



Plenary sitting

A9-0235/2023

7.7.2023

*****I**

REPORT

on the proposal for a directive of the European Parliament and of the Council
on the definition of criminal offences and penalties for the violation of Union
restrictive measures
(COM(2022)0684 – C9-0401/2022 – 2022/0398(COD))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Sophia in 't Veld

Symbols for procedures

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

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

Amendments to a draft act

Amendments by Parliament set out in two columns

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

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

Amendments by Parliament in the form of a consolidated text

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

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

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a directive of the European Parliament and of the Council on the definition of criminal offences and penalties for the violation of Union restrictive measures

(COM(0022)0684 – C9-0401/2022 – 2022/0398(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(0022)0684),
 - having regard to Article 294(2) and Article 83(1) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0401/2022),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 23 March 2023¹,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the opinion of the Committee Budgets,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A9-0235/2023),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a directive

Recital 1

¹ Not yet published in the Official Journal.

Text proposed by the Commission

(1) In order to ensure the effective application of Union restrictive measures, the integrity of the internal market within the Union, and to achieve a high level of security within the Area of Freedom, Security and Justice, it is necessary to establish minimum rules concerning the definition of criminal offences and penalties with regard to the violation of those Union restrictive measures.

Amendment 2
Proposal for a directive
Recital 3

Text proposed by the Commission

(3) To ensure the effective application of Union restrictive measures, it is necessary that Member States have effective, proportionate and dissuasive penalties in place for ***the violation of*** those Union restrictive measures, including obligations, such as reporting, established therein. It is also necessary that those penalties address the circumvention of Union restrictive measures.

Amendment 3
Proposal for a directive
Recital 4

Text proposed by the Commission

(4) The effective application of Union restrictive measures calls for common criminal definitions of conduct ***infringing*** Union restrictive measures. Member States should ensure that ***this*** conduct constitutes a criminal offence when committed with intent ***as well as with serious*** negligence, ***in case*** the natural or legal person knew or

Amendment

(1) In order to ensure the effective application of Union restrictive measures, the integrity of the internal market within the Union, and to achieve a high level of security within the Area of Freedom, Security and Justice, it is necessary to establish ***common*** minimum rules concerning the definition of criminal offences and penalties with regard to the violation of those Union restrictive measures.

Amendment

(3) To ensure the effective application of Union restrictive measures, it is necessary that Member States have effective, proportionate and dissuasive penalties in place for ***natural or legal persons who violate or breach*** those Union restrictive measures, including obligations, such as ***transparency and information*** reporting, established therein. It is also necessary that those penalties address the circumvention of Union restrictive measures.

Amendment

(4) The effective application of Union restrictive measures calls for common criminal definitions of conduct ***violating*** Union restrictive measures. Member States should ensure that ***that*** conduct constitutes a criminal offence when committed with intent ***or with*** negligence, ***where*** the natural or legal person knew or should

should have known, that their conduct would ***infringe*** Union restrictive measures.

have known, that their conduct would ***violate*** Union restrictive measures.

Amendment 4
Proposal for a directive
Recital 6

Text proposed by the Commission

(6) Persons, entities and bodies, which are designated individually in Union restrictive measures and subject to those Union restrictive measures, may often be involved as instigators ***and*** accomplices. For instance, the practice by designated persons and entities of transferring funds, property or economic resources to a third party with a view to circumvent Union restrictive measures is increasingly widespread. Therefore, this conduct is covered by the circumvention offence approximated by this Directive.

Amendment

(6) Persons, entities and bodies, which are designated individually in Union restrictive measures and subject to those Union restrictive measures, may often be involved as instigators, ***or accomplices of violations or circumventions of such measures***. For instance, the practice by designated persons and entities of transferring funds, property or economic resources to a third party with a view to circumvent Union restrictive measures is increasingly widespread ***and needs to be addressed since it undermines the effectiveness of Union restrictive measures***. Therefore, this conduct is covered by the circumvention offence approximated by this Directive.

Amendment 5
Proposal for a directive
Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) The circumvention of sectoral economic and financial measures should also be addressed. Therefore, conduct under the cover of a formal appearance which enables the avoidance of the constituent elements of a violation, but has the same effects, should be covered by the circumvention offence approximated by this Directive, when committed intentionally. Such conduct may in particular occur by the concealment of goods, transactions, services or activities subject to a Union restrictive measure, or information about them, for instance in

situations where a natural or legal person exports goods to a third country with the knowledge that such goods will be transferred to a final destination to which their export is prohibited by a Union restrictive measure.

Amendment 6
Proposal for a directive
Recital 6 b (new)

Text proposed by the Commission

Amendment

(6b) The violation of Union restrictive measures is often linked to other criminal activities and most notably motivated by considerations of financial gain. While generating profits, the circumvention of restrictive measures enables the continued use of assets. It undermines the objectives and effectiveness of those restrictive measures and hence needs to be addressed. Proceeds resulting from the violation of Union restrictive measures or instruments used to pursue the violation of restrictive measures should become the object of confiscation. Where the assets are confiscated in connection with the Russian war of aggression on Ukraine or associated crimes, without prejudice to restitution to and compensation of the victims or the public concerned by the criminal offence, the confiscated assets or the net proceeds resulting from the liquidation of such assets should be assigned to contributions towards the reconstruction efforts of Ukraine.

Amendment 7
Proposal for a directive
Recital 7

Text proposed by the Commission

Amendment

(7) Legal professionals, as defined by the Member States, should be subject to this Directive, including the obligation to

(7) Legal professionals, as defined by the Member States, *as well as providers of other professional services, such as*

report the violation of Union restrictive measures, when providing services in the context of professional activities, ***such as legal, financial and trade services.***

Experience shows that there is a clear risk of the services of those legal professionals being misused for the purpose of violating Union restrictive measures. There should, however, be exemptions from any obligation to report information which is obtained in strict connection with judicial, administrative or arbitral proceedings, whether before, during or after judicial proceedings, or in the course of ascertaining the legal position of a client. Therefore, legal advice in those circumstances should remain subject to the obligation of professional secrecy, except where the legal professional is taking part in the violation of Union restrictive measures, the legal advice is provided for the purposes of violating Union restrictive measures, or the legal professional knows that the client is seeking legal advice for the purposes of violating Union restrictive measures. Knowledge can be inferred from objective factual circumstances.

accountants, tax advisors, financial and trade advisers, real estate agents and migration consultancies advising on residence by investment and citizenship by investment, amongst others, should be subject to this Directive, including the obligation to report the violation of Union restrictive measures, when providing services in the context of professional activities. Experience shows that there is a clear risk of the services of those legal professionals being misused for the purpose of violating Union restrictive measures. ***For legal professionals,*** there should, however, be exemptions from any obligation to report information which is obtained in strict connection with judicial, administrative or arbitral proceedings, whether before, during or after judicial proceedings. ***Information which is obtained by legal professionals*** or in the course of ascertaining the legal position of a client ***should be covered by legal privilege.*** Therefore, legal advice in those circumstances should remain subject to the obligation of professional secrecy, except where the legal professional is taking part in the violation of Union restrictive measures, the legal advice is provided for the purposes of violating Union restrictive measures, or the legal professional knows ***or has a well-grounded suspicion on the basis of factual circumstances*** that the client is seeking legal advice for the purposes of violating Union restrictive measures. Knowledge can be inferred from objective factual circumstances.

Amendment 8

Proposal for a directive

Recital 8

Text proposed by the Commission

(8) The effective application of Union restrictive measures furthermore calls for a common criminal law definition of ***conduct*** breaching conditions under

Amendment

(8) The effective application of Union restrictive measures furthermore calls for a common criminal law definition of ***intentionally*** breaching conditions under

authorisations granted by competent authorities to conduct certain activities, which in the absence of such an authorization are prohibited or restricted under a Union restrictive measure.

authorisations granted by competent authorities to conduct certain activities, which in the absence of such an authorization are prohibited or restricted under a Union restrictive measure.

Amendment 9
Proposal for a directive
Recital 8 a (new)

Text proposed by the Commission

Amendment

(8a) Member States should make easily accessible and detailed guidelines on compliance with Union restrictive measures, including detailed information on, inter alia, matters of compliance and enforcement standards.

Amendment 10
Proposal for a directive
Recital 8 b (new)

Text proposed by the Commission

Amendment

(8b) When applying measures aimed at preventing the violation or circumvention of Union restrictive measures, credit and financial institutions should ensure that clients are not discriminated against or unduly excluded from access to financial services.

Amendment 11
Proposal for a directive
Recital 9

Text proposed by the Commission

Amendment

(9) It is appropriate to exclude from the criminalisation activities which concern the provision of goods and services of daily use for the personal use of designated natural persons, such as food and healthcare products and services, or of petty cash, where it is clearly limited to

(9) It is appropriate to exclude from the criminalisation activities which concern the provision of goods and services of daily use for the personal use of designated natural persons, such as food and healthcare products and services, or of petty cash, where it is clearly limited to

fulfilling the basic human needs of such persons and their dependent family members. The failure to report such activities should also be excluded from criminalisation. In addition, it is appropriate to exclude from criminalisation the delivery of humanitarian *aid to persons in need*. Such humanitarian *aid* must be provided strictly in accordance with international humanitarian law *and can notably consist of food and nutrition, shelter, health care, water and sanitation*. Furthermore, in implementing this Directive, Member States should take into account that International Humanitarian Law, the law of armed conflict, requires that restrictive measures should not prevent the delivery of humanitarian *aid* in line with principles of impartiality, humanity, neutrality and independence.

fulfilling the basic human needs of such persons and their dependent family members. The failure to report such activities should also be excluded from criminalisation. In addition, *and in line with international humanitarian law*, it is appropriate to exclude from criminalisation the delivery of humanitarian *assistance or activities that support basic human needs by providers of humanitarian services, such as the United Nations, humanitarian organisations having observer status with the United Nations General Assembly and members of those humanitarian organisations, bilaterally or multilaterally funded non-governmental organisations participating in the United Nations Humanitarian Response Plans, Refugee Response Plans, other United Nations appeals or humanitarian clusters coordinated by the United Nations Office for the Coordination of Humanitarian Affairs (OCHA), public bodies or legal persons, entities or bodies which receive public funding from the Union or from Member States to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs for the civilian population, organisations and agencies to which the Union has granted the Humanitarian Partnership Certificate or which are certified or recognised by a Member State in accordance with national procedures, Member States' specialised agencies, and their employees, grantees, subsidiaries, or implementing partners and organisations specified in relevant EU sanctions decisions*. Such humanitarian *assistance* must be provided strictly in accordance with international humanitarian law. Furthermore, in implementing this Directive, Member States should take into account that International Humanitarian Law, the law of armed conflict, requires that restrictive measures should not prevent the delivery of humanitarian *assistance* in line with principles of impartiality,

humanity, neutrality and independence.

