### **European Parliament**

2019-2024



Committee on Civil Liberties, Justice and Home Affairs

2023/0135(COD)

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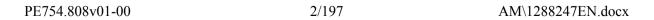
# **AMENDMENTS** 137 - 506

**Draft report Ramona Strugariu**(PE753.573v01-00)

Combating corruption, replacing Council Framework Decision 2003/568/JHA and the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union and amending Directive (EU) 2017/1371 of the European Parliament and of the Council

Proposal for a directive (COM(2023)0234 – C9-0162/2023 – 2023/0135(COD))

AM\1288247EN.docx PE754.808v01-00



### Amendment 137 Laura Ferrara, Sabrina Pignedoli, Maria Angela Danzì

# Proposal for a directive Recital 1

Text proposed by the Commission

**(1)** Corruption remains a significant problem at the Union level, threatening the stability and security of societies, including by enabling organised and other serious crime. Corruption undermines democratic institutions and universal values on which the Union is founded, particularly the rule of law, democracy, equality and the protection of fundamental rights. It jeopardises development, prosperity and the sustainability and inclusiveness of our economies. In order to effectively prevent and combat corruption, a comprehensive and multidisciplinary approach is required. The purpose of this Directive is to tackle corruption by means of criminal law, allowing for better cross-border cooperation between competent authorities.

#### Amendment

Corruption remains a significant (1) problem at the Union level, threatening the stability and security of societies, including by enabling organised and other serious crime. Corruption undermines democratic institutions and universal values on which the Union is founded, particularly the rule of law, democracy, equality and the protection of fundamental rights. It jeopardises development, prosperity and the sustainability and inclusiveness of our economies by facilitating the infiltration of the licit economy by organised crime, including through the award of public procurement contracts and public concessions, and by undermining the proper functioning of the market, underpinned by competition. In order to effectively prevent and combat corruption, a comprehensive and multidisciplinary approach is required. The purpose of this Directive is to tackle corruption by means of criminal law, allowing for better crossborder cooperation between competent authorities

Or. it

Amendment 138 Elena Yoncheva, Petar Vitanov, Klára Dobrev, Sándor Rónai

Proposal for a directive Recital 1 a (new)

Text proposed by the Commission

Amendment

(1a) Member States should be provided with the tools and measures to combat the most serious corrupt behaviour, involving

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

Or. en

Amendment 139 Nuno Melo

Proposal for a directive Recital 1 a (new)

Text proposed by the Commission

Amendment

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

Or. en

Amendment 140 Elena Yoncheva, Petar Vitanov, Klára Dobrev, Sándor Rónai

Proposal for a directive Recital 1 b (new)

Text proposed by the Commission

Amendment

(1b) Corruption is not a victimless crime and the rights of victims of corruption should be safeguarded on the same level as those of victims of other crimes, including regarding the right to

information, support and protection. Victims of corruption should be represented in court proceedings, consulted about corruption investigation and adequately compensated. This will ensure that the consequences and the damage of corruption to societies are recognised and guarantees the rights of people suffering from corruption.

Or. en

### Amendment 141 Daniel Freund

# Proposal for a directive Recital 3

Text proposed by the Commission

(3) The existing legal framework should be updated and strengthened to facilitate an effective fight against corruption across the Union. This Directive aims to criminalise corruption offences when committed intentionally. Intention and knowledge may be inferred from objective and factual circumstances. As this Directive provides for minimum rules, Member States remain free to adopt or maintain more stringent criminal law rules for corruption offences.

#### Amendment

The existing legal framework (3) should be updated and strengthened to facilitate an effective fight against corruption across the Union. This Directive aims to criminalise corruption offences when committed intentionally. Intention and knowledge may be inferred from objective and factual circumstances. As this Directive provides for minimum rules, Member States remain free to adopt or maintain more stringent criminal law rules for corruption offences. Nothing in this Directive is to be interpreted as grounds for reduction in the level of protection already afforded by existing criminal law rules for corruption offences.

Or. en

Amendment 142 Tomas Tobé

Proposal for a directive Recital 4

### Text proposed by the Commission

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

#### Amendment

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

Or. en

Amendment 143 Nuno Melo

Proposal for a directive Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) Diverse manifestations of corruption necessitate a coordinated and harmonized approach among Member States to address its root causes and consequences effectively.

Or. en

Amendment 144 Jean-Paul Garraud

Proposal for a directive Recital 5

Text proposed by the Commission

(5) To root out corruption, both

Amendment

(5) To root out corruption, both

PE754.808v01-00 6/197 AM\1288247EN.docx

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

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

Or. fr

### Amendment 145 Elena Yoncheva, Petar Vitanov, Klára Dobrev, Sándor Rónai

# Proposal for a directive Recital 5

Text proposed by the Commission

(5) To root out corruption, both preventive and repressive mechanisms are needed. Member States are encouraged to take a wide range of preventive, legislative and cooperative measures as part of the fight against corruption. Whereas corruption is first and foremost a crime and specific acts of corruption are defined in national and international law, failings in

### Amendment

(5) To root out corruption, both preventive and repressive mechanisms are needed. Member States are encouraged to take a wide range of preventive, legislative and cooperative measures as part of the fight against corruption. Whereas corruption is first and foremost a crime and specific acts of corruption are defined in national and international law, failings in

integrity, undisclosed conflicts of interests or serious breaches of ethical rules can become corrupt activities if left unaddressed. The prevention of corruption mitigates the need for criminal repression and has wider benefits in promoting public trust and managing the conduct of public officials. Effective anti-corruption approaches often build on measures to enhance transparency, ethics and integrity, as well as by regulating in areas such as conflict of interest, lobbying and revolving doors. Public bodies should seek the highest standards of integrity, transparency and independence as an important part of tackling corruption more broadly.

integrity, undisclosed conflicts of interests or serious breaches of ethical rules can become corrupt activities if left unaddressed. The prevention of corruption mitigates the need for criminal repression and has wider benefits in promoting public trust and managing the conduct of public officials. Effective anti-corruption approaches in all Member States should build on measures to enhance transparency, ethics and integrity, as well as by regulating in areas, considered to be enablers of corruption, such as conflict of interest, lobbying, revolving doors, public procurements and political parties financing. Public bodies should seek the highest standards of integrity, transparency and independence as an important part of tackling corruption more broadly.

Or. en

Amendment 146 Nuno Melo

Proposal for a directive Recital 5 a (new)

Text proposed by the Commission

#### Amendment

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

Or. en

**Amendment 147** 

#### **Daniel Freund**

# Proposal for a directive Recital 6

Text proposed by the Commission

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

#### Amendment

Member States should have in place bodies or units specialised in the repression and specialised in the prevention of corruption. Providing such specialised bodies or units with a clear mandate enshrined in law is paramount not only to ensuring their permanence, but also to increasing awareness among the public as to what the body or agency's powers and responsibilities are. Member States may decide to entrust a body with a combination of preventive and law enforcement functions. In order to ensure that these bodies operate effectively, they should meet a number of conditions, including having the independence, resources and powers that are necessary to ensure the proper administration of their tasks. The institutions, bodies, offices and agencies of the Union should also adopt dedicated measures to prevent corruption of Union officials, adapted to the specific risks of the areas of activity covered by their respective administrations. Bodies or agencies specialised in the prevention of corruption should be empowered to manage asset declarations of public officials, as well as to monitor compliance with transparency rules and statutory provisions related to conflicts of interests in the public and private sector. All Member States should also create integrated services specifically tasked with duties related to the investigation and prosecution of corruption offences. Member States should equip such integrated anti-corruption investigation and prosecution services with specialised personnel, adequate technical means, and financial resources to ensure their full autonomy and a high degree of professionalism.

### Amendment 148 Elena Yoncheva, Klára Dobrev, Sándor Rónai, Petar Vitanov

# Proposal for a directive Recital 6

Text proposed by the Commission

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

#### Amendment

Member States should have in place bodies or units specialised in the repression and investigation and specialised in the prevention of corruption. Member States may decide to entrust a body with a combination of preventive and law enforcement functions. In order to ensure that these bodies operate effectively, they should meet a number of conditions, including having the independence, resources and powers that are necessary to ensure the proper administration of their tasks. The management of the specialised bodies should be appointed through an open and transparent procedure in full compliance with the principle of legislative oversight, including several branches of government, to ensure public trust in the national anti-corruption bodies and avoid potential conflicts of interest.

Or. en

### Amendment 149 Cristian Terheş

# Proposal for a directive Recital 6

Text proposed by the Commission

(6) Member States should have in place bodies or units specialised in the repression *and specialised in the prevention* of corruption. Member States may decide to

### Amendment

(6) Member States should have in place bodies or units specialised in the *prevention and* repression of corruption. Member States may decide to entrust a

entrust a body with a combination of preventive and law enforcement functions. In order to ensure that these bodies operate effectively, they should meet a number of conditions, including having the independence, resources and powers that are necessary to ensure the *proper* administration of their tasks.

body with a combination of preventive and law enforcement functions. In order to ensure that these bodies operate effectively, they should meet a number of conditions, such as, first and foremost the respect of fundamental rights, national constitutional provisions, the right to a fair trial, including having the independence, impartiality, resources and powers that are necessary to ensure the fair administration of their tasks.

