene Mizzi, Alfred Sant, Miriam Dalli**

**Draft legislative resolution**  
**Paragraph 2**

*Draft legislative resolution*

*Amendment*

**2. Calls on the Commission to *refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text*;**

**2. Calls on the Commission to *withdraw its proposal*;**

Or. en

*Justification*

*The choices made by the Commission in drafting the proposal for a Directive of the European Parliament and of the Council on the Union legal framework for customs infringements have not adequately taken into account the required overall harmonisation and broader environment of customs legislation under the on-going customs reform. Therefore, this*

*proposal cannot achieve its envisaged goals and objectives and should be completely reconsidered by the Commission in detail by withdrawing it and coming up with a new proposal that better fits its general objective of ensuring an effective implementation and law enforcement in the Union's custom union.*

#### **Amendment 54**

**Daniel Dalton**

#### **Draft legislative resolution**

##### **Paragraph 2**

*Draft legislative resolution*

2. Calls on the Commission to ***refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;***

*Amendment*

2. Calls on the Commission to ***re-examine the necessity of the legislative proposal in the field of customs infringements and sanctions;***

Or. en

#### *Justification*

*Believes that an evidence based justification for an EU Directive on customs infringements and sanctions has yet to be made. This is particularly true where the justification has been made that the directive is needed to tackle so-called 'forum shopping' for which no persuasive evidence has been provided. The fundamental questions around whether the Directive is compatible with the principles of proportionality and subsidiarity and even its legal basis have not been adequately answered. There is a very real risk that the proposal will damage legitimate trade and particularly hit SMEs, whilst increasing customs fraud by reducing the ability of Member states to tackle non-compliant behaviour.*

#### **Amendment 55**

**Jiří Maštálka**

#### **Proposal for a directive**

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*Proposal for a rejection*

***The European Parliament rejects the Commission proposal.***

Or. cs

### *Justification*

*The fact that the EU has exclusive competence in a given area does not create an obligation to harmonise subsequent legislation that will have an impact even in areas that do not fall within the EU's exclusive competence. The proposed measures require changes to legislation that will affect the entire legal order of individual Member States. The proposed legislation is not consistent with the principle of proportionality, because eliminating unequal customs conditions on the internal market would require a general change to the legal structure of administrative law in the Member States.*

#### **Amendment 56**

**Roberta Metsola, Andreas Schwab**

#### **Proposal for a directive**

##### **Citation 1**

#### *Text proposed by the Commission*

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 33 thereof,

#### *Amendment*

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 33 **and Article 114** thereof,

Or. en

### *Justification*

*The legal basis should be broadened to also reflect Article 114 TFEU in light of the fact that this Directive brings about an approximation of laws linked to the functioning of the internal market (as was the case of the legal basis of the UCC).*

#### **Amendment 57**

**Virginie Rozière**

#### **Proposal for a directive**

##### **Citation 1**

#### *Text proposed by the Commission*

Having regard to the Treaty on the Functioning of the European Union, and in particular **Article** 33 thereof,

#### *Amendment*

Having regard to the Treaty on the Functioning of the European Union, and in particular **Articles** 33 **and 114** thereof,

Or. fr

**Amendment 58**  
**Roberta Metsola**

**Proposal for a directive**  
**Recital 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***(1a) The application of criminal sanctions should be a matter for the competence of the Member States alone.***

Or. en

*Justification*

*This amendment reiterates the importance of subsidiarity when it comes to criminal sanctions.*

**Amendment 59**  
**Roberta Metsola**

**Proposal for a directive**  
**Recital 1 b (new)**

*Text proposed by the Commission*

*Amendment*

***(1b) This Directive should be in line with Regulation (EU) No 952/2013 of the European Parliament and of the Council<sup>1</sup>.***

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***<sup>1</sup> Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).***

Or. en

*Justification*

*This amendment reiterates the importance of this Directive to be in line with the provisions of the UCC.*

## Amendment 60

Roberta Metsola, Andreas Schwab

### Proposal for a directive

#### Recital 3

##### *Text proposed by the Commission*

(3) That disparity of Member States' legal systems **affects** not only the optimal management of the customs union, but also **prevents that** a level playing field **is achieved** for economic operators in the customs union **because** it has an impact on their access to customs simplifications and facilitations.

##### *Amendment*

(3) That disparity of Member States' legal systems not only **affects** the optimal management of the Customs Union, but also **hinders the achievement of** a level playing field for economic operators in the Customs Union **as** it has an impact on their access to customs simplifications and facilitations. **Uniformity of the principles governing the way in which customs infringements should be handled by the different customs authorities is needed in order to ensure the proper functioning of the internal market.**

Or. en

##### *Justification*

*This amendment highlights the importance of a uniform approach in this policy area in order to ensure the proper functioning of the internal market.*

## Amendment 61

Andreas Schwab, Roberta Metsola

### Proposal for a directive

#### Recital 5

##### *Text proposed by the Commission*

(5) The **legal framework** for the enforcement of Union customs legislation provided for in this Directive **is** consistent with the legislation in force regarding the safeguarding of the financial interests of the Union<sup>9</sup>. The customs infringements covered by the **framework established** by this Directive include customs

##### *Amendment*

(5) The **minimum requirements** for the enforcement of Union customs legislation provided for in this Directive **are** consistent with the legislation in force regarding the safeguarding of the financial interests of the Union<sup>9</sup>. The customs infringements covered by the **minimum requirements laid down** by this Directive

infringements that have an impact on those financial interests while not falling under the scope of the legislation safeguarding them by means of criminal law and customs infringements that do not have an impact on the financial interests of the Union at all.

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<sup>9</sup> Proposal for a Directive of the European Parliament and of the Council on the fight against fraud to the Union's financial interests by means of criminal law (COM(2012)363).

include customs infringements that have an impact on those financial interests while not falling under the scope of the legislation safeguarding them by means of criminal law and customs infringements that do not have an impact on the financial interests of the Union at all.

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<sup>9</sup> Proposal for a Directive of the European Parliament and of the Council on the fight against fraud to the Union's financial interests by means of criminal law (COM(2012)363).

Or. de

### *Justification*

*The Sanctions Directive does not lay down minimum requirements, instead establishing a 'legal framework'. This means that, when it comes to transposing the directive into national law, the Member States have no leeway. This gives rise to problems in the context of transposition into German law (see Article 1(1)). The Sanctions Directive - like the PFI Directive (Article 1) - should therefore lay down 'only' minimum requirements. Note: the references to the PFI Directive (also hereinafter) are to the most recent proposal, 8604/15 of 7 May 2015 (decree of 8 May 2015 - III A 1 - Z 4605/11/10015 DOK 2015/0408946).*

## **Amendment 62** **Roberta Metsola**

### **Proposal for a directive** **Recital 6**

#### *Text proposed by the Commission*

(6) A list of behaviour which should be considered as infringing Union customs legislation and give rise to sanctions should be established. Those customs infringements should be fully based on the obligations stemming from the customs legislation with direct references to the Code. This Directive ***does not determine whether*** Member States should apply administrative ***or criminal law*** sanctions in respect of those customs infringements.

#### *Amendment*

(6) A list of behaviour which should be considered as infringing Union customs legislation and give rise to sanctions should be established. Those customs infringements should be fully based on the obligations stemming from the customs legislation with direct references to the Code. This Directive ***provides that*** Member States should apply administrative sanctions in respect of those customs infringements. ***However, this does not***



*affect the possibility for Member States to impose criminal sanctions where a customs infringement falls within the scope of their national laws providing for the imposition of criminal sanctions.*

Or. en

*Justification*

*This amendment reiterates the importance of subsidiarity when it comes to criminal sanctions.*

**Amendment 63**

**Andreas Schwab, Roberta Metsola**

**Proposal for a directive**

**Recital 6**

*Text proposed by the Commission*

(6) A list of behaviour which should be considered as infringing Union customs legislation and give rise to sanctions should be established. Those customs infringements should be fully based on the obligations stemming from the customs legislation with direct references to the Code. This Directive does not determine whether Member States should apply administrative or criminal law sanctions in respect of those customs infringements.

*Amendment*

(6) A list of behaviour which should be considered as infringing Union customs legislation and give rise to sanctions should be established. Those customs infringements should be fully based on the obligations stemming from the customs legislation with direct references to the Code. This Directive does not determine whether Member States should apply administrative or criminal law sanctions in respect of those customs infringements.  
***This Directive provides that Member States should apply administrative sanctions in respect of those customs infringements.***

Or. de

*Justification*

*The Sanctions Directive should provide only for administrative sanctions. The demarcation vis-à-vis the PFI Directive is sound (but as regards Kallas: addition of a fourth sentence stipulating that in cases involving the deliberate evasion of customs duties in amounts in excess of €10 000 criminal law penalties are possible is unnecessary and therefore incorrect.*

*Offences such as these are covered by the PFI Directive. Deliberate evasion of customs duties on this scale must necessarily give rise to criminal law penalties (see Articles 3(1) and 7(1) of the PFI Directive and, turning the argument around, Article 7(4) of the PFI Directive).*

**Amendment 64**  
**Virginie Rozière**

**Proposal for a directive**  
**Recital 6**

*Text proposed by the Commission*

(6) A list of behaviour which should be considered as infringing Union customs legislation and give rise to sanctions should be established. Those customs infringements should be fully based on the obligations stemming from the customs legislation with direct references to the Code. This Directive does not determine whether Member States should apply administrative or criminal law sanctions in respect of those customs infringements.

*Amendment*

(6) A list of behaviour which should be considered as infringing Union customs legislation and give rise to sanctions should be established. Those customs infringements should be fully based on the obligations stemming from the customs legislation with direct references to the Code. This Directive does not determine whether Member States should apply administrative or criminal law sanctions in respect of those customs infringements.  
***Member States should, however, be allowed to apply criminal sanctions.***

Or. fr

**Amendment 65**  
**Kaja Kallas**

**Proposal for a directive**  
**Recital 7**

*Text proposed by the Commission*

***(7) The first category of behaviour should include customs infringements based on strict liability, which does not require any element of fault, considering the objective nature of the obligations involved and the fact that the persons responsible to fulfil them cannot ignore their existence and binding character.***

*Amendment*

***deleted***

**Amendment 66**  
**Virginie Rozière**

**Proposal for a directive**  
**Recital 7**

*Text proposed by the Commission*

(7) The first category of behaviour should include customs infringements ***based on strict liability, which does not require any element of fault, considering the objective nature of the obligations involved and the fact that the persons responsible to fulfil them cannot ignore their existence and binding character.***

*Amendment*

(7) The first category of behaviour should include ***minor*** customs infringements.