Amendment 12
Proposal for a directive
Recital 10

Text proposed by the Commission

(10) Penalties for the offences should be effective, dissuasive and proportionate. To this end, minimum levels for the maximum term of imprisonment should be set for natural persons. Additional penalties or measures should also be available in criminal proceedings. They should include fines, taking into account that the violation of Union restrictive measures is mostly motivated by economic considerations.

Amendment

(10) Penalties for the offences should be effective, dissuasive and proportionate. To this end, minimum levels for the maximum term of imprisonment should be set for natural persons. Additional penalties or measures should also be available in criminal proceedings. They should include fines, taking into account that the violation of Union restrictive measures is mostly motivated by economic considerations.
Fines should be proportionate to the gravity of the offence as well as to the financial benefits accrued by committing the offence. Additional penalties should also include withdrawal of permits and authorizations to pursue activities which have resulted in committing the offence, disqualification from exercising a leading position within a legal person of the type used for committing the offence, temporary bans on running for elected or public office, national or Union-wide publication of the judicial decision relating to the conviction or any sanctions or measures applied.

Amendment 13
Proposal for a directive
Recital 11

Text proposed by the Commission

(11) Given that legal persons are also subject to Union restrictive measures, legal persons should also be held criminally liable for offences related to the violation of Union restrictive measures according to this Directive. Member States whose national law does not provide for the

Amendment

(11) Given that legal persons are also subject to Union restrictive measures, legal persons should also be held criminally liable for offences related to the violation of Union restrictive measures according to this Directive. Member States whose national law does not provide for the

criminal liability of legal persons should ensure that their administrative sanctioning systems provide for effective, dissuasive and proportionate **penalty** types and levels.

criminal liability of legal persons should ensure that their administrative sanctioning systems provide for effective, dissuasive and proportionate **sanction** types and levels.

Amendment 14
Proposal for a directive
Recital 12

Text proposed by the Commission

(12) A further approximation and effectiveness of level of penalties imposed in practice should be fostered through common aggravating circumstances that reflect the severity of the crime committed. The notion of aggravating circumstances should be understood either as **facts** allowing the national judge or court to pronounce a higher sentence for the same offence than the one incurred without these facts, or as the possibility of retaining several offences cumulatively in order to increase the level of the penalty. Member States should provide for the possibility **of at least one** of these aggravating circumstances in accordance with applicable rules established by their legal system on aggravating circumstances. In any case, it should remain within the discretion of the judge or the court to determine whether to increase the sentence, taking into account all the circumstances of the individual case.

Amendment

(12) A further approximation and effectiveness of level of penalties imposed in practice should be fostered through common aggravating circumstances that **increase the criminal responsibility of the individual and** reflect the severity of the crime committed. The notion of aggravating circumstances should be understood either as **circumstances surrounding the commission of an offence and** allowing the national judge or court to pronounce a higher sentence for the same offence than the one incurred without these facts, or as the possibility of retaining several offences cumulatively in order to increase the level of the penalty. Member States should provide for the possibility of these aggravating circumstances in accordance with applicable rules established by their legal system on aggravating circumstances. In any case, it should remain within the discretion of the judge or the court to determine whether to increase the sentence, taking into account all the circumstances of the individual case.

Amendment 15
Proposal for a directive
Recital 16

Text proposed by the Commission

(16) Given, in particular, the global activities of the perpetrators of illegal

Amendment

(16) Given, in particular, the global activities of the perpetrators of illegal

conduct covered by this Directive, together with the cross-border nature of the offences and the possibility of cross-border investigations, Member States should establish jurisdiction in order to counter such conduct effectively.

Amendment 16
Proposal for a directive
Recital 18

Text proposed by the Commission

(18) To ensure an effective, integrated and coherent enforcement system, Member States should organise internal cooperation and communication between all actors along the administrative and criminal enforcement chains.

Amendment 17
Proposal for a directive
Recital 19

Text proposed by the Commission

(19) To ensure the effective investigation and prosecution of violations of Union restrictive measures, Member States' competent authorities should cooperate through and with Europol, Eurojust and the European Public Prosecutor's Office (EPPO). ***These*** competent authorities ***should also share information among each other and with the Commission on practical issues.***

conduct covered by this Directive, together with the cross-border nature of the offences and the possibility of cross-border investigations, Member States should establish jurisdiction in order to counter such conduct ***quickly, consistently and*** effectively.

Amendment

(18) To ensure an effective, ***transparent,*** integrated and coherent enforcement system, Member States should organise internal cooperation and communication between all actors along the administrative and criminal enforcement chains, ***in full compliance with Member States' national rules on criminal proceedings, as well as with the Charter of Fundamental Rights of the European Union (the Charter) and with the Member State's obligations under Article 6 TEU.***

Amendment

(19) To ensure the effective investigation and prosecution of violations of Union restrictive measures, Member States' competent authorities should cooperate through and with Europol, Eurojust and the European Public Prosecutor's Office (EPPO). ***The Commission should establish a permanent network of experts and practitioners to share best practices and provide technical and operational support in order to facilitate the coordination of investigations and prosecutions by Member States competent authorities',***

Amendment 18
Proposal for a directive
Recital 19 a (new)

Text proposed by the Commission

Amendment

(19a) For the purposes of this Directive, the institutions, bodies, offices and agencies of the Union and the authorities of the Member States which participate in enhanced cooperation on the establishment of the EPPO, should closely cooperate with the central and decentralised levels of the EPPO. They should in particular fulfil the reporting obligations under Regulation (EU) 2017/1939, including where the EPPO is competent in respect of criminal offences for the violation of Union restrictive measures because they constitute offences regarding participation in a criminal organization or criminal offences inextricably linked to offences referred to in Article 22(2) and (3) of Regulation (EU) 2017/1939. In order to optimize criminal prosecution and the effective application of sanctions for any violation or circumvention of Union restrictive measures, it is necessary to extend the EPPO's current competences, including the criminal offences covered by this Directive. Furthermore, all Member States should participate in the EPPO to make it more efficient.

Amendment 19
Proposal for a directive
Recital 20

Text proposed by the Commission

Amendment

(20) Whistleblowers can **provide** valuable information to competent authorities concerning past, ongoing or

(20) Whistleblowers can **be crucial in providing** valuable information to competent authorities concerning past,

planned violations of Union restrictive measures, including attempts to circumvent them. This information can relate, for example, to facts concerning violations of Union restrictive measures, their circumstances **and** the individuals, companies and third countries involved. Therefore, it should be ensured that adequate arrangements are in place to enable such whistleblowers to alert the competent authorities and to protect them from retaliation. For that purpose, it should be provided that Directive (EU) 2019/1937 of the European Parliament and of the Council⁴⁹ is applicable to the reporting of violations of Union restrictive measures and to the protection of persons reporting such violations.

⁴⁹ Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law, OJ L 305, 26.11.2019, p. 17–56.

ongoing or planned violations of Union restrictive measures, including attempts to circumvent them. This information can relate, for example, to **vital** facts concerning violations of Union restrictive measures, their circumstances, the individuals, companies and third countries involved. Therefore, it should be ensured that adequate arrangements are in place to enable such whistleblowers to alert the competent authorities and to protect them from retaliation. For that purpose, it should be provided that Directive (EU) 2019/1937 of the European Parliament and of the Council⁴⁹ is applicable to the reporting of violations of Union restrictive measures and to the protection of persons reporting such violations.

⁴⁹ Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law, (OJ L 305, 26.11.2019, p. 17).

Amendment 20

Proposal for a directive

Recital 21

Text proposed by the Commission

(21) To ensure the effective investigation and prosecution of violations of Union restrictive measures, those responsible for investigating or prosecuting these measures should have the possibility of using investigative tools such as those which are used in combating organised crime or other serious crimes. The use of such tools, in accordance with national law, should be targeted and **take into account the principle of** proportionality and the nature and seriousness of the offences under investigation as well as respecting the right to the protection of personal data.

Amendment

(21) To ensure the effective investigation and prosecution of violations of Union restrictive measures, those responsible for investigating or prosecuting these measures should have the possibility of using investigative tools such as those which are used in combating organised crime or other serious crimes. The use of such tools, in accordance with national law, should be targeted and **comply with the principles of necessity and** proportionality and the nature and seriousness of the offences under investigation as well as respecting the right to the protection of personal data.

Amendment 21
Proposal for a directive
Recital 23

Text proposed by the Commission

(23) The objectives of this Directive, namely to ensure common definitions of offences related to the violation of Union restrictive measures and the availability of effective, dissuasive and proportionate criminal penalties for serious offences related to the violation of Union restrictive measures cannot be sufficiently achieved by Member States ***but can rather, by reason of the scale and effects of this Directive, be better achieved at Union level***, taking into account the inherent cross-border nature of the violation of Union restrictive measures and ***their*** potential to undermine the achievement of the Union objectives to safeguard international peace and security as well as to uphold Union common values. ***Therefore*** the Union may adopt measures, in accordance with the principle of subsidiarity as set out in ***accordance with*** Article 5 TEU. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary to achieve ***that objective***.