Or. en

Amendment 150 Elena Yoncheva, Klára Dobrev, Sándor Rónai, Petar Vitanov

Proposal for a directive Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) To ensure coordinated EU oversight over the efforts of Member States to tackle corruption, Member States should facilitate the tasks of an EU Anti-Corruption Coordinator. The Coordinator should be responsible for improving coordination and coherence among EU institutions, EU agencies and Member States and should contribute to the effective application of this Directive. To ensure implementation of the countryspecific recommendations in regards to combatting corruption set out in the Commission annual Rule of Law Report, the Coordinator should report on the actions that Member States take to address and fulfil them. On its own initiative, or upon the request of the Commission, the Anti-Corruption Coordinator may draw up opinions regarding national measures which may have a significant impact on the implementation of this Directive, including the national anti-corruption strategies of the Member States.

### Amendment 151 Nuno Melo

# Proposal for a directive Recital 6 a (new)

Text proposed by the Commission

### Amendment

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

Or. en

# Amendment 152 Cristian Terheş

# Proposal for a directive Recital 8

Text proposed by the Commission

(8) Taking account of the evolution of corruption threats and the legal obligations on the Union and Member States under international law, as well as the development of national legal frameworks, the definition of corruption should be further approximated in all Member States so that it covers corrupt conduct more comprehensively.

#### Amendment

(8) Taking account of the OECD 2008 statement that 'there are as many different definitions of corruption as there are manifestations of the problem itself' it should be retained that there is no single definition of corruption as corruption exists in different forms involving different participants. Indeed, corruption is an endemic phenomenon that takes multiple shapes and forms across all facets of society, for example bribery, embezzlement, trading in influence, trading of information, abuse of functions, diversion of public funds and

<sup>1a</sup> Stepping up the EU's efforts to tackle corruption, Cost of Non Europe Report, EPRS | European Parliamentary Research Service, JAN 2023, page 15 (UNODC, n.d.)

Or. en

### Amendment 153 Jean-Paul Garraud

# Proposal for a directive Recital 9

Text proposed by the Commission

(9) To avoid impunity for corruption offences in the public sector, the scope of application needs to be well defined. First of all, the concept of public official should also cover persons working in international organisations, including the institutions, agencies and bodies of the European Union and international courts. This should. amongst other things, encompass persons acting as members of collegial bodies responsible for deciding on the guilt of an accused person in the framework of a trial, as well as persons who by virtue of an arbitration agreement are called upon to render a legally binding decision in disputes submitted by the parties to the arbitration agreement. Secondly, many entities or persons nowadays exercise public functions without holding a formal office. Therefore, the concept of public official is defined to cover all relevant officials, whether appointed, elected or employed on the basis of a contract, holding a formal administrative or judicial office, as well as all persons providing a service, which have been vested with public authority or who are subject to the control or supervision of public authorities in relation to the carrying out of such a

#### Amendment

(9)To avoid impunity for corruption offences in the public sector, the scope of application, encompassing all public officials and public servants, needs to be well defined. First of all, the concept of public official should also cover persons working in international organisations, including the institutions, agencies and bodies of the European Union and international courts. This should, amongst other things, encompass all members of control and audit bodies, judges (national judges of Member States, judges sitting in European courts and judges sitting in international courts), all parliamentarians (sitting in the parliaments of the Member States or in the European Parliament), members of the governments of the Member States and the leaders of the European executive (European Commissioners and the President of the European Council), persons acting as members of collegial bodies responsible for deciding on the guilt of an accused person in the framework of a trial, as well as persons who by virtue of an arbitration agreement are called upon to render a legally binding decision in disputes submitted by the parties to the arbitration

service, even if they do not hold formal office. For the purposes of this Directive, the definition should cover persons working in state-owned and state-controlled enterprises, as well as in asset management foundations and privately-owned companies performing public service functions and the legal persons established or maintained by them. Any person holding a legislative office should be treated as a public official for the purposes of this Directive.

agreement. Secondly, many entities or persons nowadays exercise public functions without holding a formal office. Therefore, the concept of public official is defined to cover all relevant officials. whether appointed, elected or employed on the basis of a contract, holding a formal administrative or judicial office, as well as all persons providing a service, which have been vested with public authority or who are subject to the control or supervision of public authorities in relation to the carrying out of such a service, even if they do not hold formal office. For the purposes of this Directive, the definition should cover persons working in state-owned and statecontrolled enterprises, as well as in asset management foundations and privatelyowned companies performing public service functions and the legal persons established or maintained by them. Any person holding a legislative office should be treated as a public official for the purposes of this Directive.

Or. fr

### Amendment 154 Cristian Terhes

# Proposal for a directive Recital 9

Text proposed by the Commission

(9) To avoid impunity for corruption offences in the public sector, the scope of application needs to be well defined. First of all, the concept of public official should also cover persons working in international organisations, including the institutions, agencies and bodies of the European Union and international courts. This should, amongst other things, encompass persons acting as members of collegial bodies responsible for deciding on the guilt of an accused person in the framework of a trial, as well as persons who by virtue of an

#### Amendment

(9) To avoid impunity for corruption offences in the public sector, the scope of application needs to be well defined. First of all, the concept of public official should also cover persons working in international organisations, including the institutions, agencies and bodies of the European Union and international courts. This should, amongst other things, encompass persons acting as members of collegial bodies responsible for deciding on the guilt of an accused person in the framework of a trial, as well as persons who by virtue of an

PE754.808v01-00 14/197 AM\1288247EN.docx

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

arbitration agreement are called upon to render a legally binding decision in disputes submitted by the parties to the arbitration agreement. Secondly, many entities or persons nowadays exercise public functions without holding a formal office. Therefore, the concept of public official, including ambassadors and diplomatic personnel, military and intelligence services' personnel, judges and prosecutors, is defined to cover all relevant officials, whether appointed, elected or employed on the basis of a contract, holding a formal administrative or judicial office, as well as all persons providing a service, which have been vested with public authority or who are subject to the control or supervision of public authorities in relation to the carrying out of such a service, even if they do not hold formal office. For the purposes of this Directive, the definition should cover persons working in state-owned and statecontrolled enterprises, as well as in asset management foundations and privatelyowned companies performing public service functions and the legal persons established or maintained by them. Any person holding a legislative office should be treated as a public official for the purposes of this Directive.

Or. en

**Amendment 155 Daniel Freund** 

Proposal for a directive Recital 9 a (new)

Text proposed by the Commission

Amendment

(9a) With regard to the prevention of and contrast to corruption, the creation of specialised bodies or agencies with a mandate enshrined on a clear legal basis is paramount to ensure their permanence, but also to entrust them with a specific

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

Or. en

Amendment 156 Laura Ferrara, Sabrina Pignedoli, Maria Angela Danzì

Proposal for a directive Recital 9 a (new)

Text proposed by the Commission

Amendment

(9a) With a view to further strengthening the European anti-corruption framework and to effectively preventing corruption offences, the notion of conflict of interest needs to be clearly

defined and as broadly as possible. This notion should cover all situations in which the impartial and objective exercise of the duties of a person involved in the performance of public functions is compromised for reasons of family, emotional, political or national affinity, economic interest or any other direct or indirect personal interest, whether real or potential, which conflicts with the public functions that the official is entrusted to perform.

Or it

Amendment 157 Jorge Buxadé Villalba

Proposal for a directive Recital 9 a (new)

Text proposed by the Commission

Amendment

(9a) In order to uphold the principle of equality before the law and to avoid impunity for corruption offences in both the public and private sectors, the legal systems of Member States should prohibit general pardons or the adoption of amnesty laws that prevent the enforcement of the penalties laid down in national criminal codes and in accordance with this Directive, as well as of any civil liability arising from the commission of the offences concerned;

Or. es

Amendment 158 Nuno Melo

Proposal for a directive Recital 9 a (new)

Text proposed by the Commission

Amendment

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

Or. en

Amendment 159 Tomas Tobé

Proposal for a directive Recital 9 a (new)

Text proposed by the Commission

Amendment

(9a) Public Administration made up of civil servants with high ethical standard is a crucial condition for reducing risk of corruption.

Or. en

Amendment 160 Jorge Buxadé Villalba

Proposal for a directive Recital 9 b (new)

Text proposed by the Commission

Amendment

(9b) In order to ensure the protection of the rule of law in all its complexity and richness, and to avoid impunity for actions seriously harmful to the rule of law and peaceful coexistence, the Directive should take an allencompassing view of the concept of corruption and bribery of a political authority or public official in order to include behaviour whereby not only money or economic favours are obtained in exchange for illegal or illegitimate

PE754.808v01-00 18/197 AM\1288247EN.docx

decisions, but also political favours, favours to third states or to certain parties, groups or collectives within the State, if such favours are particularly serious;

Or. es

Amendment 161 Laura Ferrara, Sabrina Pignedoli, Maria Angela Danzì

Proposal for a directive Recital 9 b (new)

Text proposed by the Commission

Amendment

(9b) It is also necessary to strengthen transparency and to avoid the phenomenon of the 'revolving door' between the public and private sectors, by imposing restrictions on the exercise of professional activities by former public officials, whether appointed, elected or employed under contract, and on the employment by the private sector of public officials after their resignation or retirement, when such activities or employment are directly related to the duties that they had performed or overseen during their term in office.