Or. fr

**Amendment 67**  
**Kaja Kallas**

**Proposal for a directive**  
**Recital 8**

*Text proposed by the Commission*

(8) ***The second and third category of behaviour should include customs infringements committed by negligence or intentionally, respectively, where that subjective element has to be established for liability to arise.***

*Amendment*

***deleted***

Or. en

**Amendment 68**  
**Virginie Rozière**

**Proposal for a directive**  
**Recital 8**

*Text proposed by the Commission*

(8) The second ***and third*** category of behaviour should include customs infringements ***committed by negligence or intentionally, respectively, where that subjective element has to be established for liability to arise.***

*Amendment*

(8) The second category of behaviour should include ***serious*** customs infringements.

Or. fr

**Amendment 69**  
**Virginie Rozière**

**Proposal for a directive**  
**Recital 10**

*Text proposed by the Commission*

(10) In order to ensure legal certainty, it should be provided that any act or omission resulting from an error on the part of the customs authorities should not be considered a customs infringement.

*Amendment*

(10) In order to ensure legal certainty, it should be provided that any act or omission resulting from an error on the part of the customs authorities, ***within the meaning of the Code***, should not be considered a customs infringement.

Or. fr

**Amendment 70**  
**Julia Reda**

**Proposal for a directive**  
**Recital 11 a (new)**

*Text proposed by the Commission*

*Amendment*

***(11a) Member States have divergent approaches to the manner in which customs infringements are to be addressed. In order to maintain flexibility in dealing with customs infringements, the provisions of this Directive are subject to minimum harmonisation. Furthermore, given that some Member States have a***

*system in which criminal sanctions are imposed instead of administrative ones, this Directive aims at laying down common administrative sanctions, but Member States are free to choose to use criminal sanctions taking into account the nature and gravity of, and the other circumstances relating to, the customs infringement concerned.*

Or. en

*Justification*

*Alignment with AM on minimum harmonisation*

**Amendment 71**

**Kaja Kallas**

**Proposal for a directive**

**Recital 12**

*Text proposed by the Commission*

(12) In order to approximate the national sanctioning systems of the Member States, scales of sanctions should be established reflecting *the different categories of the customs infringements and* their seriousness. For the purpose of imposing effective, proportionate and dissuasive sanctions, Member States should also ensure that their competent authorities take into account specific aggravating or mitigating circumstances when determining the type and level of sanctions to be applied.

*Amendment*

(12) In order to approximate the national sanctioning systems of the Member States, scales of sanctions should be established reflecting their seriousness. For the purpose of imposing effective, proportionate and dissuasive sanctions, Member States should also ensure that their competent authorities take into account specific aggravating or mitigating circumstances when determining the type and level of sanctions to be applied.

Or. en

**Amendment 72**

**Virginie Rozière, Lucy Anderson**

**Proposal for a directive**  
**Recital 12**

*Text proposed by the Commission*

(12) In order to approximate the national sanctioning systems of the Member States, scales of sanctions should be established reflecting the different categories of the customs infringements and ***their seriousness***. For the purpose of imposing effective, proportionate and dissuasive sanctions, Member States should also ensure that their competent authorities take into account specific aggravating or mitigating circumstances when determining the type and level of sanctions to be applied.

*Amendment*

(12) In order to approximate the national sanctioning systems of the Member States, scales of sanctions should be established reflecting the different categories of the customs infringements and ***the degree of fault***. For the purpose of imposing effective, proportionate and dissuasive ***non-criminal*** sanctions, Member States should also ensure that their competent authorities take into account specific aggravating or mitigating circumstances when determining the type and level of sanctions to be applied.

Or. fr

**Amendment 73**  
**Julia Reda**

**Proposal for a directive**  
**Recital 13**

*Text proposed by the Commission*

(13) The limitation period for proceedings concerning a customs infringement should be fixed at four years from the day on which the customs infringement was committed or, in case of continuous or repeated infringements, ***where*** the behaviour constituting that infringement ceases. Member States should ensure that the limitation period is interrupted by an act relating to investigations or legal proceedings concerning the customs infringement. Member States may lay down cases where that period is suspended. ***The initiation or continuation of these proceedings should be precluded after an expiry period of eight years, while the limitation period for the enforcement of a sanction should be of three years.***

*Amendment*

(13) The limitation period for proceedings concerning a customs infringement should be fixed at four years from the day on which the customs infringement was committed or, in ***the*** case of continuous or repeated infringements, ***when*** the behaviour constituting that infringement ceases. Member States should ensure that the limitation period is interrupted by an act relating to investigations or legal proceedings concerning the customs infringement. Member States may lay down cases where that period is suspended.

*Justification*

*Alignment with AMs on Art 13*

**Amendment 74**

**Roberta Metsola, Andreas Schwab**

**Proposal for a directive**

**Recital 14**

*Text proposed by the Commission*

(14) A suspension of administrative proceedings concerning customs infringements should be provided for where criminal proceedings have been initiated against the same person in connection with the same facts. The continuation of the administrative proceedings after the completion of the criminal proceedings should be possible only in strict conformity with the ne bis in idem principle.

*Amendment*

(14) A suspension of administrative proceedings concerning customs infringements should be provided for where criminal proceedings have been initiated against the same person in connection with the same facts. The continuation of the administrative proceedings after the completion of the criminal proceedings should be possible only in strict conformity with the ne bis in idem principle, ***meaning that the same offence must not be penalised twice.***

Or. en

*Justification*

*This amendment strengthens reference to the legal doctrine that no person should be penalised twice for the same offence.*

**Amendment 75**

**Roberta Metsola, Andreas Schwab**

**Proposal for a directive**

**Recital 15 a (new)**

*Text proposed by the Commission*

*Amendment*

***(15a) Taking into account the objective of this Directive, namely to ensure effective***

*enforcement of the Union customs legislation, the Commission should take a holistic approach to enforcement in order to assess whether further action is needed to ensure effectiveness of enforcement of the Union customs legislation following the submission of the Commission report on the application of this Directive as referred to in Article 18 of this Directive.*

Or. en

*Justification*

*This amendment reiterates that any future actions linked to the enforcement of customs legislation should be based on the principle of proportionality.*

**Amendment 76**  
**Virginie Rozière, Lucy Anderson**

**Proposal for a directive**  
**Recital 18 a (new)**

*Text proposed by the Commission*

*Amendment*

*(18a) This Directive is intended to strengthen customs cooperation by approximating national laws on customs sanctions. Given that, at present, the legal traditions of Member States differ greatly, total harmonisation in this area is impossible.*

Or. fr

*Justification*

*This recital restates the aims set out in the legal bases underlying the proposal for a directive.*

**Amendment 77**  
**Julia Reda**

**Proposal for a directive**  
**Recital 19**



*Text proposed by the Commission*

(19) Since this Directive aims to provide for a list of customs infringements common to all Member States and for the basis for effective, dissuasive and proportionate sanctions to be imposed by Member States in the area of the customs union, ***which is fully harmonised***, those objectives cannot be sufficiently achieved by the Member States based on their different legal traditions, but can rather, by reason of the scale and effect, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity, as set out in Article 5 of the Treaty on the European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary to achieve those objectives.

*Amendment*

(19) Since this Directive aims to provide for a list of customs infringements common to all Member States and for the basis for effective, dissuasive and proportionate sanctions to be imposed by Member States in the area of the customs union, those objectives cannot be sufficiently achieved by the Member States based on their different legal traditions, but can rather, by reason of the scale and effect, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity, as set out in Article 5 of the Treaty on the European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary to achieve those objectives.

Or. en

*Justification*

*Alignment with minimum harmonisation AM*

**Amendment 78**  
**Virginie Rozière**

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

*Text proposed by the Commission*

1. This Directive ***establishes a*** framework concerning ***the*** infringements of Union customs legislation and provides for sanctions for those infringements.

*Amendment*

1. This Directive ***seeks to contribute to the proper functioning of the internal market and to lay down the*** framework concerning infringements of Union customs legislation, and ***it*** provides for ***non-criminal*** sanctions for those infringements ***by approximating the provisions laid down by law, regulation, or administrative action in Member States.***

*Justification*

*Because Article 114 has been added to the legal basis, the wording of Article 1 needs to be changed as shown above.*

**Amendment 79**  
**Virginie Rozière**

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

*Text proposed by the Commission*

*Amendment*

***This Directive is without prejudice to national provisions on:***

***(a) criminal sanctions for customs infringements;***

***(b) customs sanctions in cases of strict liability; and***

***(c) the burden of proof.***

Or. fr

*Justification*

*To make for greater legal certainty, the scope of the directive needs to be clarified.*

**Amendment 80**  
**Julia Reda**

**Proposal for a directive**  
**Article 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***Article 1a***

***Level of harmonisation***

***Member States may adopt or retain more stringent national provisions compatible with the Treaty in the area covered by this***

***Directive.***

Or. en

*Justification*

*Minimum harmonisation*

**Amendment 81**

**Julia Reda**

**Proposal for a directive**

**Article 1 b (new)**

*Text proposed by the Commission*

*Amendment*

***Article 1b***

***Application of criminal sanctions***

***Member States may decide to apply criminal sanctions instead of, or in addition to, the administrative sanctions provided for in this Directive.***

Or. en

**Amendment 82**

**Virginie Rozière**

**Proposal for a directive**

**Article 2 – title**

*Text proposed by the Commission*

*Amendment*

Customs infringements and sanctions

Customs infringements and ***non-criminal customs*** sanctions

Or. fr

**Amendment 83**

**Virginie Rozière**

**Proposal for a directive**  
**Article 2**

*Text proposed by the Commission*

Member States shall lay down rules on sanctions in respect of the customs infringements set out in Articles 3 to 6.

*Amendment*

Member States shall lay down rules on ***non-criminal*** sanctions in respect of the customs infringements set out in Articles 3 to 6, ***where committed by negligence or intentionally.***

Or. fr

**Amendment 84**  
**Roberta Metsola**

**Proposal for a directive**  
**Article 2**

*Text proposed by the Commission*

Member States shall lay down rules on sanctions in respect of the customs infringements set out in Articles 3 to 6.