Amendment 22
Proposal for a directive
Recital 24

Text proposed by the Commission

(24) This Directive respects ***the*** fundamental rights and observes the principles recognised in particular by the Charter ***of Fundamental Rights of the European Union***, including the ***rights*** to liberty and security, the protection of personal data, the freedom to conduct a

Amendment

(23) ***Since*** the objectives of this Directive, namely to ensure common definitions of offences related to the violation of Union restrictive measures and the availability of effective, dissuasive and proportionate criminal penalties for serious offences related to the violation of Union restrictive measures cannot be sufficiently achieved by ***the*** Member States taking into account the inherent cross-border nature of the violation of Union restrictive measures and ***its*** potential to undermine the achievement of the Union objectives to safeguard international peace and security as well as to uphold Union common values, ***but can rather, by reason of the scale and effects of this Directive, be better achieved at Union level***, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 TEU. 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

(24) This Directive respects fundamental rights and observes the principles recognised in particular by the Charter, including the ***right*** to liberty and security, the protection of personal data ***as further specified by Regulation (EU) 2016/679, Regulation (EU) 2018/1725 and Directive***

business, the right to property, the right to an effective remedy and to a fair trial, the presumption of innocence and the right of defence including the right not to incriminate oneself and to remain silent, the principles of legality, including the principle of non-retroactivity of criminal penalties and proportionality of criminal offences and penalties, as well as the principle of ne bis in idem. This Directive seeks to ensure full respect for *those* rights and principles and should be implemented accordingly.

(EU) 2016/680, the freedom to conduct a business, the right to property, the right to an effective remedy and to a fair trial, the presumption of innocence and the right of defence including the right not to incriminate oneself and to remain silent, the principles of legality, including the principle of non-retroactivity of criminal penalties and proportionality of criminal offences and penalties, as well as the principle of ne bis in idem. ***It is essential that Member States provide for an effective appeal against judgments issued pursuant to this Directive, before a higher court, in accordance with procedures provided for in national law. Where a decision to prosecute has been taken by a competent authority other than a judicial authority, national law should provide for a judicial review of such decision to prosecute, within a reasonable time, before the prosecution is initiated.*** This Directive seeks to ensure full respect for *the aforementioned* rights and principles and should be implemented accordingly.

Amendment 23
Proposal for a directive
Article 1 – paragraph 1

Text proposed by the Commission

This Directive establishes minimum rules concerning the definition of criminal offences and penalties with regard to the violation of Union restrictive measures.

Amendment

This Directive establishes ***common*** minimum rules concerning the definition of criminal offences and penalties with regard to the violation of Union restrictive measures.

Amendment 24
Proposal for a directive
Article 2 – title

Text proposed by the Commission

Scope ***and definitions***

Amendment

Scope

Amendment 25
Proposal for a directive
Article 2 – paragraph 2

Text proposed by the Commission

Amendment

(2) For the purposes of this Directive, the following definitions apply: *deleted*

(a) ‘Union restrictive measures’ are restrictive measures adopted by the Union on the basis of Article 29 TEU or Article 215 TFEU;

(b) ‘designated person, entity or body’, means those natural or legal persons, entities or bodies subject to Union restrictive measures consisting in the freezing of funds and economic resources and the prohibition to make funds and economic resources available;

(c) ‘funds’ means:

(i) cash, cheques, claims on money, drafts, money orders and other payment instruments;

(ii) deposits with financial institutions or other entities, balances on accounts, debts and debt obligations;

(iii) publicly- and privately-traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivatives contracts;

(iv) interest, dividends or other income on or value accruing from or generated by assets;

(v) credit, right of set-off, guarantees, performance bonds or other financial commitments;

(vi) letters of credit, bills of lading, bills of sale;

(vii) documents showing evidence of an interest in funds or financial resources;

(viii) crypto assets;

(d) ‘economic resources’ means assets of every kind, whether tangible or intangible, movable or immovable, which are not funds but may be used to obtain funds, goods or services;

(e) ‘freezing of funds’ means preventing any move, transfer, alteration, use of, access to, or dealing with funds in any way that would result in any change in their volume, amount, location, ownership, possession, character, destination or any other change that would enable the funds to be used, including portfolio management;

(f) ‘freezing of economic resources’ means preventing the use of economic resources to obtain funds, goods or services in any way, including, but not limited to, by selling, hiring or mortgaging them.

Amendment 26
Proposal for a directive
Article 2 a (new)

Text proposed by the Commission

Amendment

Article 2a

Definitions

For the purposes of this Directive, the following definitions apply:

(a) ‘Union restrictive measures’ means restrictive measures adopted by the Union on the basis of Article 29 TEU or Article 215 TFEU;

(b) ‘designated person, entity or body’, means those natural or legal persons, entities or bodies subject to Union restrictive measures consisting in the freezing of funds and economic resources and the prohibition to make funds and economic resources available;

(c) ‘funds’ means:

(i) cash, cheques, claims on money,

drafts, money orders and other payment instruments;

(ii) deposits with financial institutions or other entities, balances on accounts, debts and debt obligations;

(iii) publicly- and privately-traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivatives contracts;

(iv) interest, dividends or other income on or value accruing from or generated by assets;

(v) credit, right of set-off, guarantees, performance bonds or other financial commitments;

(vi) letters of credit, bills of lading, bills of sale;

(vii) documents showing evidence of an interest in funds or financial resources; (viii) crypto-assets as defined in Article 3(5) of Regulation (EU) 2023/1114 of the European Parliament and of the Council^{1a};

(d) ‘economic resources’ means assets of every kind, whether tangible or intangible, movable or immovable, which are not funds but may be used to obtain funds, goods or services;

(e) ‘freezing of funds’ means preventing any move, transfer, alteration, use of, access to, or dealing with funds in any way that would result in any change in their volume, amount, location, ownership, possession, character, destination or any other change that would enable the funds to be used, including, but not limited to, portfolio management;

(f) ‘freezing of economic resources’ means preventing the use of economic resources to obtain funds, goods or services in any way, including, but not limited to, by selling, hiring or

mortgaging them;

(g) ‘public official’ means:

(i) a Union official or a national official of a Member State or of a third country;

(ii) any other person assigned and exercising a public service function in a Member State or a third country, for an international organisation or for an international court;

(h) ‘Union official’ means a person who is:

(i) a member of an institution, body, office or agency of the Union or the staff of such bodies;

(ii) an official or other servant engaged under contract by the Union within the meaning of the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Union laid down in Council Regulation (EEC, Euratom, ECSC) No 259/68 (the ‘Staff Regulations’);

(iii) seconded to the Union by a Member State or by any public or private body, who carries out functions equivalent to those performed by Union officials or other servants.

^{1a} Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937 (Text with EEA relevance) (OJ L 150, 9.6.2023, p. 40).

(What was paragraph 2 of Article 2 in the Commission text has become Article 2a in Parliament’s amendment. Points (a.), (viii) and (e) have further modifications and new points (g) to (h) have been inserted.)

Amendment 27
Proposal for a directive
Article 3 – title

Text proposed by the Commission

Violation of Union restrictive measures

Amendment

Violation **and circumvention** of Union restrictive measures

Amendment 28
Proposal for a directive
Article 3 – paragraph 1

Text proposed by the Commission

(1) Member States shall take the necessary measures to ensure that the violation of a Union restrictive measure constitutes a criminal offence when committed intentionally and provided it falls in one of the categories defined in paragraph 2.

Amendment

(1) Member States shall take the necessary measures to ensure that the violation of a Union restrictive measure **by any natural, legal person, entity or body** constitutes a criminal offence when committed intentionally and provided it falls in one of the categories defined in paragraph 2.

Amendment 29
Proposal for a directive
Article 3 – paragraph 2 – point a

Text proposed by the Commission

(a) making funds or economic resources available to, or for the benefit of, a designated person, entity or body in violation of a prohibition by a Union restrictive measure;

Amendment

(a) making funds or economic resources available **directly or indirectly** to, or for the benefit of, a designated person, entity or body in violation of a prohibition by a Union restrictive measure;

Amendment 30
Proposal for a directive
Article 3 – paragraph 2 – point c

Text proposed by the Commission

(c) enabling the entry of designated natural persons into the territory of a Member State or their transit through the territory of a Member State in violation of

Amendment

(c) enabling the entry of designated natural persons into the territory of a Member State, **including its territorial seas and airspace**, or their transit through

a prohibition by a Union restrictive measure;

the territory of a Member State in violation of a prohibition by a Union restrictive measure ***including through international zones situated in the territory of the Member State***;

Amendment 31

Proposal for a directive

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

Text proposed by the Commission

Amendment

(ca) enabling the stay in the territory of a Member State of a designated natural person, including by granting citizenship by investments or residence by investments schemes, in violation of a Union restrictive measure;

Amendment 32

Proposal for a directive

Article 3 – paragraph 2 – point d

Text proposed by the Commission

Amendment

(d) entering into transactions with a third State, bodies of a third State, entities and bodies owned or controlled by a third State or bodies of a third State, which are prohibited or restricted by Union restrictive measures;

(d) entering into ***financial or corporate*** transactions ***or public procurement*** with a third State, bodies of a third State, entities and bodies ***directly or indirectly*** owned or controlled by a third State or bodies of a third State, which are prohibited or restricted by Union restrictive measures;

Amendment 33

Proposal for a directive

Article 3 – paragraph 2 – point e

Text proposed by the Commission

Amendment

(e) trading in goods ***or*** services whose import, export, sale, purchase, transfer, transit or transport is prohibited or restricted by Union restrictive measures, as well as providing brokering services or other services relating to those goods and

(e) trading in goods, services ***or technology*** whose import, export, sale, purchase, transfer, transit or transport is prohibited or restricted by Union restrictive measures, as well as ***acting as an intermediary or*** providing brokering services or other services relating to those

services;

goods and services;

Amendment 34

Proposal for a directive

Article 3 – paragraph 2 – point h – point i

Text proposed by the Commission

(i) ***concealing*** funds or economic resources owned, held, or controlled by a designated person, entity or body, which should be frozen in accordance with a Union restrictive measure, ***by the transfer of*** those funds, or economic resources ***to a third party***;

Amendment

(i) ***moving, transferring, altering, using, accessing, dealing with, selling, hiring or mortgaging*** funds or economic resources ***directly or indirectly*** owned, held, or controlled by a designated person, entity or body, which should be frozen in accordance with a Union restrictive measure, ***to a third party to conceal*** those funds or economic resources ***enabling the designated persons to continue to use them***;

Amendment 35

Proposal for a directive

Article 3 – paragraph 2 – point h – point ii

Text proposed by the Commission

(ii) concealing the fact that a person, entity or body subject to restrictive measures is the ultimate owner or beneficiary of funds or economic resources, through the provision of false or incomplete information;

Amendment

(ii) concealing the fact that a person, entity or body subject to ***Union*** restrictive measures is the ultimate owner or beneficiary of funds or economic resources, through the provision of false or incomplete information;

Amendment 36

Proposal for a directive

Article 3 – paragraph 2 – point h – point v a (new)

Text proposed by the Commission

Amendment

(va) ***conduct that has the same effect as one of the offences referred to in points (d) to (g) of this paragraph, in particular the concealment of goods, transactions, services or activities subject to a Union restrictive measure, or information about their nature, origin, destination or the***

identity of parties involved;

Amendment 37
Proposal for a directive
Article 3 – paragraph 3

Text proposed by the Commission

(3) The conduct referred to in paragraph 2, points (a) to (g) shall constitute a criminal offence also if committed with *serious* negligence.