Or. it

Amendment 162 Nuno Melo

Proposal for a directive Recital 9 b (new)

Text proposed by the Commission

Amendment

(9b) State services must assess corruption and bribery risks associated with their type of activity, the nature of the services they provide, and the context in which these services are provided. For

this purpose, they will have to draft prevention or risk management plans, in which services or acts most susceptible to bribery, exploitation or diversion of funds, and personal favoritism or favoritism towards third parties are identified, as well as measures to reduce risks and ways to react to illicit practices.

Or. en

Amendment 163 Nuno Melo

Proposal for a directive Recital 9 c (new)

Text proposed by the Commission

Amendment

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

Or. en

Amendment 164 Laura Ferrara, Sabrina Pignedoli, Maria Angela Danzì

Proposal for a directive Recital 9 c (new)

Text proposed by the Commission

Amendment

(9c) This Directive should lay down minimum standards to increase transparency and bring the laws of the Member States in line with reporting

PE754.808v01-00 20/197 AM\1288247EN.docx

Or it

### Amendment 165 Jean-Paul Garraud

# Proposal for a directive Recital 10

Text proposed by the Commission

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

#### Amendment

It is necessary to *strengthen* the (10)legal framework to combat bribery and to provide law enforcement and prosecution with the necessary tools. In bribery of public officials, there are two sides to distinguish. Active bribery exists when a person, directly or through an intermediary, promises, offers or gives an advantage of any kind to influence a public official himself or a third party to act or refrain from acting in accordance with his duty or in the exercise of his functions. Passive bribery exists when the public official promises, offers or gives, directly or through an intermediary, such an advantage, for himself or for a third party, in order to act in accordance with his duty or in the exercise of his functions. The concept of a public official guilty of active bribery or passive bribery shall cover both officials of the European Union and those of the Member States. This Directive should also set minimum rules on bribery and other forms of corruption in the private sector, where the immediate victims include companies that are impacted unfairly and where free competition is diminished by each bribe offered or accepted. It should also state that as all public officials are required to exercise their judgement or discretion impartially, the payment of bribes intended to influence the judgement or discretion of a public official and the acceptance of such bribes should fall

Or fr

### Amendment 166 Daniel Freund

# Proposal for a directive Recital 10

Text proposed by the Commission

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

#### Amendment

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

Or. en

Amendment 167 José Gusmão

# Proposal for a directive Recital 10

Text proposed by the Commission

(10) It is necessary to strengthen the legal framework to combat bribery and to provide law enforcement and prosecution

#### Amendment

(10) It is necessary to strenghten the legal framework to combat bribery and to provide law enforcement and prosecution

PE754.808v01-00 22/197 AM\1288247EN.docx

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

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

Or. en

Amendment 168 Cristian Terheş

Proposal for a directive Recital 10 a (new)

Text proposed by the Commission

#### Amendment

(10a) The implementation of this Directive must take into consideration the Venice Commission Report on the Relationship Between Political and Criminal Ministerial Responsability, 8-9 March 20232a, which states that criminal sanctions should be used as the last resort (ultima ratio). 2a.

2a https://www.venice.coe.int/webforms/docu ments/default.aspx?pdffile=CDL-AD(2013)001-e

Or. en

Amendment 169 Cristian Terheş

# Proposal for a directive Recital 10 b (new)

Text proposed by the Commission

Amendment

(10b) The implementation of this Directive should take into consideration that following the ECtHR Liivik v. Estonia of 25 June 2009, the Venice Commission considers, that criminal provisions prohibiting "abuse of office", "misuse of powers", "excess of authority" or similar offences are to be found in a number of European legal systems, and the Venice Commission recognises that there may be a perceived need for such general clauses, which may cover the many various forms of grave offences that public officials may commit, and which it is not easy to regulate in detail in advance. At the same time, the Commission holds that such blanket criminal provisions are deeply problematic, both with regard to the qualitative requirements of Article 7 of the ECHR and other basic requirements under the rule of law, such as predictability and legal certainty, and that they are also particularly vulnerable to political misuse<sup>3a</sup>.

https://www.venice.coe.int/webforms/docu ments/default.aspx?pdffile=CDL-AD(2013)001-e

Or. en

Amendment 170 Daniel Freund

# Proposal for a directive Recital 11

Text proposed by the Commission

Amendment

(11) In order to ensure that public

(11) In order to ensure that public

PE754.808v01-00 24/197 AM\1288247EN.docx

<sup>3</sup>a 3a

officials do not intentionally use funds for purposes other than they were intended, it is necessary to lay down rules on the offence of misappropriation by public officials of property whose management is entrusted to them. In order to take a comprehensive approach to the fight against corruption, this Directive should also cover misappropriation in the private sector. In order for misappropriation to be criminal, it should lead to *an advantage for* the public *official or a third party*.

officials do not intentionally use funds for purposes other than they were intended, it is necessary to lay down rules on the offence of misappropriation by public officials of property whose management is entrusted to them. In order to take a comprehensive approach to the fight against corruption, this Directive should also cover misappropriation in the private sector. In order for misappropriation to be criminal, it should lead to *a serious* damage to the public administration, or to private sector entity.

Or. en

Amendment 171 Cristian Terhes

### Proposal for a directive Recital 11

Text proposed by the Commission

(11) In order to ensure that public officials do not intentionally use funds for purposes other than they were intended, it is necessary to lay down rules on the offence of misappropriation by public officials of property whose management is entrusted to them. In order to take a comprehensive approach to the fight against corruption, this Directive should also cover misappropriation in the private sector. In order for misappropriation to be criminal, it should lead to an advantage for the public official or a third party.

#### Amendment

(11) In order to ensure that public officials do not intentionally use funds for purposes other than they were intended, it is necessary to lay down rules on the offence of misappropriation by public officials of property whose management is entrusted to them. In order for misappropriation to be criminal, it should lead to an advantage for the public official or a third party or cause a certain financial damage or a severe violation of the legitimate rights or interests of a natural or legal person.

Or. en

Amendment 172 Cristian Terheş

Proposal for a directive Recital 12

AM\1288247EN.docx 25/197 PE754.808v01-00

(12)Trading in influence, arising from the corrupt behaviour of those persons who are or claim to be in the proximity of power and try to exchange promises of exerting influence over decision-making processes in return for undue advantages should also be defined as a criminal offence. The constituent elements of the criminal offence should be that the instigator provides, or promises to provide the influence peddler with an undue advantage for exerting unlawful influence over an outcome or a process that is subject to decision-making. When carried out intentionally, this behaviour should be considered a criminal offence irrespective of whether the influence was exerted and whether or not the claimed influence leads to the outcome intended. This offence should not cover the legitimate exercise of acknowledged forms of interest representation which may seek to legitimately influence public decisionmaking but do not entail an undue exchange of advantages. Such forms of interest representation, such as advocacy for example, are often carried out in a regulated environment precisely for avoiding that a lack of transparency may allow them to become gateways to corruption. Having in place wellfunctioning additional rules on disclosing conflicts of interest, on 'revolving-doors' or on the financing of political parties, can also help to avoid grey areas and prevent undue influence.

(12)Trading in influence, arising from the corrupt behaviour of those persons who are or claim to be in the proximity of power and try to exchange promises of exerting influence over decision-making processes in return for undue advantages should also be defined as a criminal offence. The constituent elements of the criminal offence should be that the instigator provides, or unequivocally promises to provide the influence peddler with an undue advantage for exerting unlawful influence over an outcome or a process that is subject to decision-making. When carried out intentionally, this behaviour should be considered a criminal offence irrespective of whether the influence was exerted and whether or not the claimed influence leads to the outcome intended. This offence should not cover the legitimate exercise of acknowledged forms of interest representation which may seek to legitimately influence public decisionmaking but do not entail an undue exchange of advantages. Such forms of interest representation, such as advocacy for example, are often carried out in a regulated environment precisely for avoiding that a lack of transparency may allow them to become gateways to corruption. Having in place wellfunctioning additional rules on disclosing conflicts of interest, on 'revolving-doors' or on the financing of political parties, can also help to avoid grey areas and prevent undue influence.

Or. en

Amendment 173
Daniel Freund

Proposal for a directive Recital 13

### Text proposed by the Commission

(13) Moreover, it is necessary to define the offence of abuse of functions in the public sector as a failure to perform an act by a public official, in violation of laws, to obtain an undue advantage. In order to comprehensively fight corruption, this Directive should also cover abuse of functions in the private sector.

#### Amendment

Moreover, it is necessary to define (13)the offence of abuse of functions in the public sector as a failure to perform an act by a public official, in violation of laws, to obtain an undue advantage. In order to comprehensively fight corruption, this Directive should also cover abuse of functions in the private sector. In order for abuse of functions in the private sector to be criminal, it should lead to a distortion of competition in relation to the purchase of goods or commercial services, to a significant damage to the private-sector entity concerned, or to a harm to consumers.

Or. en

### Amendment 174 Cristian Terheş

# Proposal for a directive Recital 13

Text proposed by the Commission

(13) Moreover, it is necessary to define the offence of abuse of functions in the public sector as a failure to perform an act by a public official, in violation of laws, to obtain an undue advantage. In order to comprehensively fight corruption, this Directive should also cover abuse of functions in the private sector.