*Amendment*

Member States shall lay down rules on sanctions in respect of the customs infringements set out in Articles 3 to 6 ***in strict conformity with the ne bis in idem principle.***

Or. en

*Justification*

*This amendment reiterates the legal doctrine that no person should be penalised twice for the same offence.*

**Amendment 85**  
**Virginie Rozière**

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

*Text proposed by the Commission*

*Amendment*

***For the purposes of this Directive, ‘negligence’ means the failure to take reasonable measures, or the act of taking***

*measures which are manifestly insufficient, to avert harm where the risk of its occurrence is reasonably foreseeable.*

Or. fr

**Amendment 86**  
**Roberta Metsola, Andreas Schwab**

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

*Text proposed by the Commission*

*Amendment*

*Member States shall ensure that the acts or omissions set out in Articles 3 to 6 only constitute customs infringements where they are committed by negligence or intentionally.*

Or. en

*Justification*

*This amendment strengthens the point that only negligent or intentional actions constitutes a customs infringement.*

**Amendment 87**  
**Virginie Rozière**

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

*Text proposed by the Commission*

*Amendment*

*For the purposes of this Directive ‘intentionally’ means the fact of acting with guilty intent, that is to say, a wilful and conscious intention to contravene customs legislation.*

Or. fr

**Amendment 88**  
**Roberta Metsola**

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

*Text proposed by the Commission*

*Amendment*

***Clerical errors or mistakes committed without negligence or intent shall not constitute a customs infringement.***

Or. en

*Justification*

*This amendment strengthens the point that only negligent or intentional actions constitutes a customs infringement in cases of clerical errors or mistakes.*

**Amendment 89**  
**Virginie Rozière, Evelyne Gebhardt, Kerstin Westphal**

**Proposal for a directive**  
**Article 3 – title**

*Text proposed by the Commission*

*Amendment*

***Strict liability*** customs infringements

***Minor*** customs infringements

Or. fr

**Amendment 90**  
**Roberta Metsola**

**Proposal for a directive**  
**Article 3 – title**

*Text proposed by the Commission*

*Amendment*

***Strict liability*** customs infringements

***Minor*** customs infringements

Or. en

### *Justification*

*This amendment removes any reference to strict liability customs infringements, also in light of the principle of presumption of innocence.*

#### **Amendment 91**

**Kaja Kallas**

#### **Proposal for a directive**

##### **Article 3 – title**

*Text proposed by the Commission*

*Amendment*

***Strict liability*** customs infringements

Customs infringements

Or. en

### *Justification*

*There is one list of infringements to ensure that custom authorities assess all the relevant circumstances that determine whether an infringement is minor or serious*

#### **Amendment 92**

**Nicola Danti**

#### **Proposal for a directive**

##### **Article 3 – introductory part**

*Text proposed by the Commission*

*Amendment*

Member States shall ensure that the following acts or omissions constitute customs infringements ***irrespective of any element of fault:***

Member States shall ensure that the following acts or omissions constitute ***minor*** customs infringements ***except where they have harmed control activity or action to recover duties. In these latter cases the infringements listed in this Article shall be considered serious within the meaning of Article 5 of this Directive.***

Or. it

#### **Amendment 93**

**Virginie Rozière, Evelyne Gebhardt, Kerstin Westphal**

**Proposal for a directive**  
**Article 3 – introductory part**

*Text proposed by the Commission*

Member States shall ensure that the following acts or omissions constitute customs infringements ***irrespective of any element of fault***:

*Amendment*

Member States shall ensure that the following acts or omissions constitute ***minor*** customs infringements:

Or. fr

**Amendment 94**  
**Roberta Metsola**

**Proposal for a directive**  
**Article 3 – introductory part**

*Text proposed by the Commission*

Member States shall ensure that the following acts or omissions constitute customs infringements ***irrespective of any element of fault***:

*Amendment*

Member States shall ensure that the following acts or omissions constitute ***minor*** customs infringements:

Or. en

*Justification*

*This amendment removes any reference to strict liability customs infringements, also in light of the principle of presumption of innocence.*

**Amendment 95**  
**Kaja Kallas**

**Proposal for a directive**  
**Article 3 – introductory part**

*Text proposed by the Commission*

Member States shall ensure that the following acts or omissions constitute customs infringements ***irrespective of any***

*Amendment*

Member States shall ensure that the following acts or omissions constitute customs infringements:



*element of fault:*

Or. en

*Justification*

*There is one list of infringements to ensure that custom authorities assess all the relevant circumstances that determine whether an infringement is minor or serious*

**Amendment 96**

**Virginie Rozière, Evelyne Gebhardt**

**Proposal for a directive**

**Article 3 – point c a (new)**

*Text proposed by the Commission*

*Amendment*

*(ca) failure of the economic operator responsible for non-Union goods which are in temporary storage to place those goods under a customs procedure or to re-export them within the time limit in accordance with Article 149 of the Code;*

Or. fr

**Amendment 97**

**Virginie Rozière, Evelyne Gebhardt**

**Proposal for a directive**

**Article 3 – point c b (new)**

*Text proposed by the Commission*

*Amendment*

*(cb) failure of the economic operator to provide customs authorities with all the assistance necessary for the completion of the customs formalities or controls in accordance with Article 15(1) of the Code;*

Or. fr

**Amendment 98**  
**Virginie Rozière, Evelyne Gebhardt, Kerstin Westphal**

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

*Text proposed by the Commission*

*Amendment*

*(cc) failure of the holder of a decision relating to the application of customs legislation to comply with the obligations resulting from that decision in accordance with Article 23(1) of the Code;*

Or. fr

**Amendment 99**  
**Virginie Rozière, Evelyne Gebhardt**

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

*Text proposed by the Commission*

*Amendment*

*(cd) failure of the holder of a decision relating to the application of customs legislation to inform the customs authorities without delay of any factor arising after the decision was taken by those authorities which influences its continuation or content in accordance with Article 23(2) of the Code;*

Or. fr

**Amendment 100**  
**Andreas Schwab, Roberta Metsola**

**Proposal for a directive**  
**Article 3 – point g**

*Text proposed by the Commission*

*Amendment*

(g) failure of a person bringing goods into the customs territory of the Union to

(g) failure of a person bringing goods into the customs territory of the Union to

comply with the obligations relating to the conveyance of the goods in the appropriate place in accordance with Article 135(1) of the Code, or to inform customs authorities when the obligations cannot be complied with in accordance with Article 137(1) and (2) of the Code;

comply with the obligations relating to the conveyance of the goods in the appropriate place in accordance with Article 135(1) of the Code, or to inform customs authorities ***immediately*** when the obligations cannot be complied with in accordance with Article 137(1) and (2) of the Code ***and of the whereabouts of the goods***;

Or. de

#### *Justification*

*The additions are needed to ensure that obligations laid down in Article 137 of the UCC are correctly cited.*

#### **Amendment 101**

**Andreas Schwab, Roberta Metsola**

#### **Proposal for a directive Article 3 – point j**

##### *Text proposed by the Commission*

(j) failure of the ***economic operator*** responsible for non-Union goods which are in temporary storage to place those goods under a customs procedure or to re-export them within the time limit in accordance with Article 149 of the Code;

##### *Amendment*

(j) failure of the ***person keeping the goods in its approved storage facility or in other places designated or approved by the customs authorities*** responsible for non-Union goods which are in temporary storage to place those goods under a customs procedure or to re-export them within the time limit in accordance with Article 149 of the Code;

Or. de

#### *Justification*

*Deletion of the term 'economic operator' - responsibility rests with the person keeping the goods in its approved storage facility or in other places designated or approved by the customs authorities (Article 147(3)(b) of the UCC). This definition is narrower than that of 'economic operator' given in Article 5(5) of the UCC (person who, in the course of his or her business, is involved in activities covered by the customs legislation). It is not clear who exactly is covered by the term 'economic operator'.*

**Amendment 102**  
**Andreas Schwab, Roberta Metsola**

**Proposal for a directive**  
**Article 3 – point o**

*Text proposed by the Commission*

*Amendment*

*(o) failure of the holder of the outward  
processing procedure to export the  
defective goods within the time limit in  
accordance with Article 262 of the Code;* *deleted*

Or. de

*Justification*

*This provision is unnecessary given the requirement to provide a guarantee in respect of import duties (Article 262(1), second subparagraph, of the UCC).*

**Amendment 103**  
**Andreas Schwab, Roberta Metsola**

**Proposal for a directive**  
**Article 3 – point p**

*Text proposed by the Commission*

*Amendment*

*(p) construction of a building in a free zone  
without the approval of the customs  
authorities in accordance with Article  
244(1) of the Code;*

*(p) construction of a building in a free zone  
without the **prior** approval of the customs  
authorities in accordance with Article  
244(1) of the Code;*

Or. de

*Justification*

*For the sake of consistency with the wording of Article 244(1) of the UCC.*

**Amendment 104**  
**Andreas Schwab, Roberta Metsola**

**Proposal for a directive**  
**Article 3 – point q**

*Text proposed by the Commission*

*Amendment*

***(q) non-payment of import or export duties by the person liable to pay within the period prescribed in accordance with Article 108 of the Code.***

***deleted***

Or. de

*Justification*

*This provision is unnecessary, given the scope for enforcing payment and charging interest on arrears (Article 113 and 114 of the UCC).*

## **Amendment 105**

**Kaja Kallas**

**Proposal for a directive**

**Article 3 – points q a to q l (new)**

*Text proposed by the Commission*

*Amendment*

***(qa) failure of an economic operator to supply, in response to a request by the customs authorities, the requisite documents and information in an appropriate form, and to provide all the assistance necessary for the completion of the customs formalities or controls referred to in Article 15(1) of the Code;***

***(qb) failure of the holder of a decision relating to the application of customs legislation to comply with the obligations resulting from that decision in accordance with Article 23(1) of the Code;***

***(qc) failure of the holder of a decision relating to the application of customs legislation to inform the customs authorities without delay of any factor arising after the decision was taken by those authorities which influences its continuation or content, in accordance with Article 23(2) of the Code;***

***(qd) failure of the holder of the Union***

*transit procedure to present the goods intact at the customs office of destination within the prescribed time-limit in accordance with point (a) of Article 233(1) of the Code;*