Amendment

(3) The conduct referred to in paragraph 2, points (a) to (g) shall constitute a criminal offence also if committed with negligence.

Amendment 38
Proposal for a directive
Article 3 – paragraph 5

Text proposed by the Commission

(5) Nothing in paragraph 2 shall be understood as imposing an obligation on legal professionals to report information which is obtained in *strict connection with* judicial, administrative or arbitral proceedings, whether before, during or after judicial proceedings, or in the course of ascertaining the legal position of a client. Legal advice in those circumstances shall be protected by professional secrecy, except where the legal professional is taking part in the violation of Union restrictive measures, the legal advice is provided for the purposes of violating Union restrictive measures, or the legal professional knows that the client is seeking legal advice for the purposes of violating Union restrictive measures.

Amendment

(5) Nothing in paragraph 2 shall be understood as imposing an obligation on legal professionals to report information which is obtained in *the performance of the task of defending or representing a client in, or concerning* judicial, administrative or arbitral proceedings, whether before, during or after judicial proceedings, or in the course of ascertaining the legal position of a client. Legal advice in those circumstances shall be protected by professional secrecy, except where the legal professional is taking part in the violation of Union restrictive measures, the legal advice is provided for the purposes of violating Union restrictive measures, or the legal professional knows *or has a well-grounded suspicion on the basis of factual circumstances* that the client is seeking legal advice for the purposes of violating *or circumventing* Union restrictive measures.

Amendment 39
Proposal for a directive

Article 3 – paragraph 6 – indent 2

Text proposed by the Commission

Amendment

– *to the failure to report such activities;*

deleted

Amendment 40

Proposal for a directive

Article 3 – paragraph 6 – indent 3

Text proposed by the Commission

Amendment

– *to humanitarian aid provided for persons in need.*

– *the provision of humanitarian assistance or activities in support of basic human needs and/or human rights, as defined in the relevant EU sanctions regimes;*

Amendment 41

Proposal for a directive

Article 3 – paragraph 6 – indent 3 a (new)

Text proposed by the Commission

Amendment

- *the failure to report the activities referred in this paragraph.*

Amendment 42

Proposal for a directive

Article 4 – paragraph 2

Text proposed by the Commission

Amendment

(2) Member States shall take the necessary measures to ensure that the attempt to commit any of the offences referred to in Article 3 (2), points (a) to (g), **(h (i))**, (ii) and point (i), is punishable as a criminal offence.

(2) Member States shall take the necessary measures to ensure that the attempt to commit any of the offences referred to in Article 3(2), points (a) to (g), **points (h)(i)**, (ii) **and (va)** and point (i), is punishable as a criminal offence.

Amendment 43

Proposal for a directive

Article 5 – paragraph 3

Text proposed by the Commission

(3) Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 3(2), points (h)(iii), (iv) **and (v)**, are punishable by a maximum penalty of at least one year of imprisonment when they involve funds or economic resources of a value of at least EUR **100 000**. Member States shall ensure that the threshold of EUR **100 000** or more may also be met through a series of linked offences referred to in Article 3(2), points (h)(iii), (iv) **and (v)**, when committed by the same offender.

Amendment 44
Proposal for a directive
Article 5 – paragraph 4

Text proposed by the Commission

(4) Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 3(2), points (a) to (g), (h)(i) and (ii), and point (i), are punishable by a maximum penalty of at least five years of imprisonment when they involve funds or economic resources of a value of at least EUR 100 000. Member States shall ensure that the threshold of EUR 100 000 or more may also be met through a series of linked offences referred to in Article 3(2), points (a) to (g), (h)(i) and (ii), and point (i), by the same offender.

Amendment 45
Proposal for a directive
Article 5 – paragraph 5

Text proposed by the Commission

(5) Member States shall take the necessary measures to ensure that natural persons who have committed the offences

Amendment

(3) Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 3(2), points (h)(iii), (iv), **(v) and (va)**, are punishable by a maximum penalty of at least one year of imprisonment when they involve funds or economic resources of a value of at least EUR **50 000**. Member States shall ensure that the threshold of EUR **50 000** or more may also be met through a series of linked offences referred to in Article 3(2), points (h)(iii), (iv), **(v) and (va)**, when committed by the same offender.

Amendment

(4) Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 3(2), points (a) to (g), **points** (h)(i) and (ii), and point (i), are punishable by a maximum penalty of at least five years of imprisonment when they involve funds or economic resources of a value of at least EUR 100 000. Member States shall ensure that the threshold of EUR 100 000 or more may also be met through a series of linked offences referred to in Article 3(2), points (a) to (g), **points** (h)(i) and (ii), and point (i), by the same offender.

Amendment

(5) Member States shall take the necessary measures to ensure that natural persons who have committed the offences

referred to in Articles 3 and 4 may be subject to additional penalties. Those additional penalties shall include *fin*es.

referred to in Articles 3 and 4 may be subject to additional penalties, *which shall include fines. Such fines shall be proportionate to the amount of funds or economic resources involved in the offence and the maximum limit of such fines shall be not less than EUR 10 000 000 where those offences involve funds or economic resources of a value of at least EUR 100 000.* Those additional penalties shall *also* include:

- (a) withdrawal of permits and authorisations to pursue activities which have resulted in committing the offence;*
- (b) disqualification from exercising a leading position within a legal person of the type used for committing the offence;*
- (c) temporary bans on running for elected or public office;*
- (d) national or Union-wide publication of the judicial decision relating to the conviction or any sanctions or measures applied.*

Amendment 46
Proposal for a directive
Article 7 – title

Text proposed by the Commission

Penalties for legal persons

Amendment

Sanctions for legal persons

Amendment 47
Proposal for a directive
Article 7 – paragraph 1 – introductory part

Text proposed by the Commission

(1) Member States shall take the necessary measures to ensure that a legal person held liable pursuant to Article 7 is subject to effective, proportionate and dissuasive *penalties*, which shall include criminal or non-criminal fines, exclusion from entitlement to public benefits or aid,

Amendment

(1) Member States shall take the necessary measures to ensure that a legal person held liable pursuant to Article **6** is subject to effective, proportionate and dissuasive *sanctions*, which shall include criminal or non-criminal fines, exclusion from entitlement to public benefits or aid,

exclusion from access to public funding, including tender procedures, grants and concessions and may include other *penalties*, such as:

exclusion from access to public funding, including tender procedures, grants and concessions and may include other *sanctions*, such as:

Amendment 48

Proposal for a directive

Article 7 – paragraph 1 – point a

Text proposed by the Commission

(a) disqualification from the practice of business activities;

Amendment

(a) ***temporary or permanent*** disqualification from the practice of business activities;

Amendment 49

Proposal for a directive

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

Text proposed by the Commission

Amendment

(ea) national or Union-wide publication of the judicial decision relating to the conviction or any sanctions or measures applied, including by referring such judicial decision, sanctions or measures to relevant Union institutions.

Amendment 50

Proposal for a directive

Article 7 – paragraph 2

Text proposed by the Commission

(2) Member States shall take the necessary measures to ensure that for legal persons held liable pursuant to Article 7 the criminal offences referred to in Article 3(2), points (h) (iii) to ***(v)***, are punishable by fines, the maximum limit of which should be not less than ***1*** percent of the ***total*** worldwide turnover of the legal person in the business year preceding the fining decision.

Amendment

(2) Member States shall take the necessary measures to ensure that for legal persons held liable pursuant to Article ***6*** the criminal offences referred to in Article 3(2), points (h) (iii) to ***(va)***, are punishable by fines, the maximum limit of which should be not less than ***five*** percent of the ***consolidated*** worldwide turnover of the legal person in the business year preceding the fining decision.

Amendment 51
Proposal for a directive
Article 7 – paragraph 3

Text proposed by the Commission

(3) Member States shall take the necessary measures to ensure that for legal persons held liable pursuant to Article 7 the criminal offences referred to in Article 3(2), points (a) to (f), (h)(i) and (ii), and point (i), are punishable by fines, the maximum limit of which should be not less than **5** percent of the **total** worldwide turnover of the legal person in the business year preceding the fining decision.

Amendment

(3) Member States shall take the necessary measures to ensure that for legal persons held liable pursuant to Article **6** the criminal offences referred to in Article 3(2), points (a) to (f), **points** (h)(i) and (ii), and point (i), are punishable by fines, the maximum limit of which should be not less than **15** percent of the **consolidated** worldwide turnover of the legal person in the business year preceding the fining decision.