#### Amendment

(13) Moreover, it is necessary to define the offence of abuse of functions in the public sector as a failure to perform an act by a public official, in violation of laws, to obtain an undue advantage. In order to comprehensively fight corruption, this Directive should also cover abuse of functions in the private sector *if it leads to an advantage for the public official or a third party or causes a certain financial damage or a severe violation of the legitimate rights or interests of a natural or legal person*.

Or. en

Amendment 175 José Gusmão

# Proposal for a directive Recital 14

Text proposed by the Commission

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

#### Amendment

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

Or. en

Amendment 176 Daniel Freund

Proposal for a directive Recital 14 a (new)

Text proposed by the Commission

Amendment

(14a) Illicit political financing leaves democracies vulnerable to malign finance and undue influence in politics. Abuses of state resources conferring undue benefits on politicians and parties can be a major corruptive force in the electoral process as it can introduce or exacerbate power inequalities, give unfair electoral advantage to incumbents, compromise the integrity of an election, and reduce public trust in the legitimacy of the process and its outcomes. Furthermore, the private sector may use its influence and resources

PE754.808v01-00 28/197 AM\1288247EN.docx

to pressure public authorities to adopt or implement policies and laws in their favour. On the other hand, the integrity of the private sector may be compromised by illicit political finance if politicians pressure companies for donations in exchange for continued business with the state, which can lead to policy capture. It is therefore necessary to lay down a criminal offence for illicit political financing.

Or. en

### Amendment 177 José Gusmão

# Proposal for a directive Recital 15

Text proposed by the Commission

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

#### Amendment

(15)Corruption feeds off the motivation for undue economic and other advantages. In order to reduce the incentive for individuals and criminal organisations to commit new criminal acts and deter individuals from consenting to becoming fake property owners enrichment by corruption offences should be criminalised. This should, in turn, complicate the concealment of illicitly acquired property and reduce the spread of corruption as well as the damage done to society. Transparency helps competent authorities to detect possible illicit enrichment. Officials should therefore be required to declare their assets and interests at regular intervals, including when taking up and completing duties, so that competent authorities, or independent entities, can assess whether the declared assets correspond to declared incomes, as well as detect and prevent potential conflicts of interest and revolving doors situations.

Or. en

### Amendment 178 Laura Ferrara, Sabrina Pignedoli, Maria Angela Danzì

# Proposal for a directive Recital 15

Text proposed by the Commission

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

Amendment

(15)Corruption feeds off the motivation for undue economic and other advantages. *In* order to reduce the incentive for individuals and criminal organisations to commit new criminal acts and deter individuals from consenting to becoming fake property owners enrichment by corruption offences should be criminalised. This should, in turn, complicate the concealment of illicitly acquired property and reduce the spread of corruption as well as the damage done to society. It is necessary to ensure maximum transparency as this is crucial to enable the competent authorities to detect possible illicit enrichment. To enable the authorities to assess whether declared assets match declared income, public officials *must* declare their assets at regular intervals, in particular when taking up and leaving office.

Or. it

Amendment 179 José Gusmão

Proposal for a directive Recital 15 a (new)

Text proposed by the Commission

Amendment

(15a) Member States should be obliged to take measures that hold public officials accountable for any culpable breach of their official duties that results in harm to the rights or to the legitimate interests of individuals or entities. Such breaches,

PE754.808v01-00 30/197 AM\1288247EN.docx

involving a failure to perform duties or a defective performance of duties, should be punishable as administrative or criminal offences.

Or. en

### Amendment 180 Daniel Freund

# Proposal for a directive Recital 16

Text proposed by the Commission

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

#### Amendment

The criminal offence of enrichment (16)builds upon the rules on the criminal offence of money laundering laid down in Directive (EU) 2018/1673 of the European Parliament and of the Council<sup>44</sup>. It is meant to address those cases where the judiciary considers that the corruption offence or offences cannot be proven. Like the predicate offence in money laundering, the burden of proof is of a different nature. This means that in criminal proceedings regarding the criminal offence of enrichment, when considering whether property is derived from any kind of criminal involvement in a corruption offence and whether the person had knowledge of that, the specific circumstances of each case should be taken into account, such as the fact that the acquisition, receipt or use of a certain amount of wealth by a person cannot be, or has not been, justified through reference to their lawful income. It should not be necessary to establish that the official or person in question was involved in the commission of the criminal offence, nor to establish knowledge of all the factual elements or all circumstances relating to the criminal involvement, including the identity of the perpetrator. When a person is convicted of a criminal offence as defined in this Directive, the competent authorities can recover the

and of the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union<sup>45</sup>.

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

illicitly obtained property on the basis of Directive 2014/42/EU of the European Parliament and of the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union<sup>45</sup>.

Or. en

### Amendment 181 Laura Ferrara, Sabrina Pignedoli, Maria Angela Danzì

# Proposal for a directive Recital 19

12.11.2018, p. 22).

Text proposed by the Commission

The competent authorities should be able to impose, in addition or as an alternative to imprisonment, sanctions or measures, that are not necessarily of a criminal nature, such as the temporary or permanent disqualification from holding public office or the exclusion from public procurement. Such measures have a general dissuasive effect and may reduce the recidivism of convicted offenders. Member States should also consider establishing procedures for the suspension or temporary reassignment of a public official accused of a criminal offence as referred to in this Directive, bearing in mind the need to respect the principle of the presumption of innocence and the right

#### Amendment

(19)The competent authorities should be able to impose, in addition or as an alternative to imprisonment, supplementary sanctions or measures, that are not necessarily of a criminal nature, such as the temporary or permanent disqualification from holding public office, a ban on holding elected or governmental office or the exclusion from public procurement and the voiding of contracts and appointments awarded in breach of anti-corruption rules. Such measures have a general dissuasive effect and may reduce the recidivism of convicted offenders. Member States should also consider establishing procedures for the suspension or temporary reassignment of a public official accused of a criminal offence as

PE754.808v01-00 32/197 AM\1288247EN.docx

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

<sup>&</sup>lt;sup>44</sup> Directive (EU) 2018/1673 of the European Parliament and of the Council of 23 October 2018 on combating money laundering by criminal law (OJ L 284, 12.11.2018, p. 22).

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

to an effective remedy.

referred to in this Directive, bearing in mind the need to respect the principle of the presumption of innocence and the right to an effective remedy.

Or. it

### Amendment 182 Daniel Freund

# Proposal for a directive Recital 20

Text proposed by the Commission

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

#### Amendment

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

person for any of the offences covered by this Directive.

Or en

Amendment 183 José Gusmão

Proposal for a directive Recital 20 a (new)

Text proposed by the Commission

Amendment

(20a) In the fight against corruption, urgent attention should be directed towards tackling the misuse of bearer shares and trusts, which are essential in clandestine financial activities. Member States still permit the use of bearer shares, allowing for illicit funds to be received, held, and transferred in a clandestine manner. These mechanisms create an opacity level even higher than tax havens, making them a serious concern in the battle against corruption. Moreover, trusts are also exploited for their potential to allow obscure financial transactions and to hide the true beneficiaries. The misuse of funds further compounds the challenge of tracking and combating corruption effectively. Therefore, Member States need to swiftly implement robust measures. Such measures should encompass an unambiguous ban on bearer shares and a comprehensive strategy to ensure transparency of ownership in the use of trusts.

Or. en

Amendment 184 Nuno Melo

Proposal for a directive Recital 20 a (new)

#### Amendment

(20a) Whereas public procurement, as a key interface between the public and private sectors, is inherently susceptible to corrupt practices, given the significant financial interests at stake and the complexity of procurement processes. Recognizing that these vulnerabilities can lead to inefficiencies, misallocation of public resources, and a loss of public trust in governmental institutions, robust measures are needed to enhance transparency, oversight, and accountability in public procurement processes. This includes establishing clear guidelines, promoting digital solutions for traceability, ensuring rigorous auditing mechanisms, and providing platforms for whistleblower protections and public scrutiny.

Or. en

# Amendment 185 Daniel Freund

# Proposal for a directive Recital 25

Text proposed by the Commission

(25) In order to increase trust in prosecution services whilst reducing the perception of corruption in Member States, discretionary powers under domestic law not to the prosecute persons for criminal offences referred to in this Directive on opportunity grounds should be exercised in accordance with clear rules and criteria and guarantee, with appropriate internal consultation, *as well as the aim of deterring* the commission of corruption offences and the effectiveness of the judicial process.

#### Amendment

(25)In order to increase trust in prosecution services whilst reducing the perception of corruption in Member States, discretionary powers under domestic law not to the prosecute persons the granting to public officials of immunities from prosecution for criminal offences referred to in this Directive on opportunity grounds should be exercised in accordance with clear rules and criteria and guarantee, with appropriate internal consultation, and decisions subject to review by the public concerned, subject to proportionality requirements as provided under national law. These criteria and guarantees can contribute to deter the commission of

Or en

### Amendment 186 Laura Ferrara, Sabrina Pignedoli, Maria Angela Danzì

# Proposal for a directive Recital 27

Text proposed by the Commission

(27) In order to ensure that the competent authorities have sufficient time to conduct complex investigations and prosecutions, this Directive provides for a minimum limitation period that enables the detection, investigation, prosecution and judicial decision of corruption offences for a sufficient period of time after the commission of such offences, without affecting those Member States which do not set limitation periods for investigation, prosecution and enforcement.