*(qe) unloading or trans-shipping of goods from the means of transport carrying them without authorisation granted by the customs authorities or in places not designated or approved by those authorities in accordance with Article 140 of the Code;*

*(qf) storage of goods in temporary storage facilities or customs warehouses without authorisation granted by the customs authorities in accordance with Articles 147 and 148 of the Code;*

*(qg) failure of the holder of the authorisation or the holder of the procedure to fulfil the obligations arising from the storage of goods covered by the customs warehousing procedure in accordance with points (a) and (b) of Article 242(1) of the Code;*

*(qh) providing customs authorities with false information or documents required by those authorities in accordance with Articles 15 or 163 of the Code;*

*(qi) the use of false statements or any other irregular means by an economic operator in order to obtain an authorisation from the customs authorities:*

*(i) to become an authorised economic operator in accordance with Article 38 of the Code,*

*(ii) to make use of a simplified declaration in accordance with Article 166 of the Code,*

*(iii) to make use of other customs simplifications in accordance with Articles 177, 179, 182, 185 of the Code,*

*(iv) to place the goods under special procedures in accordance with Article 211*

*of the Code;*

*(qj) introduction or exit of goods into or from the customs territory of the Union without presenting them to customs authorities in accordance with Articles 139, 245 or Article 267(2) of the Code;*

*(qk) processing of goods in a customs warehouse without an authorisation granted by the customs authorities in accordance with Article 241 of the Code;*

*(ql) acquiring or holding goods involved in one of the customs infringements set out in point (f) of Article 4 and point (c) of this Article.*

Or. en

### *Justification*

*Articles 4 and 5 are deleted and therefore the infringements listed in these articles are reintroduced in art 3. The initial art 4 e), g), h) are not reintroduced as they correspond to the initial art 5c) and now art 3 za) The initial art 4 a) is not reintroduced as it corresponds to art 3) j) Art 4 c) and d) and art 5 d) and e) are reintroduced only once and correspond to respectively art 3 s) and art 3 t)*

## **Amendment 106**

**Virginie Rozière, Evelyne Gebhardt, Kerstin Westphal**

### **Proposal for a directive**

#### **Article 4**

*Text proposed by the Commission*

*Amendment*

#### **Article 4**

**deleted**

***Customs infringements committed by negligence***

***Member States shall ensure that the following acts or omissions constitute customs infringements where committed by negligence:***

***(a) failure of the economic operator responsible for non-Union goods which are in temporary storage to place those goods under a customs procedure or to re-***

*export them within the time limit in accordance with Article 149 of the Code;*

*(b) failure of the economic operator to provide customs authorities with all the assistance necessary for the completion of the customs formalities or controls in accordance with Article 15(1) of the Code;*

*(c) failure of the holder of a decision relating to the application of customs legislation to comply with the obligations resulting from that decision in accordance with Article 23(1) of the Code;*

*(d) failure of the holder of a decision relating to the application of customs legislation to inform the customs authorities without delay of any factor arising after the decision was taken by those authorities which influences its continuation or content in accordance with Article 23(2) of the Code;*

*(e) failure of the economic operator to present the goods brought into the customs territory of the Union to the customs authorities in accordance with Article 139 of the Code;*

*(f) failure of the holder of the Union transit procedure to present the goods intact at the customs office of destination within the prescribed time limit in accordance with Article 233(1)(a) of the Code;*

*(g) failure of the economic operator to present the goods brought into a free zone to customs in accordance with Article 245 of the Code;*

*(h) failure of the economic operator to present the goods to be taken out of the customs territory of the Union to customs on exit in accordance with Article 267(2) of the Code;*

*(i) unloading or trans-shipping of goods from the means of transport carrying them without authorisation granted by the customs authorities or in places not*



*designated or approved by those authorities in accordance with Article 140 of the Code;*

*(j) storage of goods in temporary storage facilities or customs warehouses without authorisation granted by the customs authorities in accordance with Articles 147 and 148;*

*(k) failure of the holder of the authorisation or the holder of the procedure to fulfil the obligations arising from the storage of goods covered by the customs warehousing procedure in accordance with points (a) and (b) of Article 242(1) of the Code.*

Or. fr

**Amendment 107**  
**Roberta Metsola**

**Proposal for a directive**  
**Article 4 – point b**

*Text proposed by the Commission*

(b) failure of ***the*** economic operator to ***provide*** customs authorities ***with*** all the assistance necessary for the completion of the customs formalities or controls in accordance with Article 15(1) of the Code;

*Amendment*

(b) failure of ***an*** economic operator to ***supply, in response to a request by the*** customs authorities, ***the requisite documents and information in an appropriate form and within a reasonable time, and*** to provide all the assistance necessary for the completion of the customs formalities or controls in accordance with Article 15(1) of the Code;

Or. en

*Justification*

*This amendment clarifies that the competent authorities should allow reasonable time for operators to supply such documents or information before a customs infringement is deemed to have been constituted.*

**Amendment 108**  
**Roberta Metsola**

**Proposal for a directive**  
**Article 4 – point d**

*Text proposed by the Commission*

*Amendment*

*(d) failure of the holder of a decision relating to the application of customs legislation to inform the customs authorities without delay of any factor arising after the decision was taken by those authorities which influences its continuation or content in accordance with Article 23(2) of the Code;* *deleted*

Or. en

*Justification*

*This customs infringement has been shifted to serious infringements in another section of this Directive by the rapporteur.*

**Amendment 109**  
**Kaja Kallas**

**Proposal for a directive**  
**Article 5**

*Text proposed by the Commission*

*Amendment*

*Article 5* *deleted*

*Customs infringements committed intentionally*

*Member States shall ensure that the following acts or omissions constitute customs infringements where committed intentionally:*

*(a) providing customs authorities with false information or documents required by those authorities in accordance with Articles 15 or 163 of the Code;*

*(b) the use of false statements or any other irregular means by an economic*

*operator in order to obtain an authorisation from the customs authorities:*

*(i) to become an authorised economic operator in accordance with Article 38 of the Code,*

*(ii) to make use of a simplified declaration in accordance with Article 166 of the Code,*

*(iii) to make use of other customs simplifications in accordance with Articles 177, 179, 182, 185 of the Code,*

*(iv) to place the goods under special procedures in accordance with Article 211 of the Code;*

*(c) introduction or exit of goods into or from the customs territory of the Union without presenting them to customs authorities in accordance with Articles 139, 245, or Article 267(2) of the Code;*

*(d) failure of the holder of a decision relating to the application of customs legislation to comply with the obligations resulting from that decision in accordance with Article 23(1) of the Code;*

*(e) failure of the holder of a decision relating to the application of customs legislation to inform the customs authorities without delay of any factor arising after the decision was taken by those authorities which influences its continuation or content in accordance with Article 23(2) of the Code;*

*(f) processing of goods in a customs warehouse without an authorisation granted by the customs authorities in accordance with Article 241 of the Code;*

*(g) acquiring or holding goods involved in one of the customs infringements set out in point (f) of Article 4 and point (c) of this Article.*

Or. en

#### **Amendment 110**

**Virginie Rozière, Evelyne Gebhardt, Kerstin Westphal**

#### **Proposal for a directive**

##### **Article 5 – title**

*Text proposed by the Commission*

*Amendment*

Customs infringements ***committed intentionally***

***Serious*** customs infringements

Or. fr

#### **Amendment 111**

**Virginie Rozière, Evelyne Gebhardt, Kerstin Westphal**

#### **Proposal for a directive**

##### **Article 5 – introductory part**

*Text proposed by the Commission*

*Amendment*

Member States shall ensure that the following acts or omissions constitute customs infringements ***where committed intentionally***:

Member States shall ensure that the following acts or omissions constitute ***serious*** customs infringements:

Or. fr

#### **Amendment 112**

**Andreas Schwab, Roberta Metsola**

#### **Proposal for a directive**

##### **Article 5 – point b – introductory part**

*Text proposed by the Commission*

*Amendment*

(b) the use of ***false statements or any other irregular means*** by an economic operator in order to obtain an authorisation from the customs authorities:

(b) the use of ***inaccurate or incomplete information or inauthentic, inaccurate or invalid documents*** by an economic operator in order to obtain an authorisation from the customs authorities:

Or. de

### *Justification*

*On the basis of the original wording, the infringement does not tally with any requirement under the UCC (cf. EC 6) and the term 'other irregular means' is not sufficiently clearly defined. The infringement should be based on Article 15(2)(a) and (b) of the UCC and the wording should be brought into line with those provisions.*

#### **Amendment 113**

**Andreas Schwab, Roberta Metsola**

#### **Proposal for a directive**

##### **Article 5 – point c**

#### *Text proposed by the Commission*

(c) introduction or exit of goods into or from the customs territory of the Union without presenting them to customs authorities in accordance with Articles 139, 245, or Article 267(2) of the Code;

#### *Amendment*

(c) introduction or exit of goods into or from the customs territory of the Union without presenting them to customs authorities ***in good time*** in accordance with Articles 139, 245, or Article 267(2) of the Code;

Or. de

### *Justification*

*Addition of the words 'in good time' (cf. Article 139(1) of the UCC: 'immediately', and Article 267(2) of the UCC: 'on exit').*

#### **Amendment 114**

**Virginie Rozière, Evelyne Gebhardt**

#### **Proposal for a directive**

##### **Article 5 – point e a (new)**

#### *Text proposed by the Commission*

#### *Amendment*

***(ea) failure of the economic operator to present the goods brought into the customs territory of the Union to the customs authorities in accordance with Article 139 of the Code;***

Or. fr

**Amendment 115**

**Virginie Rozière, Evelyne Gebhardt**

**Proposal for a directive**

**Article 5 – point e b (new)**

*Text proposed by the Commission*

*Amendment*

*(eb) failure of the holder of the Union transit procedure to present the goods intact at the customs office of destination within the prescribed time limit in accordance with Article 233(1)(a) of the Code;*

Or. fr

**Amendment 116**

**Virginie Rozière, Evelyne Gebhardt**

**Proposal for a directive**

**Article 5 – point e c (new)**

*Text proposed by the Commission*

*Amendment*

*(ec) failure of the economic operator to present the goods brought into a free zone to customs in accordance with Article 245 of the Code;*