Amendment 52
Proposal for a directive
Article 8 – paragraph 1 – introductory part

Text proposed by the Commission

In so far as the following circumstances do not already form part of the constituent elements of the criminal offences referred to in Articles 3 and 4, Member States shall take the necessary measures to ensure that **one or several of** the following circumstances may be regarded as aggravating circumstances:

Amendment

In so far as the following circumstances do not already form part of the constituent elements of the criminal offences referred to in Articles 3 and 4, Member States shall take the necessary measures to ensure that the following circumstances may be regarded as aggravating circumstances:

Amendment 53
Proposal for a directive
Article 8 – paragraph 1 – point -a (new)

Text proposed by the Commission

Amendment

(-a) the offence was committed in violation of a Union restrictive measure imposed in relation to crimes within the jurisdiction of the International Criminal Court including the crime of genocide, crimes against humanity, war crimes and

the crime of aggression or of a Union restrictive measure imposed in relation to serious human rights violations and abuses;

Amendment 54
Proposal for a directive
Article 8 – paragraph 1 – point a a (new)

Text proposed by the Commission

Amendment

(aa) the offence involves the export of military technology or equipment as defined in Council Common Position 2008/944/CFSP;

Amendment 55
Proposal for a directive
Article 8 – paragraph 1 – point a b (new)

Text proposed by the Commission

Amendment

(ab) the offence involved serious acts of corruption or the use of false or forged documents;

Amendment 56
Proposal for a directive
Article 8 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) the offence was committed by a public official when performing his or her duties;

(c) the offence was committed by a public official, *whether a member of the civil service or the government including at the highest level*, when performing his or her duties;

Amendment 57
Proposal for a directive
Article 8 – paragraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(da) the offence generated or was expected to generate substantial financial benefits, or avoided substantial expenses, directly or indirectly;

Amendment 58
Proposal for a directive
Article 8 – paragraph 1 – point d b (new)

Text proposed by the Commission

Amendment

(db) the offender actively obstructs the inspection, custom controls or investigation activities, destroys evidence, or intimidates or interferes with witnesses or complainants;

Amendment 59
Proposal for a directive
Article 8 – paragraph 1 – point d c (new)

Text proposed by the Commission

Amendment

(dc) the offender does not provide assistance to inspection and other enforcement authorities when legally required;

Amendment 60
Proposal for a directive
Article 8 – paragraph 1 – point d d (new)

Text proposed by the Commission

Amendment

(dd) in the case of legal persons, the offence was committed by a person having a leading position within the legal person concerned;

Amendment 61
Proposal for a directive
Article 8 – paragraph 1 – point d e (new)

Text proposed by the Commission

Amendment

(de) the natural or legal person has previously committed offences covered by Articles 3 and 4.

Amendment 62

Proposal for a directive

Article 9 – paragraph 1 – introductory part

Text proposed by the Commission

Provided this is not already an obligation under Union restrictive measures, Member States shall take the necessary measures to ensure that, in relation to the offences referred to in Articles 3 and 4, the following may be regarded as a mitigating circumstance:

Amendment

1. Provided this is not already an obligation under Union restrictive measures, Member States shall take the necessary measures to ensure that, in relation to the offences referred to in Articles 3 and 4, the following ***circumstances*** may be regarded as a mitigating circumstance:

Amendment 63

Proposal for a directive

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

Text proposed by the Commission

Amendment

(ba) the offender reports the offence to the competent authorities, before the offence is detected by the competent authorities.

Amendment 64

Proposal for a directive

Article 9 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. ***Member States shall take the necessary measures to ensure that, in the assessment of mitigating circumstances, competent authorities take into account the nature, timing, and extent of the information provided by the offender and the level of cooperation provided by the person in question.***

Amendment 65
Proposal for a directive
Article 10 – paragraph 1

Text proposed by the Commission

Member States shall take the necessary measures to ensure that funds or economic resources subject to Union restrictive measures in respect of which the designated person, entity or body commits or participates in an offence referred to in Article 3(2), points (h)(i) or (ii), are considered as ‘proceeds’ of crime for the purposes of Directive (EU) [.../...] [Directive on asset recovery and confiscation].

Amendment 66
Proposal for a directive
Article 10 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1. Member States shall take the necessary measures to ensure that funds or economic resources subject to Union restrictive measures in respect of which the designated person, entity or body commits or participates in an offence referred to in Article 3(2), points (h)(i) or (ii), are considered as ‘proceeds’ of crime for the purposes of Directive (EU) [.../...] **of the European Parliament and the of the Council** [Directive on asset recovery and confiscation].

1a. *Member States shall ensure that funds or economic resources subject to Union restrictive measures in respect of which the designated person, entity or body, listed in Council Regulation (EU) No 269/2014 ^{1a} and in Council Regulation (EU) No 833/2014^{1b}, commits or participates in an offence referred to in Article 3(2) of this Directive shall be frozen and confiscated in accordance with Articles 11 to 18a of Directive [on asset recovery and confiscation].*

^{1a} *Council Regulation (EU) No 269/2014 of 17 March 2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ L 78, 17.3.2014, p. 6).*

^{1b} *Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions*

destabilising the situation in Ukraine (OJ L 229, 31.7.2014, p. 1).

Amendment 67

Proposal for a directive

Article 10 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. The Commission shall issue guidelines on the use of the confiscated instrumentalities, proceeds and property for compensation, restitution and reparations towards States, especially in the circumstances of war of aggression insofar as the interests at stake are directly or indirectly affected by the criminal activities covered by this Directive and by the Directive [on asset recovery and confiscation].

Amendment 68

Proposal for a directive

Article 11 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) the criminal offence was committed in whole or in part within its territory, including its airspace;

(a) the criminal offence was committed in whole or in part within its territory, including its airspace **and territorial sea**;

Amendment 69

Proposal for a directive

Article 11 – paragraph 1 – point e

Text proposed by the Commission

Amendment

(e) the offence is committed for the benefit of a legal person which is established on its territory;

(e) the offence is committed for the benefit of a **natural or** legal person which is established on its territory;

Amendment 70

Proposal for a directive

Article 11 – paragraph 1 – point f

Text proposed by the Commission

(f) the offence is committed for the benefit of a legal person in respect of any business done in whole or in part on its territory.

Amendment

(f) the offence is committed for the benefit of a ***natural or*** legal person in respect of any business done in whole or in part on its territory.

Amendment 71

Proposal for a directive

Article 12 – paragraph 4 – point b

Text proposed by the Commission

(b) a penalty of imprisonment in the case of a criminal offence which is punishable by a maximum penalty of at least ***four*** years of imprisonment,

Amendment

(b) a penalty of imprisonment in the case of a criminal offence which is punishable by a maximum penalty of at least ***five*** years of imprisonment,

Amendment 72

Proposal for a directive

Article 13 – paragraph 1

Text proposed by the Commission

Member ***States*** shall ***take the necessary measures to establish appropriate mechanisms for*** coordination and cooperation at strategic and operational levels among all their competent administrative, law enforcement and judicial authorities.

Amendment

1. Each Member State shall set up or designate a dedicated unit body for the purpose of coordination and cooperation at strategic and operational levels among all their competent administrative, law enforcement and judicial authorities ***within a Member State. The dedicated body referred to in the first subparagraph shall have the following tasks:***

Amendment 73

Proposal for a directive

Article 13 – paragraph 2 – introductory part

Text proposed by the Commission

Such mechanisms shall ***be aimed at least at:***

Amendment

The dedicated body referred to in the first subparagraph shall have the following tasks:

Amendment 74
Proposal for a directive
Article 13 – paragraph 2 – point a

Text proposed by the Commission

(a) **ensuring** common priorities and understanding of the relationship between criminal and administrative enforcement;

Amendment

(a) **to ensure** common priorities and understanding of the relationship between criminal and administrative enforcement;

Amendment 75
Proposal for a directive
Article 13 – paragraph 2 – point b

Text proposed by the Commission

(b) exchange of information for strategic and operational purposes;

Amendment

(b) **to** exchange of information for strategic and operational purposes;

Amendment 76
Proposal for a directive
Article 13 – paragraph 2 – point c

Text proposed by the Commission

(c) **consultation** in individual investigations;

Amendment

(c) **to consult** in individual investigations;

Amendment 77
Proposal for a directive
Article 13 – paragraph 2 – point d

Text proposed by the Commission

(d) **the** exchange **of** best practices;

Amendment

(d) **to** exchange best practices;

Amendment 78
Proposal for a directive
Article 13 – paragraph 2 – point e

Text proposed by the Commission

(e) **assistance** to networks of practitioners working on matters relevant to investigating and prosecuting offences

Amendment

(e) **to assist** to networks of practitioners working on matters relevant to investigating and prosecuting offences

related to the violation of Union restrictive measures.

related to the violation of Union restrictive measures.

Amendment 79

Proposal for a directive

Article 13 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Member States shall ensure that the competent national authorities are provided with the human, technical and financial resources, premises and infrastructure necessary for the effective investigation and prosecution of violation of Union restrictive measures, and that specialised training is provided to the competent administrative, law enforcement and judicial authorities involved in such tasks.

Amendment 80

Proposal for a directive

Article 15 – paragraph 1

Text proposed by the Commission

Amendment

Member States shall take the necessary measures to ensure that effective investigative tools, such as those which are used in investigating organised crime or other serious crime cases, are also available for investigating or prosecuting offences referred to in Articles 3 and 4.

Member States shall take the necessary ***and appropriate*** measures to ensure that effective investigative tools, such as those which are used in investigating organised crime or other serious crime cases, are also available for investigating or prosecuting offences referred to in Articles 3 and 4.

Amendment 81

Proposal for a directive

Article 16 – title

Text proposed by the Commission

Amendment

Cooperation between Member States' authorities, the Commission, Europol, Eurojust ***and*** the European Public Prosecutor's Office

Cooperation between Member States' authorities, the Commission, Europol, Eurojust, the European Public Prosecutor's Office ***and the European Anti-Fraud***

Amendment 82
Proposal for a directive
Article 16 – paragraph 1

Text proposed by the Commission

(1) Without prejudice to the rules on cross-border cooperation and mutual legal assistance in criminal matters, Member States' **authorities**, Europol, Eurojust, the European **Public Prosecutor's** Office, and the Commission shall, within their respective competences, cooperate with each other in the fight against the criminal offences referred to in Articles 3 and 4. To that end, the Commission, **and where appropriate, Europol and Eurojust**, shall provide technical and operational assistance in order to facilitate the coordination of investigations and prosecutions by the competent authorities.

Amendment

(1) Without prejudice to the rules on cross-border cooperation and mutual legal assistance in criminal matters, Member States' **national dedicated bodies set up or designated in accordance with [Article 13] of this Directive**, Europol, Eurojust, the **EPPO, the European Anti-Fraud** Office and the Commission shall, within their respective competences, **meet regularly in a structured format in order to coordinate and** cooperate with each other in the fight against the criminal offences referred to in Articles 3 and 4 **of this Directive**. To that end, the Commission shall **establish a permanent network of experts and practitioners to share best practices and** provide technical and operational assistance in order to facilitate the coordination of investigations and prosecutions by the competent authorities, **Europol and Eurojust, the EPPO, and the European Anti-Fraud Office, in compliance with Union law. That permanent network of experts and practitioners shall also provide a publicly available and regularly updated mapping of the risks of violations or circumvention of Union restrictive measures in specific geographic areas, and with respect to specific sectors and activities.**

Amendment 83
Proposal for a directive
Article 16 – paragraph 2

Text proposed by the Commission

(2) Member States' competent authorities shall also **regularly** share

Amendment

(2) Member States' competent authorities shall also **on a frequent and**

information on practical issues, in particular, patterns of circumvention, *e.g.* structures to conceal the beneficial ownership and control of assets, with the Commission and other competent authorities.

regular basis share information on practical issues, in particular, **on** patterns of circumvention, **for example** structures to conceal the beneficial ownership and control of assets, with the Commission and other competent authorities.