#### Amendment

In order to ensure that the (27)competent authorities have sufficient time to conduct complex investigations and prosecutions, this Directive provides for a minimum limitation period that enables the detection, investigation, prosecution and judicial decision of corruption offences for a sufficient period of time after the commission of such offences, without affecting those Member States which do not set limitation periods for investigation, prosecution and enforcement. That limitation period should in any event be suspended from the date of issuance of the conviction concluding the first instance of the proceedings or of the conviction order, until the effective date of the judgment concluding the proceedings or the date on which the criminal decree becomes final.

Or. it

Amendment 187 Laura Ferrara, Sabrina Pignedoli, Maria Angela Danzì

# Proposal for a directive Recital 28

Text proposed by the Commission

Amendment

(28) Corruption offences are a difficult category of crime to identify and

(28) Corruption offences are a difficult category of crime to identify and

PE754.808v01-00 36/197 AM\1288247EN.docx

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

investigate, as they mostly occur as part of a conspiracy between two or more willing parties and lack an immediate and obvious victim who could complain. Thus, a significant proportion of corruption crime remains undetected, and the criminal parties are able to benefit from the proceeds of their corruption. The longer it takes to detect a corruption offence, the more difficult it is to uncover evidence. Therefore, it should be ensured that law enforcement and prosecutors have appropriate investigative tools to gather relevant evidence of corruption offences which often affect more than one Member State, including wiretaps and evidence collected by undercover agents.

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

Or. it

## Amendment 188 Jean-Paul Garraud

## Proposal for a directive Recital 29

Text proposed by the Commission

(29) Persons reporting information to competent authorities concerning past, ongoing or planned instances of corruption, which they have acquired in the context of their work-related activities, risk suffering retaliation in that context. Such whistleblowers' reports can strengthen

#### Amendment

(29) Persons reporting information to competent authorities concerning past, ongoing or planned instances of corruption, which they have acquired in the context of their work-related activities, risk suffering retaliation in that context. Such whistleblowers' reports can strengthen

enforcement by enabling the competent authorities to effectively prevent, detect and prosecute corruption. Given the public interest in shielding public and private institutions from such acts, and in enhancing transparency, good governance and accountability, it is necessary to ensure that effective arrangements are in place to enable whistleblowers to use confidential channels, to alert competent authorities and to protect them from retaliation. Directive (EU) 2019/1937 of the European Parliament and of the Council<sup>47</sup>applies to reports of breaches affecting the financial interests of the Union as referred to in Article 325 of the Treaty and as further specified in relevant Union measures and thus applies to the reporting of all criminal offences falling within the scope of Directive (EU) 2017/1371 of the European Parliament and of the Council<sup>48</sup>. As regards the criminal offences referred to in this Directive, Directive (EU) 2019/1937 should be applicable to the reporting of such offences and to the protection of persons reporting such offences under the conditions established therein. Beyond the obligations flowing from Directive (EU) 2019/1937, competent national authorities should ensure that persons providing evidence or otherwise cooperating with criminal investigations are given the necessary protection, support and assistance in the context of criminal proceedings.

enforcement by enabling the competent authorities to effectively prevent, detect and prosecute corruption. Given the public interest in shielding public and private institutions from such acts, and in enhancing transparency, good governance and accountability, it is necessary to ensure that effective arrangements are in place to enable whistleblowers to use confidential channels, to alert competent authorities and to protect them from retaliation. Whistleblowing can be a fundamental source of information in the fight against organised crime and in the investigation of corruption in the public sector. Directive (EU) 2019/1937 of the European Parliament and of the Council<sup>47</sup> applies to reports of breaches affecting the financial interests of the Union as referred to in Article 325 of the Treaty and as further specified in relevant Union measures and thus applies to the reporting of all criminal offences falling within the scope of Directive (EU) 2017/1371 of the European Parliament and of the Council<sup>48</sup>. As regards the criminal offences referred to in this Directive, Directive (EU) 2019/1937 should be applicable to the reporting of such offences and to the protection of persons reporting such offences under the conditions established therein. Beyond the obligations flowing from Directive (EU) 2019/1937, competent national authorities should ensure that persons providing evidence or otherwise cooperating with criminal investigations are given the necessary protection, support and assistance in the context of criminal proceedings.

<sup>&</sup>lt;sup>47</sup> 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).

<sup>&</sup>lt;sup>48</sup> Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the protection of the

<sup>&</sup>lt;sup>47</sup> 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).

<sup>&</sup>lt;sup>48</sup> Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the protection of the

Union's financial interests by means of criminal law (OJ 198 L, 28.7.2017, p. 29).

Union's financial interests by means of criminal law (OJ 198 L, 28.7.2017, p. 29).

Or. fr

Amendment 189 Daniel Freund

Proposal for a directive Recital 29 a (new)

Text proposed by the Commission

Amendment

(29a) While the notion of 'victim' is to be interpreted in accordance with national law, such notion should also be able to provide that a legal person could be a victim for the purpose of this Directive.

Or. en

Amendment 190 Daniel Freund

Proposal for a directive Recital 29 b (new)

Text proposed by the Commission

Amendment

(29b) The public concerned, including affected communities, should be entitled to obtain restoration from damages caused by the offences. For such purposes Member States should ensure that, in accordance with their national legal system, members of the public concerned have appropriate rights to participate in the proceedings covered by this Directive, for instance as a civil party. The public concerned should be entitled to participate in the proceedings covered by this Directive where as a result of a corruption offence, they have a sufficient interest and are entitled to maintain the impairment of a right, in accordance with national law. For the purposes of participating in the

proceedings covered by this Directive, the public concerned including entities that wish to represent the rights of victims of corruption should meet minimum standards. First, they should have a nonprofit making nature. Second, there should be a direct relationship between the main objectives of the entity representing the public concerned and the action brought relevant court or competent administrative body. Thirds, the entity should have been established for at least five years prior to the date of its application to the relevant court or competent administrative body. Entities reresenting the public concerned should also make publicly available in plain and intelligible language by any appropriate means, in particular on their website, information that demonstrates their compliance with the criteria required to participate in the proceedings covered by this Directive, and information about the sources of their funding, organisational structure, statutory purpose and activities.

Or. en

Amendment 191 Daniel Freund

Proposal for a directive Recital 29 c (new)

Text proposed by the Commission

Amendment

(29c) The preparation and adoption of coordinated strategies for the prevention of corruption and the promotion of public integrity emerged as a common standard to foster a coordinated and continuous approach to the challenges posed by corruption. This Directive requires all Member States to adopt, publish and periodically review national strategies on preventing and combating corruption to duly take into account the needs, specificities and challenges of the

Member States. The strategies should be developed in cooperation with all level of governments concerend, including local governments and institutions translating national strategies into the specific context, and in consultation with civil society, independent experts, researchers and other stakeholders.

Or. en

Amendment 192 Jorge Buxadé Villalba

## Proposal for a directive Recital 30

Text proposed by the Commission

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

#### Amendment

Independent civil society organisations are crucial for the wellfunctioning of our democracies, as they have the potential to play a key role in upholding the common values on which the EU is founded. In order to guarantee this independence, Member States should take the appropriate steps to avoid hidden foreign interference by promoting, inter alia, transparency on their funding. With these conditions, civil society organisations have the potential to act as essential watchdogs, drawing attention to threats to the rule of law, contributing to making those in powers accountable, and ensuring respect for fundamental rights. Both Member States and the institutions of the European Union should promote the participation of civil society in anticorruption activities.

Or. es

Amendment 193 José Gusmão

## Proposal for a directive

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#### Recital 30

### Text proposed by the Commission

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

#### Amendment

Independent civil society (30)organisations are crucial for the wellfunctioning of our democracies, and play a key role in upholding the common values on which the EU is founded. They act as essential watchdogs, drawing attention to threats to the rule of law, contributing to making those in powers accountable, and ensuring respect for fundamental rights. Member States should promote the participation of civil society in anticorruption activities. The consistent involvement of civil society in the prevention and in the fight against corruption, as well as in raising public awareness regarding the existence, causes and gravity of corruption and the threats it poses should be an essential element of the Union's approach.

Or. en

## Amendment 194 Jorge Buxadé Villalba

# Proposal for a directive Recital 31

Text proposed by the Commission

(31) Media pluralism and media freedom are key enablers for the rule of law, democratic accountability, equality and the fight against corruption. Independent and pluralistic media, in particular investigative journalism, play an important role in the scrutiny of public affairs, detecting possible corruption and integrity breaches, raising awareness and promoting integrity. Member States have an obligation to guarantee an enabling environment for journalists, protect their safety and pro-actively promote media freedom and media pluralism. The

#### Amendment

(31) Media pluralism and media freedom are key enablers for the rule of law, democratic accountability, equality and the fight against corruption.