Or. fr

**Amendment 117**

**Virginie Rozière, Evelyne Gebhardt**

**Proposal for a directive**

**Article 5 – point e d (new)**

*Text proposed by the Commission*

*Amendment*

*(ed) failure of the economic operator to present the goods to be taken out of the customs territory of the Union to customs on exit in accordance with Article 267(2)*

*of the Code;*

Or. fr

**Amendment 118**

**Virginie Rozière, Evelyne Gebhardt**

**Proposal for a directive**

**Article 5 – point e e (new)**

*Text proposed by the Commission*

*Amendment*

*(ee) unloading or trans-shipping of goods from the means of transport carrying them without authorisation granted by the customs authorities or in places not designated or approved by those authorities in accordance with Article 140 of the Code;*

Or. fr

**Amendment 119**

**Virginie Rozière, Evelyne Gebhardt**

**Proposal for a directive**

**Article 5 – point f a (new)**

*Text proposed by the Commission*

*Amendment*

*(fa) storage of goods in temporary storage facilities or customs warehouses without authorisation granted by the customs authorities in accordance with Articles 147 and 148 of the Code;*

Or. fr

**Amendment 120**

**Virginie Rozière, Evelyne Gebhardt**

**Proposal for a directive**

**Article 5 – point f b (new)**

*Text proposed by the Commission*

*Amendment*

***(fb) failure of the holder of the authorisation or the holder of the procedure to fulfil the obligations arising from the storage of goods covered by the customs warehousing procedure in accordance with points (a) and (b) of Article 242(1) of the Code;***

Or. fr

**Amendment 121**

**Andreas Schwab, Roberta Metsola**

**Proposal for a directive**

**Article 5 – point g**

*Text proposed by the Commission*

*Amendment*

***(g) acquiring or holding goods involved in one of the customs infringements set out in point (f) of Article 4 and point (c) of this Article.*** ***deleted***

Or. de

*Justification*

*Deleted, as it does not tally with any requirement under the UCC and no longer appeared in the list of sanctions (EU document 1141/15 of 9 March 2015).*

**Amendment 122**

**Maria Grapini**

**Proposal for a directive**

**Article 7**

*Text proposed by the Commission*

*Amendment*

The acts or omissions referred to in Articles 3 to 6 do not constitute customs infringements where they occur as a result of an error on the part of the customs

The acts or omissions referred to in Articles 3 to 6 do not constitute customs infringements where they occur as a result of an error on the part of the customs authorities, ***and the customs authorities***



authorities.

*shall be liable where errors cause damage.*

Or. ro

## **Amendment 123**

**Virginie Rozière**

### **Proposal for a directive**

#### **Article 8 – paragraph 1 – introductory part**

##### *Text proposed by the Commission*

1. Member States shall ensure that legal persons are held liable for customs infringements committed for their benefit 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 any of the following:

##### *Amendment*

1. Member States shall ensure that legal persons are held liable for customs infringements *as referred to in Articles 3 to 6* committed for their benefit 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 any of the following:

Or. fr

## **Amendment 124**

**Virginie Rozière**

### **Proposal for a directive**

#### **Article 8 – paragraph 2**

##### *Text proposed by the Commission*

2. Member States shall also ensure that legal persons are held liable where the lack of supervision or control by a person referred to in paragraph 1 has made possible the commission of a customs infringement for the benefit of that legal person by a person under the authority of the person referred to in paragraph 1.

##### *Amendment*

*(Does not affect the English version.)*

Or. fr

**Amendment 125**  
**Virginie Rozière**

**Proposal for a directive**  
**Article 8 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***3a. For the purpose of this Directive, ‘legal person’ shall mean any entity having legal personality under the applicable law, except for States or public bodies in the exercise of State authority and for public international organisations.***

Or. fr

**Amendment 126**  
**Julia Reda**

**Proposal for a directive**  
**Article 9 – title**

*Text proposed by the Commission*

*Amendment*

Sanctions for customs infringements referred to in **Article 3**

***Administrative*** sanctions for customs infringements referred to in **Articles 3 to 6**

Or. en

**Amendment 127**  
**Julia Reda**

**Proposal for a directive**  
**Article 9 – introductory part**

*Text proposed by the Commission*

*Amendment*

Member States shall ensure that effective, proportionate and dissuasive sanctions are imposed for the customs infringements referred to in **Article 3** ***within*** the following ***limits***:

Member States shall ensure that effective, proportionate and dissuasive ***administrative*** sanctions are imposed for the customs infringements referred to in **Articles 3 to 6** ***and may decide to impose any sanction or combination of sanctions***

*from the following list:*

*(a) permanent or temporary confiscation of the goods;*

*(b) permanent or temporary revocation of the status of authorised economic operator;*

*(c) pecuniary fine of up to 100% of the duties evaded;*

*(d) pecuniary fine of up to 100% of the value of the goods in the intended market for those goods;*

*(e) pecuniary fine unrelated to the duties or value of the goods but proportionate to the severity and other circumstances of the infringement.*

Or. en

## **Amendment 128**

**Kaja Kallas**

### **Proposal for a directive**

#### **Article 9 – introductory part**

##### *Text proposed by the Commission*

Member States shall ensure that effective, proportionate **and** dissuasive sanctions are imposed for **the** customs infringements referred to in Article 3 within the following limits:

##### *Amendment*

Member States shall ensure that effective, proportionate, dissuasive **and non-criminal** sanctions are imposed for **those** customs infringements referred to in Article 3 **that are considered minor in accordance with Article 11a**, within the following limits:

Or. en

## **Amendment 129**

**Roberta Metsola**

### **Proposal for a directive**

#### **Article 9 – introductory part**

*Text proposed by the Commission*

Member States shall ensure that effective, proportionate **and** dissuasive sanctions are imposed for the customs infringements referred to in Article 3 within the following limits:

*Amendment*

Member States shall ensure that effective, proportionate, dissuasive **and non-criminal** sanctions are imposed for the customs infringements referred to in Article 3 **in addition to recovering the duties evaded**, within the following limits:

Or. en

*Justification*

*This amendment further clarifies that this Directive will only harmonise administrative sanctions. Furthermore, it also clarifies that the imposition of sanctions is over and above the efforts of the competent authorities to recover 100% of the duties evaded.*

**Amendment 130**  
**Virginie Rozière**

**Proposal for a directive**  
**Article 9 – introductory part**

*Text proposed by the Commission*

Member States shall ensure that effective, proportionate and dissuasive sanctions are imposed for the customs infringements referred to in Article 3 within the following limits:

*Amendment*

Member States shall ensure that effective, proportionate and dissuasive sanctions, **not governed by criminal law**, are imposed for the customs infringements referred to in Article 3 within the following limits:

Or. fr

**Amendment 131**  
**Julia Reda**

**Proposal for a directive**  
**Article 9 – point a**

*Text proposed by the Commission*

**(a) where the customs infringement relates to specific goods, a pecuniary fine from 1 % up to 5 % of the value of the**

*Amendment*

**deleted**

*goods;*

Or. en

## **Amendment 132**

**Nicola Danti**

### **Proposal for a directive**

#### **Article 9 – point a**

*Text proposed by the Commission*

*Amendment*

(a) where the customs infringement relates to specific goods, a pecuniary fine ***from 1% up to 5% of the value of the goods;***

(a) where the customs infringement relates to specific goods, a pecuniary fine up to ***100% of the duties evaded; or***

Or. it

## **Amendment 133**

**Roberta Metsola**

### **Proposal for a directive**

#### **Article 9 – point a**

*Text proposed by the Commission*

*Amendment*

(a) where the customs infringement ***relates to specific goods***, a pecuniary fine ***from 1 % up to 5 % of the value of the goods;***

(a) where the customs infringement ***is linked to the duties evaded***, a pecuniary fine ***of up to 50% of the duties evaded;***

Or. en

#### *Justification*

*This amendment links the sanctions to the duties evaded instead on the value of the goods. Furthermore, it also clarifies that this sanction should be used by competent authorities in cases where the customs infringement is linked to duties evaded.*

## **Amendment 134**

**Maria Grapini**

**Proposal for a directive**  
**Article 9 – point a**

*Text proposed by the Commission*

(a) where the customs infringement relates to specific goods, a pecuniary fine from 1 % up to 5 % of the value of the goods;

*Amendment*

(a) where the customs infringement relates to specific goods, a pecuniary fine from 1 % up to 5 % of the value of the goods, ***depending on the seriousness of the infringement and the damage caused;***

Or. ro

**Amendment 135**  
**Julia Reda**

**Proposal for a directive**  
**Article 9 – point b**

*Text proposed by the Commission*

***(b) where the customs infringement is not related to specific goods, a pecuniary fine from EUR 150 up to EUR 7 500.***

*Amendment*

***deleted***

Or. en

**Amendment 136**  
**Roberta Metsola, Andreas Schwab**

**Proposal for a directive**  
**Article 9 – point b**

*Text proposed by the Commission*

(b) where the customs infringement is not ***related to specific goods***, a pecuniary fine ***from EUR 150*** up to EUR 7 500.

*Amendment*

(b) where the customs infringement is not ***linked to the duties evaded***, a pecuniary fine ***of*** up to EUR 7 500.

Or. en

*Justification*

*This amendment links the sanctions to the duties evaded instead on the value of the goods.*

*Furthermore, it also clarifies that this sanction should be used by competent authorities in cases where the customs infringement is not linked to duties evaded. This amendment also removed the minimum threshold for a pecuniary fine as the level of the fine is best dealt with at a Member State level.*

#### **Amendment 137**

**Maria Grapini**

#### **Proposal for a directive**

##### **Article 9 – point b**

*Text proposed by the Commission*

(b) where the customs infringement is not related to specific goods, a pecuniary fine from EUR 150 up to EUR 7 500.