Amendment 84
Proposal for a directive
Article 16 a (new)

Text proposed by the Commission

Amendment

Article 16a

International Cooperation

Without prejudice to the rules on cross-border cooperation and mutual legal assistance in criminal matters, Member State's competent authorities, Europol, Eurojust, the EPPO and the Commission shall, within their respective competences and in the limits of their respective remit, cooperate with competent authorities of third countries in the fight against the criminal offences referred to in Articles 3 and 4, in full respect of fundamental rights and international law.

Amendment 85
Proposal for a directive
Article 17 – title

Text proposed by the Commission

Amendment

Amendments to Directive (EU) 2018/ 1673

Amendments to Directive (EU) 2018/ 1673
on combating money laundering by criminal law

Amendment 86
Proposal for a directive
Article 18 a (new)

Text proposed by the Commission

Amendment

Article 18a

Statistics

1. Member States shall collect and maintain comprehensive statistics at central level on the measures taken under this Directive.

2. Without prejudice to the reporting obligations laid down in other Union legal acts, Member States shall, three times per year for the first two years after ... [six months after the date of entry into force of this Directive], and on an annual basis thereafter, make publicly available and submit to the Commission the following statistics on the criminal offences referred to in Articles 3 and 4, specified per type of Union restrictive measure: (a) the number of criminal proceedings initiated;

(b) the number of criminal proceedings dismissed;

(c) the number of criminal proceedings resulting in an acquittal;

(d) the number of criminal proceedings resulting in a conviction;

(e) the number of ongoing criminal proceedings;

(f) the number of criminal proceedings referred to the EPPO;

(g) the average length of criminal proceedings;

(h) the number of criminal proceedings that involved cross-border cooperation among Member States competent authorities, relevant Union bodies and agencies, and competent authorities from third countries;

(i) the value of the funds and economic resources frozen;

(j) the value of the funds and economic resources confiscated.

The statistics to be submitted shall also include the types and levels of penalties and sanctions imposed for violation of

Union restrictive measures.

3. *The Commission is empowered to adopt delegated acts in accordance with [Article 18b] concerning the establishment of detailed rules on the information to be collected and on the methodology for the collection of the statistics referred to in paragraph 2 of this Article and the arrangements for their transmission to the Commission.*

4. *Within two weeks after receipt of the statistics referred to in paragraph 2, the Commission shall make them publicly available on its website, maintaining the breakdown by Member State.*

Amendment 87
Proposal for a directive
Article 18 b (new)

Text proposed by the Commission

Amendment

Article 18b

Exercise of the delegation

1. *The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.*

2. *The power to adopt delegated acts referred to in [Article 18a] shall be conferred on the Commission for an indeterminate period of time from ... [date of entry into force of this Directive].*

3. *The delegation of power referred to in [Article 18a] may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.*

4. *Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.*

5. *As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.*

6. *A delegated act adopted pursuant to [Article 18a] shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of [two months] of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by [two months] at the initiative of the European Parliament or of the Council.*

Amendment 88

Proposal for a directive

Article 19 – paragraph 2

Text proposed by the Commission

Amendment

(2) Without prejudice to reporting obligations laid down in other Union legal acts, Member States shall, on an annual basis, submit the following statistics on the criminal offences referred to in Articles 3 and 4 to the Commission:

deleted

(a) the number of criminal proceedings initiated, dismissed, resulting in an acquittal, resulting in a conviction and ongoing;

(b) the types and levels of penalties imposed for violation of Union restrictive measures.

Amendment 89

Proposal for a directive
Article 19 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

(2a) By ... [18 months from the date of entry into force of this Directive] the Commission shall assess the cooperation between the Member States and the Commission and other Union institutions, bodies, offices and agencies. That assessment shall include an assessment of the need for and modalities of the extension of the competences of the EPPO to include the criminal offence of violating and circumventing Union restrictive measures.

Amendment 90
Proposal for a directive
Article 19 – paragraph 3

Text proposed by the Commission

Amendment

(3) Member States shall submit the statistical data referred to in paragraph 2 to the Commission using the dedicated reporting tools set up by the Commission for reporting in the field of restrictive measures.

deleted

Amendment 91
Proposal for a directive
Article 19 – paragraph 4

Text proposed by the Commission

Amendment

(4) By [OP-please insert the data-five years after the transposition period is over], the Commission shall carry out an evaluation of the impact of this Directive and submit a report to the European Parliament and to the Council. Member States shall provide the Commission with necessary information for the preparation of that report.

(4) By ... [66 months from the date of entry into force of this Directive], and every three years thereafter, the Commission shall carry out an evaluation of the impact and effectiveness of this Directive, taking into account the annual statistics provided by the Member States, and submit a report to the European Parliament and to the Council, which shall be made public. Member States shall

provide the Commission with necessary information for the preparation of that report. *On the basis of that evaluation, the Commission shall decide on the appropriate follow-up actions, including, if necessary, a legislative proposal.*

MINORITY POSITION

pursuant to Rule 55(4) of the Rules of Procedure
Clare Daly on behalf of The Left

A lack of proper scrutiny and deliberation has plagued the proposal to list the violation of Union Restrictive Measures as an EU crime, and the attendant Directive elaborating severe criminal penalties therefor. Notably, no impact assessment has been produced, and civil society input has been extremely limited.

The EU-wide criminalisation of the violation of restrictive measures has been justified on grounds that inconsistent enforcement by Member States undermines the efficiency of same. However, we do not have any evidence that a failure to criminalise sanctions violations in some Member States, or the existence of dual administrative and criminal regimes in others, is the reason for low levels of detection, prosecution and conviction for the offence. The significant broadening of the scope of criminal behaviour in the EU in the current case is therefore at odds with the *ultima ratio* principle, which requires the legislature to only invoke the criminal law if alternative measures have proven insufficient to achieve the objectives aimed at.

Proposals for criminalisation at an EU-level should always be subject to intensive scrutiny by the legislature and civil society. This has not happened in this case. Rather geopolitics has suppressed proper democratic deliberation and scrutiny, and set a dangerous precedent in the process.

OPINION OF THE COMMITTEE ON BUDGETS

for the Committee on Civil Liberties, Justice and Home Affairs

on the proposal for a directive of the European Parliament and of the Council on the Definition of criminal offences and penalties for the violation of Union restrictive measures (COM(2022)0684 – C9-0401/2022 – 2022/0398(COD))

Rapporteur for opinion: Vlad Gheorghe

SHORT JUSTIFICATION

Since the starts of the Russian unjustified and unprovoked aggressive military aggression against Ukraine on 24 February 2022, EU has adopted an unprecedented package of restrictive measures against individuals and legal entities directly involved or facilitating the war. Such measures have both political and economic objectives aiming at reducing the capacity of Russia to continue military attacks on Ukraine. Considering a broad sector of entities covered by sanctions it is essential to increase the effort for their effective implementation on the EU level.

The addition of the crime of sanction circumvention to the list of the EU crimes requires specific efforts to be made on the national and on the EU level to fight such phenomenon. It is essential to strengthen the effectiveness of the existing sanctions, so as to achieve their economic effect on the targeted persons and entities. This report aims to stress the paramount role the EPPO plays in the investigation of sanction circumvention as the EU body best positioned to fight the crimes involving the EU financial interests. Moreover, since the illicit acquisition of gains through sanction circumvention is connected to the EU financial interests, the EPPO should have the same level of access to information, as national competent authorities do, also in view of a potential extension of the EPPO competence to the fight against sanction evasion.

Moreover, the report follows-up on the call to use the assets confiscated as a result of sanction circumvention of the EU restrictive measures against Russia for the purpose of compensation to the victim population in Ukraine. The monetary value of such assets should serve the goal of building and rebuilding of the infrastructure in Ukraine, as well as the compensation for the victim population.

The report underlines among others, the need to apply proportionate fines in cases of sanction circumvention and strengthen the cooperation among the national authorities, including through the establishment of a joint sanction enforcement structure, with a view to supporting Member States in the implementation of Union restrictive.

AMENDMENTS

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

Amendment 1

Proposal for a directive

Recital 6

Text proposed by the Commission

(6) Persons, entities and bodies, which are designated individually in Union restrictive measures and subject to those Union restrictive measures, may often be involved as instigators and accomplices. For instance, the practice by designated persons and entities of transferring funds, property or economic resources to a **third party** with a view to circumvent Union restrictive measures is increasingly widespread. Therefore, this conduct is covered by the circumvention offence approximated by this Directive.

Amendment

(6) Persons, entities and bodies, which are designated individually in Union restrictive measures and subject to those Union restrictive measures may often be involved as instigators and accomplices. For instance, the practice by designated persons and entities of transferring funds, property or economic resources to a **party closely related, including dependants**, with a view to circumvent Union restrictive measures is increasingly widespread **and needs to be addressed since it undermines the effectiveness of Union restrictive measures**. Therefore, this conduct is covered by the circumvention offence approximated by this Directive.

Amendment 2

Proposal for a directive

Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) Violation of the Union restrictive measures is often linked to other criminal activities and most notably motivated by considerations of financial gain. While generating profits, the circumvention of restrictive measures enables the continued use of assets. It undermines the objectives and effectiveness of those restrictive measures and hence needs to be addressed. Proceeds resulting from the violation of Union restrictive measures or instruments used to pursue the violation

of restrictive measures should become the object of confiscation. Where the confiscated assets stem from the violation of the Union restrictive measures imposed on Russia following the war of aggression against Ukraine, the net revenues resulting from the liquidation of such assets should serve the goal of building and rebuilding of the infrastructure in Ukraine including through the use of financial instruments, as well as the compensation for the victim population.

Amendment 3

Proposal for a directive Recital 19

Text proposed by the Commission

(19) To ensure the effective investigation and prosecution of violations of Union restrictive measures, Member States' competent authorities should cooperate through and with Europol, Eurojust and the European Public Prosecutor's Office (EPPO). These competent authorities should also share information among each other and with the Commission on practical issues.