Independent and pluralistic media, in particular investigative journalism, play an important role in the scrutiny of public affairs, detecting possible corruption and integrity breaches, raising awareness and promoting integrity. Member States should be transparent as regards funding the media through institutional advertising, preventing any administration from favouring the media of their choice. In

PE754.808v01-00 42/197 AM\1288247EN.docx

Commission's Recommendation on the protection, safety and empowerment of journalists<sup>49</sup>, as well as the proposal for a Directive<sup>50</sup> and a Commission Recommendation<sup>51</sup> on protecting persons who engage in public participation from manifestly unfounded or abusive court proceedings ('Strategic lawsuits against public participation') include important safeguards and standards to ensure that journalists, human rights defenders and others can carry out their role unhindered.

addition, Member States have an obligation to guarantee an enabling environment for journalists, protect their safety and pro-actively promote media freedom and media pluralism. The Commission's Recommendation on the protection, safety and empowerment of journalists<sup>49</sup>, as well as the proposal for a Directive<sup>50</sup> and a Commission Recommendation<sup>51</sup> on protecting persons who engage in public participation from manifestly unfounded or abusive court proceedings ('Strategic lawsuits against public participation') include important safeguards and standards to ensure that journalists, human rights defenders and others can carry out their role unhindered.

Or. es

Amendment 195 José Gusmão

Proposal for a directive Recital 31

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

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

<sup>&</sup>lt;sup>51</sup> Commission Recommendation on protecting journalists and human rights defenders who engage in public participation from manifestly unfounded or abusive court proceedings ("Strategic lawsuits against public participation"), C(2022) 2428 final.

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

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

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

- (31)Media pluralism and media freedom are key enablers for the rule of law, democratic accountability, equality and the fight against corruption. Independent and pluralistic media, in particular investigative journalism, play an important role in the scrutiny of public affairs, detecting possible corruption and integrity breaches, raising awareness and promoting integrity. Member States have an obligation to guarantee an enabling environment for journalists, protect their safety and pro-actively promote media freedom and media pluralism. The Commission's Recommendation on the protection, safety and empowerment of journalists<sup>49</sup>, as well as the proposal for a Directive<sup>50</sup> and a Commission Recommendation<sup>51</sup> on protecting persons who engage in public participation from manifestly unfounded or abusive court proceedings ('Strategic lawsuits against public participation') include important safeguards and standards to ensure that journalists, human rights defenders and others can carry out their role unhindered.
- <sup>49</sup> Commission Recommendation of 16 September 2021 on ensuring the protection, safety and empowerment of journalists and other media professionals in the European Union, C(2021)6650 final.
- <sup>50</sup> Proposal for a Directive of the European Parliament and of the Council on protecting persons who engage in public participation from manifestly unfounded or abusive court proceedings ("Strategic lawsuits against public participation"), COM/2022/177 final.
- <sup>51</sup> Commission Recommendation on protecting journalists and human rights defenders who engage in public participation from manifestly unfounded or abusive court proceedings ("Strategic lawsuits against public participation"),

#### Amendment

Media pluralism and media freedom are key enablers for the rule of law, democratic accountability, equality and the fight against corruption. Independent and pluralistic media, in particular investigative journalism, play an important role in the scrutiny of public affairs, detecting possible corruption and integrity breaches, raising awareness and promoting integrity. Member States have an obligation to guarantee an enabling environment for journalists, protect their safety and pro-actively promote media freedom and media pluralism. The Commission's Recommendation on the protection, safety and empowerment of journalists<sup>49</sup>, as well as the proposal for a Directive<sup>50</sup> and a Commission Recommendation<sup>51</sup> on protecting persons who engage in public participation from manifestly unfounded or abusive court proceedings ('Strategic lawsuits against public participation') include important safeguards and standards to ensure that journalists, human rights defenders, whistleblowers, and others can carry out their role unhindered.

PE754.808v01-00 44/197 AM\1288247EN.docx

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

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

<sup>&</sup>lt;sup>51</sup> Commission Recommendation on protecting journalists and human rights defenders who engage in public participation from manifestly unfounded or abusive court proceedings ("Strategic lawsuits against public participation"),

Or en

## Amendment 196 Daniel Freund

# Proposal for a directive Recital 32

Text proposed by the Commission

(32) Member States should collect and publish data concerning the application of this Directive, which can be analysed and used by the Commission in the context of the monitoring, implementation and evaluation of the Directive, as well as the application of any of the Rule of Law tools, such as the annual Rule of Law report.

#### Amendment

Member States should collect and (32)publish data concerning the application of this Directive, which can be analysed and used by the Commission in the context of the monitoring, implementation and evaluation of the Directive. In order to ensure a comprehensinve overview and assessment of the corruption related trends and systemic corruption issues across the EU, including the identification of areas that have been affected most by the misappropriation of EU funds, the Commission should develop a yearly Anti-corruption Report, which should provide concrete and actionable recommendations to Member States to act upon in order to address identified shortcomings.

Or. en

Amendment 197 José Gusmão

Proposal for a directive Recital 33 a (new)

Text proposed by the Commission

Amendment

(33a) Victims of corruption often lack representation in legal processes, consultation in corruption investigations, and opportunities for compensation. In practice, enforcing actions against

international corruption often neglects the involvement and rights of victims, creating a significant gap where victims remain largely unknown. Member States should safeguard the rights of victims, ensuring their perspectives are voiced and considered without compromising the rights of the defence during criminal proceedings against offenders. The compensation of victims represents the essence of justice and victims should be empowered to seek remedies. Therefore, Member States should implement measures allowing individuals or entities harmed by acts of corruption to initiate legal actions against the responsible parties to seek fair compensation.

Or. en

Amendment 198 Jorge Buxadé Villalba

Proposal for a directive Recital 33 a (new)

Text proposed by the Commission

Amendment

(33a) In order to ensure the prevention and prosecution of corruption offences, both in the public and private sectors, Member States should have in place specialised bodies or organisation units that can centralise action in this area. The existence of many decentralised bodies or organisation units may, primarily in small administrations, result in a lack of monitoring, audit and accountability. In addition, given that corruption schemes may affect several administrations, joint measures are needed at national level.

Or. es

Amendment 199 José Gusmão

# Proposal for a directive Recital 34

Text proposed by the Commission

(34)Corruption is a cross-cutting issue. while vulnerabilities differ from sector to sector, as well as the most adequate way to tackle them. Member States should therefore regularly perform an assessment to identify the sectors most at risk of corruption and develop risk management plans to address the main risks in the sectors identified, including by organising, at least once a year, awareness-raising actions adapted to the specificities of the sectors identified Member States that have broad national anti-corruption strategies in place, may also choose to address their risk assessments and risk management plans therein, as long as the risks are assessed and the measures are reviewed regularly. For instance, investor residence schemes are among the sectors thatbear high risks for corruption<sup>59</sup>. and should therefore be included in the assessments of the sectors most at risk of corruption and *the trainings* to be conducted by Member States as provided for by this Directive.

#### Amendment

(34)Corruption is a cross-cutting issue, while vulnerabilities differ from sector to sector, as well as the most adequate way to tackle them. Member States should therefore regularly perform an assessment to identify the sectors most at risk of corruption and develop risk management plans to address the main risks in the sectors identified, including by organising, at least once a year, awareness-raising actions adapted to the specificities of the sectors identified. Member States that have broad national anti-corruption strategies in place, may also choose to address their risk assessments and risk management plans therein, as long as the risks are assessed and the measures are reviewed regularly. For instance, investor citizenship schemes and investor residence schemes such as "golden visas" are among the sectors thatbear high risks for corruption<sup>59</sup>. *These* should therefore be included in the assessments of the sectors most at risk of corruption and be banned from all member states.

Or. en

### Justification

As per the European Parliament resolution of 9 March 2022 with proposals to the Commission on citizenship and residence by investment schemes (2021/2026(INL)) which "calls on the Commission to verify such reassessments carried out by Member States and to urgently present a legislative proposal to completely ban CBI schemes and to ban RBI schemes (...)".

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

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

## Amendment 200 José Gusmão

# Proposal for a directive Recital 34 a (new)

Text proposed by the Commission

#### Amendment

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

Or. en

Amendment 201 José Gusmão

Proposal for a directive Recital 34 b (new)

Text proposed by the Commission

### Amendment

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

Or. en

## Amendment 202 Jean-Paul Garraud

# Proposal for a directive Recital 35

Text proposed by the Commission

(35) To provide for an equivalent level of protection between the Union's and the national financial interests, the provisions of Directive (EU) 2017/1371<sup>60</sup>should be aligned with those of this Directive. To this end, the rules applicable to criminal offences affecting the Union's financial interests as regards sanctions, aggravating and mitigating circumstances and limitation periods should be equivalent to those laid down by this Directive.

#### Amendment

of protection between the Union's and the national financial interests, the provisions of Directive (EU) 2017/1371<sup>60</sup> should be aligned with those of this Directive by bringing together the provisions on public officials and the private sector in a single legal act. To this end, the rules applicable to criminal offences affecting the Union's financial interests as regards sanctions, aggravating and mitigating circumstances and limitation periods should be equivalent to those laid down by this Directive.

Or. fr

## Amendment 203 Daniel Freund

# Proposal for a directive Article 1 – paragraph 1

Text proposed by the Commission

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

#### Amendment

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

<sup>&</sup>lt;sup>60</sup> Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the protection of the Union's financial interests by means of criminal law, OJ 198 L, 28.7.2017, p. 29.

<sup>&</sup>lt;sup>60</sup> Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the protection of the Union's financial interests by means of criminal law, OJ 198 L, 28.7.2017, p. 29.