*Amendment*

(b) where the customs infringement is not related to specific goods, a pecuniary fine from EUR 150 up to EUR 7 500, ***in line with clear criteria relating to the damage caused.***

Or. ro

#### **Amendment 138**

**Julia Reda**

#### **Proposal for a directive**

##### **Article 9 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***In the case of the first or a minor infringement only, Member States may choose to help economic operators to correct the reason(s) for the infringement instead of resorting to sanctions.***

Or. en

#### **Amendment 139**

**Julia Reda**

#### **Proposal for a directive**

##### **Article 9 – paragraph 1 b (new)**

*Text proposed by the Commission*

*Amendment*

***In the case of repeat offences or aggravating circumstances surrounding an offence, Member States may choose to apply a multiplier to the pecuniary fines provided for in the first paragraph.***

Or. en

**Amendment 140**

**Virginie Rozière, Nicola Danti**

**Proposal for a directive**

**Article 10**

*Text proposed by the Commission*

*Amendment*

***Article 10***

***deleted***

***Sanctions for customs infringements referred to in Article 4***

***Member States shall ensure that effective, proportionate and dissuasive sanctions are imposed for the customs infringements referred to in Article 4 within the following limits:***

***a) where the customs infringement relates to specific goods, a pecuniary fine up to 15 % of the value of the goods;***

***b) where the customs infringement is not related to specific goods, a pecuniary fine up to EUR 22 500.***

Or. fr

**Amendment 141**

**Julia Reda**

**Proposal for a directive**

**Article 10**



*Text proposed by the Commission*

*Amendment*

**Article 10**

***deleted***

***Sanctions for customs infringements  
referred to in Article 4***

***Member States shall ensure that effective,  
proportionate and dissuasive sanctions  
are imposed for the customs  
infringements referred to in Article 4  
within the following limits:***

***(a) where the customs infringement  
relates to specific goods, a pecuniary fine  
up to 15 % of the value of the goods;***

***(b) where the customs infringement is not  
related to specific goods, a pecuniary fine  
up to EUR 22 500.***

Or. en

*Justification*

*Please see AM on Art 9*

**Amendment 142**

**Julia Reda**

**Proposal for a directive**

**Article 11**

*Text proposed by the Commission*

*Amendment*

**Article 11**

***deleted***

***Sanctions for customs infringements  
referred to in Article 5 and 6***

***Member States shall ensure that effective,  
proportionate and dissuasive sanctions  
are imposed for the customs  
infringements referred to in Articles 5 and  
6 within the following limits:***

***(a) where the customs infringement  
relates to specific goods, a pecuniary fine  
up to 30 % of the value of the goods;***

*(b) where the customs infringement is not related to specific goods, a pecuniary fine up to EUR 45 000.*

Or. en

*Justification*

*Please see AM Art 9*

**Amendment 143**

**Kaja Kallas**

**Proposal for a directive**

**Article 11 – introductory part**

*Text proposed by the Commission*

Member States shall ensure that effective, proportionate **and** dissuasive sanctions are imposed for **the** customs infringements referred to in **Articles 5 and 6** within the following limits:

*Amendment*

Member States shall ensure that effective, proportionate, dissuasive **and non-criminal** sanctions are imposed for **those** customs infringements referred to in **Article 3 that are considered serious in accordance with Article 12**, within the following limits:

Or. en

**Amendment 144**

**Roberta Metsola**

**Proposal for a directive**

**Article 11 – introductory part**

*Text proposed by the Commission*

Member States shall ensure that effective, proportionate **and** dissuasive sanctions are imposed for the customs infringements referred to in Articles 5 and 6 within the following limits:

*Amendment*

Member States shall ensure that effective, proportionate, dissuasive **and non-criminal** sanctions are imposed for the customs infringements referred to in Articles 5 and 6 **in addition to recovering the duties evaded**, within the following limits:

*Justification*

*This amendment further clarifies that this Directive will only harmonise administrative sanctions. Furthermore, it also clarifies that the imposition of sanctions is over and above the efforts of the competent authorities to recover 100% of the duties evaded.*

**Amendment 145**  
**Virginie Rozière**

**Proposal for a directive**  
**Article 11 – introductory part**

*Text proposed by the Commission*

Member States shall ensure that effective, proportionate and dissuasive sanctions are imposed for the customs infringements referred to in Articles 5 and 6 within the following limits:

*Amendment*

Member States shall ensure that effective, proportionate and dissuasive sanctions, ***not governed by criminal law***, are imposed for the customs infringements referred to in Articles 5 and 6 within the following limits:

Or. fr

**Amendment 146**  
**Kaja Kallas**

**Proposal for a directive**  
**Article 11 – point a**

*Text proposed by the Commission*

(a) ***where the customs infringement relates to specific goods***, a pecuniary fine up to ***30 %*** of the ***value of the goods***;

*Amendment*

(a) a pecuniary fine ***from 50%*** up to ***100 %*** of the ***duties evaded; or***

Or. en

*Justification*

*A minimum limit needs to be introduced to differentiate the sanction level between a minor and a serious infringement*

**Amendment 147**  
**Nicola Danti**

**Proposal for a directive**  
**Article 11 – point a**

*Text proposed by the Commission*

(a) where the customs infringement relates to specific goods, a pecuniary fine up to **30%** of the *value of the goods*;

*Amendment*

(a) where the customs infringement relates to specific goods, a pecuniary fine **from 100%** up to **400%** of the *duties evaded*; **or**

Or. it

**Amendment 148**  
**Roberta Metsola**

**Proposal for a directive**  
**Article 11 – point a**

*Text proposed by the Commission*

(a) where the customs infringement **relates to specific goods**, a pecuniary fine up to **30%** of the *value of the goods*;

*Amendment*

(a) where the customs infringement **is linked to the duties evaded**, a pecuniary fine **of** up to **100%** of the *duties evaded*;

Or. en

*Justification*

*This amendment links the sanctions to the duties evaded instead on the value of the goods. Furthermore, it also clarifies that this sanction should be used by competent authorities in cases where the customs infringement is linked to duties evaded.*

**Amendment 149**  
**Virginie Rozière**

**Proposal for a directive**  
**Article 11 – point a**

*Text proposed by the Commission*

a) where the customs infringement relates to specific goods, a pecuniary fine **up** to 30

*Amendment*

a) where the customs infringement relates to specific goods, a pecuniary fine **from**

% of the value of the goods;

**5%** to 30 % of the value of the goods;

Or. fr

## **Amendment 150**

**Kaja Kallas**

### **Proposal for a directive**

#### **Article 11 – point b**

*Text proposed by the Commission*

**(b) where the customs infringement is not related to specific goods, a pecuniary fine up to EUR 45 000.**

*Amendment*

**(b) a pecuniary fine from EUR 7 500 up to EUR 45 000.**

Or. en

#### *Justification*

*A minimum limit needs to be introduced to differentiate the sanction level between a minor and a serious infringement*

## **Amendment 151**

**Virginie Rozière, Nicola Danti**

### **Proposal for a directive**

#### **Article 11 – point b**

*Text proposed by the Commission*

**b) where the customs infringement is not related to specific goods, a pecuniary fine *up* to EUR 45 000.**

*Amendment*

**b) where the customs infringement is not related to specific goods, a pecuniary fine *from EUR 7 500* to EUR 45 000.**

Or. fr

## **Amendment 152**

**Roberta Metsola**

### **Proposal for a directive**

#### **Article 11 – point b**

*Text proposed by the Commission*

*Amendment*

(b) where the customs infringement is not ***related to specific goods***, a pecuniary fine up to EUR 45 000.

(b) where the customs infringement is not ***linked to the duties evaded***, a pecuniary fine ***of*** up to EUR 45 000.

Or. en

*Justification*

*This amendment links the sanctions to the duties evaded instead on the value of the goods. Furthermore, it also clarifies that this sanction should be used by competent authorities in cases where the customs infringement is not linked to duties evaded.*

**Amendment 153**

**Kaja Kallas**

**Proposal for a directive**

**Article 11 a (new)**

*Text proposed by the Commission*

*Amendment*

***Article 11a***

***Factors to be taken into account in assessing whether an infringement is minor***

***Member States shall ensure that, when determining whether an infringement is minor as well as the level of sanctions to be imposed for the customs infringements referred to in Article 3, the competent authorities take into account all relevant circumstances, including, where appropriate, any of the following factors that may apply:***

***(a) the infringement was committed by negligence;***

***(b) the effective cooperation of the person responsible for the infringement with the competent authority in the proceedings;***

***(c) voluntary disclosure of the infringement, provided that the infringement is not yet the subject of any***

*investigation activity of which the person responsible for the infringement has been formally notified;*

*(d) the person responsible for the infringement is able to show that he or she is making a significant effort to align with Union customs legislation by demonstrating a high level of control of his or her operations by means of a compliance system;*

*(g) the infringement has little or no impact on the amount of customs duties to be paid.*

Or. en

#### *Justification*

*These elements need to be taken into account in order to assess whether the infringement referred to in article 3 is considered as minor*

#### **Amendment 154**

**Roberta Metsola, Andreas Schwab**

#### **Proposal for a directive**

#### **Article 11 a (new)**

*Text proposed by the Commission*

*Amendment*

#### *Article 11a*

*Possibility of imposing criminal sanctions*

*Member States may opt to apply criminal sanctions where a customs infringement falls within their national laws providing for the imposition of criminal sanctions.*

Or. en

#### *Justification*

*This amendment reiterates the importance of subsidiarity when it comes to criminal sanctions.*

**Amendment 155**  
**Virginie Rozière**

**Proposal for a directive**  
**Article 11 a (new)**

*Text proposed by the Commission*

*Amendment*

**Article 11 a**

***Mitigating and aggravating circumstances***

***Member States shall ensure that when determining the type and the level of sanctions for the customs infringements referred to in Articles 3 to 6, the competent authorities take into account the following mitigating and aggravating circumstances:***

***a) Aggravating circumstances :***

***The amount of the sanction must be increased, with due regard for Articles 9 to 11, where the competent authorities or the courts find that there are aggravating circumstances, as follows:***

***i) where an identical or similar offence is continued or committed again;***

***ii) where the person responsible for the infringement is an authorised economic operator;***

***iii) where the amount of the evaded import or export duty is large;***

***iv) where the goods involved are subject to the prohibitions or restrictions referred to in the second sentence of Article 134(1) of the Code and in Article 267(3)(e) of the Code or pose a risk to public security;***

***v) where the person responsible for the infringement has refused to cooperate with the competent authority;***

***b) Mitigating circumstances:***

***The amount of the sanction must be reduced, with due regard for Articles 9 to 11, where the competent authorities or the courts find that there are mitigating circumstances, as follows:***



*i) where the person responsible for the infringement has genuinely cooperated with the competent authority;*

*ii) where the infringement has been disclosed voluntarily, provided that the infringement is not yet the subject of any investigation of which the person responsible for the infringement had formal knowledge.*