Amendment

(19) To ensure the effective investigation and prosecution of violations of Union restrictive measures, Member States' competent authorities should cooperate through and with Europol, Eurojust and the European Public Prosecutor's Office (EPPO) ***in accordance with their respective mandates***. These competent authorities should also share information among each other and with the Commission on practical issues.

Amendment 4

Proposal for a directive Recital 19 a (new)

Text proposed by the Commission

Amendment

(19a) For the purpose of this directive, asset recovery offices should closely cooperate with the central and decentralised levels of the European Public Prosecutor's Office (EPPO) with regard to the Member States that participate in the enhanced cooperation on the establishment of the EPPO if applicable under Regulation (EU)

**2017/1939^{1a} ('the EPPO Regulation').
Asset recovery offices should therefore
incur the reporting obligations under the
EPPO Regulation, reporting to the EPPO
in the same way as they do to national
competent authorities and Financial
Intelligence Units.**

**^{1a} Council Regulation (EU) 2017/1939 of
12 October 2017 implementing enhanced
cooperation on the establishment of the
European Public Prosecutor's Office
(‘the EPPO’) (OJ L 283, 31.10.2017, p. 1).**

Amendment 5

Proposal for a directive Recital 19 b (new)

Text proposed by the Commission

Amendment

**(19b) Offences consisting in violation of
the Union restrictive measures which
involve designated persons, their
dependants, entity or body, listed in the
legal acts of the Union on restrictive
measures, such as Council Regulation
(EU) No 269/2014^{1a} and Council
Regulation (EU) No 833/2014^{1b}, need to
be considered in the light of the crimes
against the financial interests of the
Union.**

**^{1a} Council Regulation (EU) No 269/2014
of 17 March 2014 concerning restrictive
measures in respect of actions
undermining or threatening the territorial
integrity, sovereignty and independence of
Ukraine (OJ L 78, 17.3.2014, p. 6)**

**^{1b} Council Regulation (EU) No 833/2014
of 31 July 2014 concerning restrictive
measures in view of Russia's actions
destabilising the situation in Ukraine (OJ
L 229, 31.7.2014, p. 1.**

Amendment 6

Proposal for a directive Recital 23

Text proposed by the Commission

(23) The objectives of this Directive, namely to ensure common definitions of offences related to the violation of Union restrictive measures and the availability of effective, dissuasive and proportionate criminal penalties for serious offences related to the violation of Union restrictive measures cannot be sufficiently achieved by Member States but can rather, by reason of the scale and effects of this Directive, be better achieved at Union level, taking into account the inherent cross-border nature of the violation of Union restrictive measures and their potential to undermine the achievement of the Union objectives to safeguard international peace and security as well as to uphold Union common values. Therefore the Union may adopt measures, in accordance with the principle of subsidiarity as set out in accordance with Article 5 TEU. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary to achieve that objective.

Amendment

(23) The objectives of this Directive, namely to ensure common definitions of offences related to the violation of Union restrictive measures and the availability of effective, dissuasive and proportionate criminal penalties for serious offences related to the violation of Union restrictive measures cannot be sufficiently achieved by Member States but can rather, by reason of the scale and effects of this Directive, be better achieved at Union level, ***including through the active involvement of EPPO within the scope of its mandate***, taking into account the inherent cross-border nature of the violation of Union restrictive measures and their potential to undermine the achievement of the Union objectives to safeguard international peace and security as well as to uphold Union common values ***and defend the Union financial interests. EPPO, as the Union body specialised in the investigation of the crimes against the financial interests of the Union, should play a crucial role in the investigation of crimes of circumvention of the Union restrictive measures when they are deemed to undermine those financial interests.*** Therefore the Union may adopt measures, in accordance with the principle of subsidiarity as set out in accordance with Article 5 TEU. ***Among others, increased efforts for preventing the evasion of Union restrictive measures should be explored with a view to supporting Member States in the implementation of Union restrictive measures.*** In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary to achieve that objective.

Amendment 7

Proposal for a directive

Article 2 – paragraph 2 – point b

Text proposed by the Commission

(b) ‘designated person, entity or body’, means those natural or legal persons, entities or bodies subject to Union restrictive measures consisting in the freezing of funds and economic resources and the prohibition to make funds and economic resources available;

Amendment

(b) ‘designated person, entity or body’, means those natural or legal persons, entities or bodies subject to Union restrictive measures consisting in the freezing of funds and economic resources and the prohibition to make funds and economic resources available, ***including Union travel restrictions***;

Amendment 8

Proposal for a directive

Article 5 – paragraph 3

Text proposed by the Commission

(3) Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 3(2), points (h)(iii), (iv) and (v), are punishable by a maximum penalty of at least one year of imprisonment when they involve funds or economic resources of a value of at least EUR **100 000**. Member States shall ensure that the threshold of EUR **100 000** or more ***may*** also be met through a series of linked offences referred to in Article 3(2), points (h)(iii), (iv) and (v), when committed by the same offender.

Amendment

(3) Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 3(2), points (h)(iii), (iv) and (v), are punishable by a maximum penalty of at least one year of imprisonment when they involve funds or economic resources of a value of at least EUR **50 000**. Member States shall ensure that the threshold of EUR **50 000** or more ***can*** also be met through a series of linked offences referred to in Article 3(2), points (h)(iii), (iv) and (v), when committed by the same offender.

Amendment 9

Proposal for a directive

Article 5 – paragraph 4

Text proposed by the Commission

(4) Member States shall take the necessary measures to ensure that the criminal offences referred to in Article

Amendment

(4) Member States shall take the necessary measures to ensure that the criminal offences referred to in Article

3(2), points (a) to (g), (h)(i) and (ii), and point (i), are punishable by a maximum penalty of at least five years of imprisonment when they involve funds or economic resources of a value of at least EUR 100 000. Member States shall ensure that the threshold of EUR 100 000 or more **may** also be met through a series of linked offences referred to in Article 3(2), points (a) to (g), (h)(i) and (ii), and point (i), by the same offender.

3(2), points (a) to (g), (h)(i) and (ii), and point (i), are punishable by a maximum penalty of at least five years of imprisonment when they involve funds or economic resources of a value of at least EUR 100 000. Member States shall ensure that the threshold of EUR 100 000 or more **can** also be met through a series of linked offences referred to in Article 3(2), points (a) to (g), (h)(i) and (ii), and point (i), by the same offender.

Amendment 10

Proposal for a directive Article 5 – paragraph 5

Text proposed by the Commission

(5) Member States shall take the necessary measures to ensure that natural persons who have committed the offences referred to in Articles 3 and 4 may be subject to additional penalties. **Those additional penalties** shall include fines.

Amendment

(5) Member States shall take the necessary measures to ensure that natural persons who have committed the offences referred to in Articles 3 and 4 may be subject to additional penalties **which** shall include fines. **Such fines shall be proportionate to the amount of funds or economic resources involved in the offence with a maximum of at least EUR 10 000 000 when those offences involve funds or economic resources of a value of at least EUR 100 000.**

Amendment 11

Proposal for a directive Article 7 – paragraph 2

Text proposed by the Commission

(2) Member States shall take the necessary measures to ensure that for legal persons held liable pursuant to Article 7 the criminal offences referred to in Article 3(2), points (h) (iii) to (v), are punishable by fines, the maximum limit of which should be not less than **1** percent of the total worldwide turnover of the legal

Amendment

(2) Member States shall take the necessary measures to ensure that for legal persons held liable pursuant to Article 7 the criminal offences referred to in Article 3(2), points (h) (iii) to (v), are punishable by fines, the maximum limit of which should be not less than **5** percent of the **consolidated** worldwide turnover of the

person in the business year preceding the fining decision.

legal person in the business year preceding the fining decision.

Amendment 12

Proposal for a directive Article 7 – paragraph 3

Text proposed by the Commission

(3) Member States shall take the necessary measures to ensure that for legal persons held liable pursuant to Article 7 the criminal offences referred to in Article 3(2), points (a) to (f), (h)(i) and (ii), and point (i), are punishable by fines, the maximum limit of which should be not less than **5** percent of the total worldwide turnover of the legal person in the business year preceding the fining decision.

Amendment

(3) Member States shall take the necessary measures to ensure that for legal persons held liable pursuant to Article 7 the criminal offences referred to in Article 3(2), points (a) to (f), (h)(i) and (ii), and point (i), are punishable by fines, the maximum limit of which should be not less than **10** percent of the **consolidated** worldwide turnover of the legal person in the business year preceding the fining decision.

Amendment 13

Proposal for a directive Article 10 – paragraph -1 (new)

Text proposed by the Commission

Amendment

Member States shall ensure that funds or economic resources subject to Union restrictive measures in respect of which the designated person, entity or body, listed in Council Regulation (EU) No 269/2014 and Council Regulation (EU) No 833/2014, commits or participates in an offence referred to in Article 3(2) shall be frozen and confiscated as per Articles 11 to 18 of Directive (EU) [.../.../] of the European Parliament and the of the Council [on asset recovery and confiscation]^{1a}. In addition, Member States shall ensure that regarding the party closely related to suspected, accused or convicted person as defined in Directive (EU) [.../.../][on asset recovery and confiscation], Article 13 of the same Directive is fully implemented

and without undue delay.

^{1a} COM(2022) 245.

Amendment 14

Proposal for a directive

Article 10 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

The proceeds shall be used for public interest or social purposes, with a particular focus on the victims wherever possible. Member States shall decide for which areas of public interest and social purposes the proceeds or the net revenues resulting from the liquidation of the proceeds may be used except for the latter when they are established as an own resource in accordance with Article 311(3) TFEU and when they are related to the Russian aggression against Ukraine, in which case they shall constitute external assigned revenue in accordance with Article 21(5) of the Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council^{1a} ('the Financial Regulation') until the establishment of the relevant own resource in accordance with Article 311(3) TFEU and without prejudice to restitution, compensation, to the victims and public concerned and Member States' capacity to implement the Directive. Those external assigned revenues shall be mainly assigned to the Neighbourhood, Development and International Cooperation Instrument – Global Europe on the Eastern Neighbourhood line (14 02 01 11) and, where appropriate, to the NDICI - Global Europe - provisioning of the common provisioning fund line (14 02 01 70) under Heading 6 and the successor budget lines in the next multiannual financial framework.