## Amendment 204 Daniel Freund

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

Text proposed by the Commission

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

#### Amendment

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

Or. en

Amendment 205 Tomas Tobé

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

Text proposed by the Commission

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

#### Amendment

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

Or. en

Amendment 206 Nuno Melo

Proposal for a directive

PE754.808v01-00 50/197 AM\1288247EN.docx

## **Article 2 – paragraph 1 – point 1**

Text proposed by the Commission

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

#### Amendment

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

Or. en

Amendment 207 Cristian Terhes

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

Text proposed by the Commission

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

#### Amendment

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

Or. en

Amendment 208 Cristian Terheş

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

Text proposed by the Commission

#### Amendment

1a. primary legislation means any normative act wich has the force of law according to the Constitution of the Member States

Or. en

**Amendment 209 Cristian Terhes** 

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

Text proposed by the Commission

Amendment

1b. secondary legislation means administrative normative acts implementing the primary legislation

Or. en

Amendment 210 Cristian Terheş

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

Text proposed by the Commission

Amendment

1c. a promise is a firm agreement to perform an act, refrain from acting or make a payment or delivery;

Or. en

Amendment 211 Cristian Terheş

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

Text proposed by the Commission

Amendment

1d. unequivocal promise is a precisely and clearly expressed. not implied promise

Or. en

## Amendment 212 José Gusmão

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

Text proposed by the Commission

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

#### Amendment

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

Or. en

## Amendment 213 José Gusmão

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

Text proposed by the Commission

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

#### Amendment

(a) a Union official, contractor or consultant/adviser or a national official, contractor or consultant/adviser of a Member State or of a third country,

Or. en

# Amendment 214 Daniel Freund

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

Text proposed by the Commission

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

### Amendment

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

AM\1288247EN.docx 53/197 PE754.808v01-00

international court.

international organisation or for an international court.

Or. en

### Justification

Based on input from Transparency International

## Amendment 215 Laura Ferrara, Sabrina Pignedoli, Maria Angela Danzì

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

Text proposed by the Commission

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

Amendment

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

Or. it

## Amendment 216 Elena Yoncheva, Klára Dobrev, Sándor Rónai, Petar Vitanov

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

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 217 José Gusmão

PE754.808v01-00 54/197 AM\1288247EN.docx

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

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 218 Laura Ferrara, Sabrina Pignedoli, Maria Angela Danzì

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

Text proposed by the Commission

Amendment

(ba) any other individual entrusted with public powers or a public service mission or holding an elected public office,

Or. it

Amendment 219 Daniel Freund

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

Text proposed by the Commission

Amendment

(ba) any other person defined as a 'public official' in the domestic law of a Member State.

Or. en

Justification

Based on input from Transparency International

AM\1288247EN.docx 55/197 PE754.808v01-00

Amendment 220 José Gusmão

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

Text proposed by the Commission

Amendment

(ba) any other person defined as a 'public official' in the domestic law of that Member State.

Or. en

Amendment 221 Daniel Freund

Proposal for a directive Article 2 – paragraph 1 – point 4 – point a

Text proposed by the Commission

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

#### Amendment

(a) a member of an institution, body, office or agency of the Union and the staff of such bodies, including any person who has been appointed to an established post of one of the institutions, bodies, offices or agencies of the Union. Such persons shall be assimilated to Union officials when 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<sup>60a</sup> (the 'Staff Regulations') do not apply to them.

<sup>60a</sup> OJ L 56, 4.3.1968, p. 1, ELI: http://data.europa.eu/eli/reg/1968/259(1)/oj.

Or. en

**Amendment 222** 

PE754.808v01-00 56/197 AM\1288247EN.docx

#### **Daniel Freund**

## Proposal for a directive Article 2 – paragraph 1 – point 5

Text proposed by the Commission

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

#### Amendment

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

Or en

## Justification

Needed to align with Article 2 - paragraph 1 - point 3 - point b

## Amendment 223 Karolin Braunsberger-Reinhold

## Proposal for a directive Article 2 – paragraph 1 – point 5

Text proposed by the Commission

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

#### Amendment

5. 'national official' means any person holding an executive, administrative, or judicial office at national, regional or local level, whether appointed or elected, whether permanent or temporary, whether paid or unpaid, irrespective of that person's seniority.

Or. en

### Justification

The definition of a national official is too broad. It puts other public officials on an equal footing with members of parliament. This approach ignores the unique role of such members, who have an "independent mandate" and are inherently partisan in their duties. It may lead to unintended consequences, such as making permissible party donations to elected officials subject to the offense of bribery in the public sector. The same inconsistency applies to the offenses of abuse of functions and enrichment from corruption, which are more suitable for other types of public officials.

# **Amendment 224 Cristian Terhes**

Proposal for a directive Article 2 – paragraph 1 – point 6

Text proposed by the Commission

6. 'breach of duty' covers as a minimum any disloyal behaviour constituting a breach of a statutory duty, or, as the case may be, a breach of professional regulations or instructions, which apply within the business of a person who in any capacity directs or works for a private sector entity.

#### Amendment

6. 'breach of duty' covers a breach of a statutory duty *arising from national primary legislation* 

Or. en

## Amendment 225 Daniel Freund

Proposal for a directive Article 2 – paragraph 1 – point 6

Text proposed by the Commission

6. 'breach of duty' covers as a minimum any disloyal behaviour constituting a breach of a statutory duty, or, as the case may be, a breach of professional regulations or instructions, which apply within the business of a person who in any capacity directs or works for a private *sector* entity.

#### Amendment

6. 'breach of duty' covers as a minimum any disloyal behaviour constituting a breach of a statutory duty, or, as the case may be, a breach of professional regulations or *written* instructions, which apply within the business *or sector* of a person who in any capacity directs or works for a *public or* private entity.

PE754.808v01-00 58/197 AM\1288247EN.docx

### Justification

The public sector should also be covered by this point because a breach of duty in the public sector can also trigger the responsibility for the offences under this Directive.

Amendment 226 Nuno Melo

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

Text proposed by the Commission

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

#### Amendment

7. 'legal person' means any entity **recognized as** having legal personality under the applicable national law, except for States or public bodies in the exercise of State authority and for public international organisations.

Or. en

Amendment 227 Tomas Tobé

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

Text proposed by the Commission

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

## Amendment

7. 'legal person' means any entity **recognized as** having legal personality under the applicable national law, except for States or public bodies in the exercise of State authority and for public international organisations.

Or. en

Amendment 228 José Gusmão

Proposal for a directive

AM\1288247EN.docx 59/197 PE754.808v01-00

## Article 2 – paragraph 1 – point 8

Text proposed by the Commission

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

#### Amendment

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

Or en

# Amendment 229 Daniel Freund

## Proposal for a directive Article 2 – paragraph 1 – point 8

Text proposed by the Commission

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

## Amendment

8. 'high level officials' are heads of state, heads of central and regional government, members of central and regional government, members of the College of Commissioners of the European Commission, as well as other political appointees who hold a high level public office at Union level, such as the President of the European Council, or at national level, such as deputy ministers, state secretaries, heads and members of a minister's private office, and senior political officials and senior public officials at Union or national level, as well as members of parliamentary

PE754.808v01-00 60/197 AM\1288247EN.docx

chambers, *members of the European*Parliament, members of highest Courts, such as Constitutional and Supreme Courts, members of Supreme Audit Institutions, and executives of state owned corporations.

Or. en

Amendment 230 Elena Yoncheva, Klára Dobrev, Sándor Rónai, Petar Vitanov

Proposal for a directive Article 2 – paragraph 1 – point 8

Text proposed by the Commission

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

#### Amendment

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

Or. en

Amendment 231 Cristian Terheş

Proposal for a directive Article 2 – paragraph 1 – point 8

Text proposed by the Commission

8. 'high level officials' are heads of state, heads of central and regional government, members of central and

#### Amendment

8. 'high level officials' are heads of state, heads of central and regional government, members of central and

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

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

Or. en

Amendment 232 José Gusmão

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

Text proposed by the Commission

#### Amendment

8a. 8a. 'grand corruption' means the commission of any of the offences referred to in Articles 7 to 14, where the offence: (a) involved a high level official; or (b) was committed as part of a criminal scheme; or (c) resulted in a gross misappropriation of property; or (d) resulted in, or intended to result in, either a serious human rights violation or abuse, or any other human rights violation or abuse is widespread, systematic or is otherwise of serious concern.

- (a) involved a high level official; or
- (b) was committed as part of a criminal scheme; or
- (c) resulted in a gross misappropriation of property for personal gains; or
- (d) resulted in, or intended to result in, either a serious human rights violation or abuse, or any other human rights violation or abuse, in so far as that violation or abuse is widespread, systematic or is otherwise of serious concern.

PE754.808v01-00 62/197 AM\1288247EN.docx

# Amendment 233 Daniel Freund

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

Text proposed by the Commission

Amendment

- 8a. 'grand corruption' means the commission of any of the offences referred to in Articles 7 to 14, where the offence:
- (a) involved a high level official; or
- (b) was committed as part of a criminal scheme; or
- (c) resulted in a gross misappropriation of property; or
- (d) resulted in, or intended to result in, either a serious human rights violation or abuse, or any other human rights violation or abuse, in so far as that violation or abuse is widespread, systematic or is otherwise of serious concern.