Or. fr

**Amendment 156**  
**Roberta Metsola, Andreas Schwab**

**Proposal for a directive**  
**Article 11 b (new)**

*Text proposed by the Commission*

*Amendment*

**Article 11b**

***Other non-criminal sanctions for customs infringements referred to in Articles 5 and 6***

***In addition to the sanctions listed in Articles 9 and 11, Member States may impose the following non-pecuniary sanctions where a serious infringement is committed:***

***(a) confiscation of goods;***

***(b) revocation of the status of authorised economic operator in the case of a serious infringement as referred to in Article 5 or in the case of a customs infringement which is committed more than once as referred to in Articles 3 to 6;***

***(c) suspension of an authorisation which has been granted.***

Or. en

### *Justification*

*This amendment is based on one of the amendments of the rapporteur. This amendment puts a limitation to other non-criminal sanctions, specifying that such sanctions should only be possible for more serious infringements. Furthermore, this amendment defines the term 'repeated' customs infringement.*

#### **Amendment 157**

**Kaja Kallas**

#### **Proposal for a directive**

#### **Article 12 – title**

*Text proposed by the Commission*

***Effective application of sanctions and exercise of powers to impose sanctions by competent authorities***

*Amendment*

***Factors to be taken into account in assessing whether an infringement is serious***

Or. en

### *Justification*

*These elements need to be taken into account in order to assess whether the infringement referred to in article 3 is considered as serious*

#### **Amendment 158**

**Roberta Metsola**

#### **Proposal for a directive**

#### **Article 12 – title**

*Text proposed by the Commission*

***Effective application of sanctions and exercise of powers to impose sanctions by competent authorities***

*Amendment*

***Aggravating circumstances***

Or. en

### *Justification*

*This amendment makes a specific and separate reference to aggravating circumstances.*

**Amendment 159**  
**Virginie Rozière**

**Proposal for a directive**  
**Article 12 – introductory part**

*Text proposed by the Commission*

*Member States shall ensure that when determining the type and the level of sanctions for the customs infringements referred to in Articles 3 to 6, the competent authorities shall take into account all relevant circumstances, including, where appropriate:*

*Amendment*

*Whatever the circumstances, including in the event of discharge, the courts cannot exempt the person liable for payment from payment of the sums defrauded or unduly obtained or from seizure of goods dangerous to health or morality and public security, counterfeit goods, or goods subject to quantitative restrictions.*

Or. fr

**Amendment 160**  
**Roberta Metsola**

**Proposal for a directive**  
**Article 12 – introductory part**

*Text proposed by the Commission*

Member States shall ensure that when determining the type and the level of sanctions for the customs infringements referred to in Articles 3 to 6, the competent authorities *shall* take into account *all relevant* circumstances, *including*, where *appropriate*:

*Amendment*

Member States shall ensure that, when determining the type and the level of sanctions for the customs infringements referred to in Articles 3 to 6, the competent authorities take into account *the following aggravating* circumstances, *resulting in the sanction being increased within the limits laid down in Articles 9 and 11. Aggravating circumstances shall also be taken into consideration from the very beginning of the process, that is to say, during the determination of whether a customs infringement has been committed and taking into account the principle of proportionality and the appropriateness of the sanctions.*

*The classification of the customs infringement in terms of its gravity and*

*the amount of the sanction to be imposed shall be increased within the limits laid down in this Directive where the competent authorities find that there are aggravating circumstances, such as:*

Or. en

#### *Justification*

*This amendment broadens the scope of aggravating circumstances to all the stages of a customs infringement: from the determination of an infringement to the imposition of sanctions.*

#### **Amendment 161**

**Kaja Kallas**

#### **Proposal for a directive**

#### **Article 12 – introductory part**

##### *Text proposed by the Commission*

Member States shall ensure that when determining *the type and* the level of sanctions for the customs infringements referred to in *Articles 3 to 6*, the competent authorities *shall* take into account *all relevant* circumstances, *including, where appropriate:*

##### *Amendment*

Member States shall ensure that, when determining *whether an infringement is serious as well as* the level of sanctions *to be imposed* for the customs infringements referred to in *Article 3*, the competent authorities take into account *any of the following* circumstances *that may apply:*

Or. en

#### **Amendment 162**

**Kaja Kallas**

#### **Proposal for a directive**

#### **Article 12 – point -a (new)**

##### *Text proposed by the Commission*

##### *Amendment*

*(-a) the infringement was committed with intent;*

Or. en

**Amendment 163**

**Virginie Rozière**

**Proposal for a directive**

**Article 12 – point a**

*Text proposed by the Commission*

*Amendment*

*a) the seriousness and the duration of the infringement;*

*deleted*

Or. fr

**Amendment 164**

**Maria Grapini**

**Proposal for a directive**

**Article 12 – point a**

*Text proposed by the Commission*

*Amendment*

(a) the seriousness and ***the*** duration of the infringement;

(a) the seriousness and duration of the infringement ***and the damage caused;***

Or. ro

**Amendment 165**

**Kaja Kallas**

**Proposal for a directive**

**Article 12 – point a**

*Text proposed by the Commission*

*Amendment*

(a) ***the seriousness and*** the duration of the infringement;

(a) the duration of the infringement;

Or. en

**Amendment 166**

**Roberta Metsola**

**Proposal for a directive**  
**Article 12 – point a a (new)**

*Text proposed by the Commission*

*Amendment*

***(aa) commission of the same or a similar  
or linked infringement;***

Or. en

*Justification*

*This amendment clarifies that linked infringements should also be considered as an aggravating circumstance.*

**Amendment 167**  
**Virginie Rozière**

**Proposal for a directive**  
**Article 12 – point b**

*Text proposed by the Commission*

*Amendment*

***b) the fact that the person responsible for  
the infringement is an authorized  
economic operator;*** ***deleted***

Or. fr

**Amendment 168**  
**Virginie Rozière**

**Proposal for a directive**  
**Article 12 – point c**

*Text proposed by the Commission*

*Amendment*

***c) the amount of the evaded import or  
export duty;*** ***deleted***

Or. fr

**Amendment 169**  
**Virginie Rozière**

**Proposal for a directive**  
**Article 12 – point d**

*Text proposed by the Commission*

*Amendment*

***d) the fact that the goods involved are subject to the prohibitions or restrictions referred to in the second sentence of Article 134(1) of the Code and in Article 267(3)(e) of the Code or pose a risk to public security;***

***deleted***

Or. fr

**Amendment 170**  
**Virginie Rozière**

**Proposal for a directive**  
**Article 12 – point e**

*Text proposed by the Commission*

*Amendment*

***e) the level of cooperation of the person responsible for the infringement with the competent authority;***

***deleted***

Or. fr

**Amendment 171**  
**Roberta Metsola, Andreas Schwab**

**Proposal for a directive**  
**Article 12 – point e**

*Text proposed by the Commission*

*Amendment*

**(e) *the level of cooperation of* the person responsible for the infringement with the competent authority;**

**(e) *refusal by* the person responsible for the infringement *to cooperate or to cooperate fully* with the competent authority;**

Or. en

*Justification*

*This amendment clarifies that both the outright refusal to cooperate with the competent authorities and partial cooperation can be considered as an aggravating circumstance.*

**Amendment 172**

**Virginie Rozière**

**Proposal for a directive**

**Article 12 – point f**

*Text proposed by the Commission*

*Amendment*

*f) previous infringements by the person responsible for the infringement.*

*deleted*

Or. fr

**Amendment 173**

**Kaja Kallas**

**Proposal for a directive**

**Article 12 a (new)**

*Text proposed by the Commission*

*Amendment*

**Article 12a**

**Settlement**

*Member States shall ensure the possibility of a settlement as a procedure allowing the competent authorities to enter into an agreement with the person responsible for the infringement to settle the matter of a customs infringement as an alternative to initiating or pursuing legal proceedings for the imposition of a sanction.*

*The Commission shall provide guidelines on settlement procedures to ensure that economic operators are given the opportunity of a settlement in a transparent and equal manner.*

Or. en



**Amendment 174**  
**Roberta Metsola**

**Proposal for a directive**  
**Article 12 a (new)**

*Text proposed by the Commission*

*Amendment*

**Article 12a**

***Mitigating circumstances***

***Member States shall ensure that, when determining the type and the level of sanctions to be imposed for customs infringements as referred to in Articles 3 to 6, the competent authorities take into account any of the following mitigating circumstances that may apply, resulting in the sanction being decreased within the limits laid down in Articles 9 and 11. Mitigating circumstances shall also be taken into consideration from the very beginning of the process, that is to say, during the determination of whether a customs infringement has been committed and taking into account the principle of proportionality and the appropriateness of the sanctions.***

***The classification of a customs infringement and the amount of the sanction to be imposed should be decreased within the limits laid down in this Directive where the competent authorities find that there are mitigating circumstances, such as:***

***(a) voluntary disclosure of the infringement, provided that the infringement is not yet the subject of any investigation of which the person responsible for the infringement has knowledge;***

***(b) the person responsible for the infringement is able to show that he or she is making a significant effort to align with the Union customs legislation by demonstrating a move towards a high***

*level of control of his or her operations, such as by setting-up of a compliance system;*

*(c) the nature of the activities and size of the economic operator concerned and the level of impact on the Union's financial interests.*

Or. en

#### *Justification*

*This amendment makes a specific and separate reference to mitigating circumstances. Moreover, this amendment broadens the scope of mitigating circumstances to all the stages of a customs infringement: from the determination of an infringement to the imposition of sanctions. Furthermore, this amendment adds other cases where mitigating circumstances could be considered (indent c).*

#### **Amendment 175** **Virginie Rozière**

#### **Proposal for a directive** **Article 12 a (new)**

*Text proposed by the Commission*

*Amendment*

#### **Article 12a**

#### **Customs settlement**

***Member States shall offer the possibility for the competent authorities to reach a settlement with the offender.***

***A customs settlement shall permit the prosecution authorities to propose to the person who is potentially to be prosecuted that they will refrain from prosecution in return for acceptance of an immediately enforceable penalty.***

***However, once judicial proceedings have been instituted, the competent authorities may reach a settlement only with the agreement of the judicial authority.***

Or. fr

**Amendment 176**  
**Roberta Metsola**

**Proposal for a directive**  
**Article 12 b (new)**

*Text proposed by the Commission*

*Amendment*

**Article 12b**

**Compliance**

***Member States shall ensure that guidelines and publications on how to comply and continue to comply with Union customs legislation are made available to interested parties in an easily accessible, understandable and up-to-date form.***

Or. en

*Justification*

*This amendment broadly defines what the guidelines and publications should look like. This amendment also specifies that the guidelines and publications should be made available to interested parties.*

**Amendment 177**  
**Roberta Metsola**

**Proposal for a directive**  
**Article 12 c (new)**

*Text proposed by the Commission*

*Amendment*

**Article 12c**

**Settlement**

***Member States shall ensure the possibility of a settlement as a procedure allowing the competent authorities to enter into an agreement with the person responsible for the customs infringement to settle the matter of such infringement as an alternative to initiating or pursuing legal***

*proceedings for the imposition of a sanction. Member States shall ensure that such a possibility accords with the principle of equal treatment and that the outcome of the procedure is published.*

Or. en

*Justification*

*This amendment makes a specific reference to one of the best-practices in this policy field at a Member State level. However, this amendment also specifies that a settlement should conform with the principle of equal treatment and the outcome to be transparent.*

**Amendment 178**

**Kaja Kallas**

**Proposal for a directive  
Article 13 – paragraph 1**

*Text proposed by the Commission*

1. Member States shall ensure that the limitation period for proceedings concerning a customs infringement referred to in Articles 3 to 6 is **four** years and starts to run on the day on which the customs infringement was committed.