^{1a} Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

Amendment 15

Proposal for a directive Article 10 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

Where the fines referred to in Article 5(5) and Article 7(2) and (3) are related to the offences referred to in Articles 3 and 4 and are linked to the violation of Union restrictive measures in the context of the Russian war of aggression against Ukraine, they should serve the goal of rebuilding the infrastructure and compensating the victim population.

Amendment 16

Proposal for a directive Article 13 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

For the purposes of this Directive, when the notion of competent authorities refers to investigating and prosecuting authorities, it shall be interpreted as including the central and decentralised levels of the EPPO with regard to the Member States that participate in the enhanced cooperation on the

establishment of the EPPO. Asset recovery offices shall therefore incur the obligations under the EPPO Regulation, including the obligation to report to the EPPO under Article 24 of the EPPO Regulation, undertaking of measures if instructed as a competent authority under Article 28(1) of the EPPO Regulation and access to information under Article 43(1) of the EPPO Regulation.

Amendment 17

Proposal for a directive Article 15 – paragraph 1

Text proposed by the Commission

Member States shall take the necessary measures to ensure that effective investigative tools, such as those which are used in investigating organised crime or other serious crime cases, are also available for investigating or prosecuting offences referred to in Articles 3 and 4.

Amendment

Member States shall take the necessary measures to ensure that effective investigative tools **and mechanisms**, such as those which are used in investigating organised crime or other serious crime cases, are also available for investigating or prosecuting offences referred to in Articles 3 and 4.

Amendment 18

Proposal for a directive Article 15 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

Offences referred to in Articles 3 and 4 which involve designated persons, entity or body, listed in the legal acts of the Union on restrictive measures, such as Council Regulation (EU) No 269/2014 and Council Regulation (EU) No 833/2014 and fall within the mandate of the EPPO, shall be referred to the EPPO for investigating, prosecuting and bringing to judgment.

Justification

Since the confiscated resources resulting from the violation of sanctions against individuals and entities involved in Russian aggression against Ukraine shall become part of the EU budget, such resources belong to the financial interests of the EU. Therefore the prosecution of such offences should be carried out by the EPPO, which is the best equipped EU body to deal with the cross-border character of sanction circumvention.

Amendment 19

Proposal for a directive Article 16 – paragraph 1

Text proposed by the Commission

(1) Without prejudice to the rules on cross-border cooperation and mutual legal assistance in criminal matters, Member States' authorities, Europol, Eurojust, the European Public Prosecutor's Office, and the Commission shall, within their respective competences, cooperate with each other in the fight against the criminal offences referred to in Articles 3 and 4. To that end, the Commission, and where appropriate, Europol and Eurojust, shall provide technical and operational assistance in order to facilitate the coordination of investigations and prosecutions by the competent authorities.

Amendment

(1) Without prejudice to the rules on cross-border cooperation and mutual legal assistance in criminal matters, Member States' authorities, Europol, Eurojust, the European Public Prosecutor's Office, ***when Member States participating in the enhanced cooperation on the establishment of the EPPO are involved*** and the Commission shall, within their respective competences, cooperate with each other in the fight against the criminal offences referred to in Articles 3 and 4. To that end, the Commission, and where appropriate, Europol and Eurojust ***and EPPO in regards to Member States participating in the enhanced cooperation on the establishment of the EPPO are involved***, shall provide technical and operational assistance in order to facilitate the coordination of investigations and prosecutions by the competent authorities.

Amendment 20

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

Text proposed by the Commission

Amendment

(1a) Commission, Europol, Eurojust as well as authorities of the Member States,

in particular Asset Recovery Offices and Asset Management Offices, in accordance with Directive (EU) [.../...] [Directive on asset recovery and confiscation], shall cooperate with the EPPO on offences referred to in Articles 3 and 4 which involve designated person, entity or body, listed in Council Regulation (EU) No 269/2014 and which are referred to the EPPO for investigating, prosecuting and bringing to judgment.

Amendment 21

Proposal for a directive Article 16 – paragraph 2

Text proposed by the Commission

(2) Member States' competent authorities shall also regularly share information on practical issues, in particular, patterns of circumvention, e.g. structures to conceal the beneficial ownership and control of assets, with the Commission and other competent authorities.

Amendment

(2) Member States' competent authorities shall also regularly share information on practical issues, in particular, patterns of circumvention, e.g. structures to conceal the beneficial ownership and control of assets, with the Commission, **EPPO** and other competent authorities, ***within the exercise of their respective competences.***

Amendment 22

Proposal for a directive Article 19 – paragraph 2 – point a a (new)

Text proposed by the Commission

Amendment

(aa) the number of criminal proceedings referred to the EPPO.

Amendment 23

Proposal for a directive Article 19 – paragraph 2 – point b a (new)

Text proposed by the Commission

Amendment

(ba) the monetary value of funds and economic resources frozen and confiscated in each case of violation of Union restrictive measures;

Amendment 24

Proposal for a directive

Article 19 – paragraph 2 – point b b (new)

Text proposed by the Commission

Amendment

(bb) the types of national authorities involved in investigations and criminal proceedings.

Justification

The scope is to identify which of the national authorities are most solicited and as a consequence might require additional financial and technical resources.

PROCEDURE – COMMITTEE ASKED FOR OPINION

Title	Definition of criminal offences and penalties for the violation of Union restrictive measures
References	COM(2022)0684 – C9-0401/2022 – 2022/0398(COD)
Committee responsible Date announced in plenary	LIBE 12.12.2022
Opinion by Date announced in plenary	BUDG 16.3.2023
Rapporteur for the opinion Date appointed	Vlad Gheorghe 28.3.2023
Discussed in committee	26.4.2023
Date adopted	8.6.2023
Result of final vote	+: 21 –: 1 0: 2
Members present for the final vote	Olivier Chastel, Andor Deli, Pascal Durand, José Manuel Fernandes, Vlad Gheorghe, Valérie Hayer, Eero Heinäluoma, Niclas Herbst, Adam Jarubas, Moritz Körner, Zbigniew Kuźmiuk, Camilla Laureti, Siegfried Mureşan, Dimitrios Papadimoulis, Bogdan Rzońca, Eleni Stavrou, Nils Ušakovs
Substitutes present for the final vote	Jonás Fernández, Jens Geier, Fabienne Keller, Petri Sarvamaa
Substitutes under Rule 209(7) present for the final vote	Asim Ademov, Markus Ferber, Massimiliano Smeriglio

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

21	+
PPE	Asim Ademov, Markus Ferber, José Manuel Fernandes, Niclas Herbst, Adam Jarubas, Siegfried Mureşan, Petri Sarvamaa, Eleni Stavrou
Renew	Olivier Chastel, Vlad Gheorghe, Valérie Hayer, Fabienne Keller, Moritz Körner
S&D	Pascal Durand, Jonás Fernández, Jens Geier, Eero Heinäluoma, Camilla Laureti, Massimiliano Smeriglio, Nils Ušakovs
The Left	Dimitrios Papadimoulis

1	-
NI	Andor Deli

2	0
ECR	Zbigniew Kuźmiuk, Bogdan Rzońca

Key to symbols:

+ : in favour

- : against

0 : abstention

PROCEDURE – COMMITTEE RESPONSIBLE

Title	Definition of criminal offences and penalties for the violation of Union restrictive measures		
References	COM(2022)0684 – C9-0401/2022 – 2022/0398(COD)		
Date submitted to Parliament	2.12.2022		
Committee responsible Date announced in plenary	LIBE 12.12.2022		
Committees asked for opinions Date announced in plenary	BUDG 16.3.2023	ECON 12.12.2022	JURI 12.12.2022
Not delivering opinions Date of decision	ECON 25.1.2023	JURI 31.1.2023	
Rapporteurs Date appointed	Sophia in ‘t Veld 28.3.2023		
Discussed in committee	31.1.2023	22.5.2023	
Date adopted	6.7.2023		
Result of final vote	+: –: 0:	36 2 2	
Members present for the final vote	Abir Al-Sahlani, Malik Azmani, Katarina Barley, Pietro Bartolo, Theresa Bielowski, Vasile Blaga, Patrick Breyer, Saskia Bricmont, Damien Carême, Patricia Chagnon, Clare Daly, Lucia Ďuriš Nicholsonová, Sylvie Guillaume, Sophia in ‘t Veld, Łukasz Kohut, Moritz Körner, Alice Kuhnke, Lukas Mandl, Erik Marquardt, Nadine Morano, Javier Moreno Sánchez, Maite Pagazaurtundúa, Karlo Ressler, Diana Riba i Giner, Birgit Sippel, Tineke Strik, Ramona Strugariu, Yana Toom		
Substitutes present for the final vote	Nathalie Colin-Oesterlé, Beata Kempa, Leopoldo López Gil, Kostas Papadakis, Thijs Reuten, Domènec Ruiz Devesa, Isabel Wiseler-Lima		
Substitutes under Rule 209(7) present for the final vote	François-Xavier Bellamy, Isabel Benjumea Benjumea, Hildegard Bentele, Marie Dauchy, Vlad Gheorghe		
Date tabled	7.7.2023		

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

36	+
ECR	Beata Kempa
PPE	François-Xavier Bellamy, Isabel Benjumea Benjumea, Hildegard Bentele, Vasile Blaga, Nathalie Colin-Oesterlé, Leopoldo López Gil, Lukas Mandl, Nadine Morano, Karlo Ressler, Isabel Wiseler-Lima
Renew	Abir Al-Sahlani, Malik Azmani, Lucia Ďuriš Nicholsonová, Vlad Gheorghe, Sophia in 't Veld, Moritz Körner, Maite Pagazaurtundúa, Ramona Strugariu, Yana Toom
S&D	Katarina Barley, Pietro Bartolo, Theresa Bielowski, Sylvie Guillaume, Łukasz Kohut, Javier Moreno Sánchez, Thijs Reuten, Domènec Ruiz Devesa, Birgit Sippel
Verts/ALE	Patrick Breyer, Saskia Bricmont, Damien Carême, Alice Kuhnke, Erik Marquardt, Diana Riba i Giner, Tineke Strik

2	-
NI	Kostas Papadakis
The Left	Clare Daly

2	0
ID	Patricia Chagnon, Marie Dauchy

Key to symbols:

+ : in favour

- : against

0 : abstention