*Amendment*

1. Member States shall ensure that the limitation period for **initiating** proceedings concerning a customs infringement referred to in Articles 3 to 6 is **three** years and **that it** starts to run on the day on which the customs infringement was committed.

Or. en

*Justification*

*There is a need to clarify that the three years limitation period is the time limit to initiate the proceedings*

**Amendment 179**

**Julia Reda**

**Proposal for a directive  
Article 13 – paragraph 1**

*Text proposed by the Commission*

1. Member States shall ensure that the limitation period for proceedings concerning a customs infringement referred to in Articles 3 to 6 is four years and starts to run on the day on which the customs infringement **was** committed.

*Amendment*

1. Member States shall ensure that the limitation period for **initiating** proceedings concerning a customs infringement referred to in Articles 3 to 6 is four years and **that it** starts to run on the day on which **the Member State concerned discovered that** the customs infringement **had been** committed.

Or. en

**Amendment 180**

**Maria Grapini**

**Proposal for a directive  
Article 13 – paragraph 1**

*Text proposed by the Commission*

1. Member States shall ensure that the limitation period for proceedings concerning a customs infringement referred to in Articles 3 to 6 is **four** years and starts to run on the day on which the customs infringement was committed.

*Amendment*

1. Member States shall ensure that the limitation period for proceedings concerning a customs infringement referred to in Articles 3 to 6 is **five** years and starts to run on the day on which the customs infringement was committed.

Or. ro

**Amendment 181**

**Julia Reda**

**Proposal for a directive  
Article 13 – paragraph 2**

*Text proposed by the Commission*

2. Member States shall ensure that, in the case of continuous or repeated customs infringements, the limitation period starts to run on the day on which the act or omission constituting the customs infringement ceases.

*Amendment*

2. Member States shall ensure that, in the case of continuous or repeated customs infringements, the limitation period starts to run on the day on which the act or omission constituting the customs infringement ceases **or when the Member**

*State concerned discovers the infringement(s), whichever is the later date.*

Or. en

## **Amendment 182**

**Roberta Metsola**

### **Proposal for a directive**

#### **Article 13 – paragraph 3**

##### *Text proposed by the Commission*

3. Member States shall ensure that the limitation period is interrupted by any act ***of the competent authority, notified to the person in question***, relating to an investigation or legal proceedings concerning the same customs infringement. The limitation period shall ***start*** to run on the day ***of*** the interrupting act.

##### *Amendment*

3. Member States shall ensure that the limitation period is interrupted by any act ***on the part of the person responsible for the infringement*** relating to an investigation or legal proceedings concerning the same customs infringement. The limitation period shall ***continue*** to run on the day ***on which*** the interrupting act ***comes to an end***.

Or. en

##### *Justification*

*This amendment specifies that the limitation period does not run again (from scratch) but rather continues to run again after the interruption comes to an end.*

## **Amendment 183**

**Julia Reda**

### **Proposal for a directive**

#### **Article 13 – paragraph 3**

##### *Text proposed by the Commission*

3. Member States shall ensure that the limitation period is interrupted by any act of the competent authority, notified to the person in question, relating to an investigation or legal proceedings

##### *Amendment*

3. Member States shall ensure that the limitation period is interrupted by any act of the competent authority, notified to the person in question, relating to an investigation or legal proceedings

concerning the same customs infringement.  
The limitation period shall start to run on  
the day *of* the interrupting act.

concerning the same customs infringement.  
The limitation period shall start to run  
*again* on the day *on which* the interrupting  
act *comes to an end*.

Or. en

**Amendment 184**  
**Kaja Kallas**

**Proposal for a directive**  
**Article 13 – paragraph 4**

*Text proposed by the Commission*

4. Member States shall ensure that *the initiation or continuation of* any proceedings concerning a customs infringement referred to in Articles 3 to 6 *is precluded* after the expiry of a period of eight years from the day referred to in paragraph 1 *or* 2.

*Amendment*

4. Member States shall ensure that any proceedings concerning a customs infringement referred to in Articles 3 to 6 *are time-barred* after the expiry of a period of eight years from the day referred to in paragraph 1, *2 or 3 of this Article, as the case may be*.

Or. en

*Justification*

*There is a need to clarify that proceedings related to an infringement are precluded if not concluded after the expiry of a period of eight years are precluded*

**Amendment 185**  
**Julia Reda**

**Proposal for a directive**  
**Article 13 – paragraph 4**

*Text proposed by the Commission*

4. Member States shall ensure that the initiation or continuation of any proceedings concerning a customs infringement referred to in Articles 3 to 6 is precluded after the expiry of a period of eight years from the day referred to in

*Amendment*

4. Member States shall ensure, *without prejudice to Article 14(2)*, that the initiation or continuation of any proceedings concerning a customs infringement referred to in Articles 3 to 6 is precluded after the expiry of a period of

paragraph 1 or 2.

eight years from the day referred to in paragraph 1 or 2 *of this Article*.

Or. en

#### **Amendment 186**

**Maria Grapini**

#### **Proposal for a directive Article 13 – paragraph 5**

##### *Text proposed by the Commission*

5. Member States shall ensure that the limitation period for the enforcement of a decision imposing a sanction is *three* years. That period shall start to run on the day on which that decision becomes final.

##### *Amendment*

5. Member States shall ensure that the limitation period for the enforcement of a decision imposing a sanction is *five* years. That period shall start to run on the day on which that decision becomes final.

Or. ro

#### **Amendment 187**

**Julia Reda**

#### **Proposal for a directive Article 14 – paragraph 1**

##### *Text proposed by the Commission*

1. Member States *shall* ensure that administrative proceedings concerning a customs infringement referred to in Articles 3 to 6 are suspended where criminal proceedings have been initiated against the same person in connection with the same facts.

##### *Amendment*

1. Member States *may* ensure that administrative proceedings concerning a customs infringement referred to in Articles 3 to 6 are suspended where criminal proceedings have been initiated against the same person in connection with the same facts.

Or. en

##### *Justification*

*Allows Member States flexibility to pursue both administrative and criminal proceedings*



**Amendment 188**  
**Julia Reda**

**Proposal for a directive**  
**Article 14 – paragraph 2**

*Text proposed by the Commission*

2. Member States ***shall*** ensure that the suspended administrative proceedings concerning a customs infringement referred to in Articles 3 to 6 are discontinued where the criminal proceedings referred to in paragraph 1 have finally been disposed of. In other cases, the suspended administrative proceedings concerning a customs infringement referred to in Articles 3 to 6 may be resumed.

*Amendment*

2. Member States ***may*** ensure that the suspended administrative proceedings concerning a customs infringement referred to in Articles 3 to 6 are discontinued where the criminal proceedings referred to in paragraph 1 have finally been disposed of. In other cases, the suspended administrative proceedings concerning a customs infringement referred to in Articles 3 to 6 may be resumed.

Or. en

*Justification*

*Allows Member States the flexibility to pursue criminal or administrative proceedings, or both*

**Amendment 189**  
**Virginie Rozière**

**Proposal for a directive**  
**Article 16 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***The Commission shall supervise cooperation between Member States to create key performance indicators applicable to customs checks and sanctions, the dissemination of best practices and the coordination of training of customs officers.***

Or. fr

**Amendment 190**  
**Julia Reda**

**Proposal for a directive**  
**Article 17 – paragraph 1**

*Text proposed by the Commission*

Member States shall ensure that the competent authorities have the possibility to temporarily seize any goods, means of transport **and any** other instrument used in committing the customs infringements referred to in Articles 3 to 6.

*Amendment*

Member States shall ensure that the competent authorities have the possibility to temporarily seize any goods, means of transport **or** other instrument used in committing the customs infringements referred to in Articles 3 to 6. ***If, following the imposition of a sanction, a Member State permanently confiscates such goods, it may opt to destroy, reuse or recycle the goods, as appropriate.***

Or. en

**Amendment 191**  
**Roberta Metsola, Andreas Schwab**

**Proposal for a directive**  
**Article 18 - paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***Following the submission of that report, and only if further action is deemed necessary in order to ensure an effective enforcement of Union customs legislation, the Commission shall submit a report to the European Parliament and the Council on the other elements of the enforcement of Union customs legislation, such as supervision, control and investigation.***

Or. en

*Justification*

*This amendment reiterates that any future actions linked to the enforcement of customs legislation should be based on the principle of proportionality.*

**Amendment 192**  
**Julia Reda**

**Proposal for a directive**  
**Article 18 a (new)**

*Text proposed by the Commission*

*Amendment*

***Article 18a***

***Reporting by Member States***

***Member States shall send to the Commission statistics regarding infringements and showing which sanctions were imposed as a result of those infringements, in order to enable the Commission to assess the application of this Directive. The information thus provided shall be sent annually following the entry into force of this Directive. The Commission may use those data when revising this Directive in order to better approximate national sanctioning systems.***

Or. en