Or. en

## Justification

Definition of 'grand corruption' based on Transparency International.

Amendment 234 Laura Ferrara, Sabrina Pignedoli, Maria Angela Danzì

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

Text proposed by the Commission

Amendment

8a. 'Conflict of interest' shall mean any situation in which situation the impartial and objective exercise of the functions of a public official is

compromised for reasons of family, emotional, political or national affinity, economic interest or any other direct or indirect, potential or actual personal interest in conflict with the public interest the official is entrusted to serve.

Or. it

Amendment 235 Elena Yoncheva, Klára Dobrev, Sándor Rónai, Petar Vitanov

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

Text proposed by the Commission

Amendment

8a. 'victim of corruption' means a legal person, in accordance with national law, who is a victim as defined in Article 2(1), point (a), of Directive 2012/29/EU of the European Parliament and of the Council<sup>60a</sup>, that has suffered harm as a result of any of the offences within the scope of that Directive;

60a Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, OJ L 315, 14.11.2012, p. 57, ELI:

http://data.europa.eu/eli/dir/2012/29/oj

Or. en

Amendment 236 José Gusmão

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

PE754.808v01-00 64/197 AM\1288247EN.docx

Amendment

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

Or. en

Amendment 237 Laura Ferrara, Sabrina Pignedoli, Maria Angela Danzì

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

Text proposed by the Commission

Amendment

8b. 'The revolving door' shall mean the taking-up, receipt or holding, directly or indirectly, by a public official of any interest in an undertaking or transaction for which, at the time of the act, he or she is wholly or partly responsible for the monitoring, administration, liquidation or payment.

Or. it

Amendment 238 Daniel Freund

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

Text proposed by the Commission

Amendment

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

person, as defined in national law, that has suffered harm as a result of any of the offences within the scope of this Directive.

Or. en

Amendment 239 Elena Yoncheva, Klára Dobrev, Sándor Rónai, Petar Vitanov

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

Text proposed by the Commission

Amendment

8b. 'high level corruption' means the commission of any offences referred to in Articles 7 to 14, where the offence involves a high level official or results in a gross misappropriation of public funds or resources.

Or. en

Amendment 240 José Gusmão

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

Text proposed by the Commission

Amendment

- 8c. 'qualified public interest entity' means an entity which:
- (a) has a public or non-profit character;
- (b) pursues mainly objectives with a direct relationship to the action brought;
- (c) has been established for at least five years prior to the date of bringing action to the relevant court or competent administrative body; and
- (d) makes publicly available in plain and intelligible language by any appropriate means, in particular on its website, information that demonstrates that it

PE754.808v01-00 66/197 AM\1288247EN.docx

complies with the criteria listed in points (a) to (c) and information about the sources of its funding, its organisational structure, its statutory purpose and its activities.

Or. en

## Justification

It is important to ensure there are minimum standards for any entities that wish to present the interests of victims of corruption to prevent the misuse of such standing rights. Besides victims, it is important to take into account the more general public concerned/people for whom this is of public interest.

Amendment 241
Daniel Freund

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

Text proposed by the Commission

Amendment

8c. 'public concerned' means the persons affected or likely to be affected by the criminal offences within the scope of this Directive; for the purposes of this definition, persons having a sufficient interest or maintaining the impairment of a right as well as civil society organisations, including nongovernmental organisations meeting any proportionate requirements under national law shall be deemed to have an interest.

Or. en

Justification

Based on proposal of Transparency International.

Amendment 242 Peter Pollák

Proposal for a directive

AM\1288247EN.docx 67/197 PE754.808v01-00

## Article 3 – paragraph -1 (new)

Text proposed by the Commission

#### Amendment

-1. Member States shall invest in building an effective public administration consisting of motivated and skilled civil servants as a prerequisite for a country's sound management and key driver of growth.

Or en

Amendment 243
Daniel Freund

Proposal for a directive Article 3 – paragraph 1

Text proposed by the Commission

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

#### Amendment

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

Or. en

Amendment 244 José Gusmão

Proposal for a directive Article 3 – paragraph 1

Text proposed by the Commission

1. Member States shall take appropriate action, *such as* information and awareness-raising campaigns and research and education programmes, to

### Amendment

1. Member States shall take appropriate action, *including* information and awareness-raising campaigns and research and education programmes, to

PE754.808v01-00 68/197 AM\1288247EN.docx

raise public awareness on the harmfulness of corruption and reduce the overall commission of corruption offences as well as the risk of corruption.

raise public awareness on the harmfulness of corruption and reduce the overall commission of corruption offences as well as the risk of corruption.

Or. en

Amendment 245 Laura Ferrara, Sabrina Pignedoli, Maria Angela Danzì

Proposal for a directive Article 3 – paragraph 2

Text proposed by the Commission

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

#### Amendment

2. Member States shall take measures to ensure the highest degree of transparency and accountability in public administration and public decision-making with a view to prevent corruption. These measures include a system of staff recruitment and promotion or assignment based on transparent and meritocratic procedures.

Or. it

Amendment 246 Peter Pollák

Proposal for a directive Article 3 – paragraph 2

Text proposed by the Commission

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

## Amendment

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

Or. en

# Amendment 247 Daniel Freund

# Proposal for a directive Article 3 – paragraph 2

Text proposed by the Commission

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

#### Amendment

2. Member States, as well the institutions, bodies, offices and agencies of the Union shall, within the limits of their respective administrations and public decision-making, take measures to ensure the highest degree of integrity, transparency and accountability with a view to prevent corruption.

Or. en

Amendment 248 Laura Ferrara, Sabrina Pignedoli, Maria Angela Danzì

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

Text proposed by the Commission

Amendment

2a. Member States shall take the necessary measures to limit the use of trustee assignments for personnel entrusted with responsibility for oversight or verification of compliance with the law.

Or. it

Amendment 249 José Gusmão

Proposal for a directive Article 3 – paragraph 3

Text proposed by the Commission

3. Member States shall take measures to ensure that key preventive tools such as an open access to information of public

### Amendment

3. Member States shall take measures to ensure that key preventive tools such as an open access to information of public

PE754.808v01-00 70/197 AM\1288247EN.docx

interest, effective rules for the disclosure and management of conflicts of interests in the public sector, effective rules for the disclosure and verification of assets of public officials and effective rules regulating the interaction between the private and the public sector are in place. interest, effective rules for the disclosure and management of conflicts of interests in the public sector, effective rules for the disclosure and verification of assets of public officials and effective rules regulating the interaction between the private and the public sector are in place, such as:

- (a) an anticorruption strategy and action plan drafted with the participation of competent authorities and civil society;
- (b) effective rules for the periodic and risk-based disclosure and verification of assets and interests of public officials; namely by guarenteeing the establishment of an up to date open access EU Asset Register, and other open access databases with information of public interest on a national and European level; establishing sanctions for failure to report substantial assets or interests;
- (c) effective rules for the disclosure and management of conflicts of interest in the public sector, including ad-hoc disclosure of new conflicts as they arise; establishing sanctions for failure to report substantial assets or interests and for those involved in the materialization of such conflicts of interest;
- (d) effective rules addressing the interaction between the private and the public sector, including regulation of lobbying, revolving doors situations from the private to public sector and vice-versa, proactive publication of lobby meetings, establishing a public legislative footprint, and establishing the obligation rules for those who engage in interest representation to register in transparency registers and disclose corporate membership;
- (e) interoperable systems for the publication and disclosure of all data listed under this Article, such as transparency registers. All data listed under this Article shall be made publicly available, updated in a timely manner, accessible in machine-readable formats

## and downloadable in bulk;

- (f) effective restrictive measures to prevent situations of revolving doors between the private and the public sector, in Member States and in EU institutions;
- (g) effective restrictive measures to prevent corporate lobbys and consulting companies from influencing policy decision processes when they might have conflicts of interests; effective rules on the interactions between corporate lobbys and consulting companies, including their issuing of official impact assessments or studies vis-a-vis the public sector, and preventing their privileged access to information and preventing revolving doors between them and the public sector;
- (h) effective measures to ban CBI and RBI schemes;
- (i) effective measures to guarantee that such dispositions do not restrict the work of civil society organisations, non-profit or humanitarian organisations in their advocacy work that should not be confused with corporate lobbying.

Or. en

## Amendment 250 Daniel Freund

# Proposal for a directive Article 3 – paragraph 3

Text proposed by the Commission

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

## Amendment

3. Member States shall take measures to ensure that *at least the following* key preventive tools *are in place:* 

PE754.808v01-00 72/197 AM\1288247EN.docx

- (a) an open access to information of public interest, including at least the information and data listed under this paragraph;
- (b) effective rules for the disclosure and management of conflicts of interests in the public and private sector;
- (c) minimum ethics standards and due diligence obligations in both the public and private sector, including effective rules addressing the interaction between the private and the public sector, rules on lobbying and revolving doors situations, proactive publication of lobby meetings, establishing a public legislative footprint, and establishing the obligation for associations, think tanks and non-profit organisations who engage in interest representation to register in transparency registers and disclose corporate membership;
- (d) effective rules for the disclosure and verification of assets of public officials, including through access to information contained in beneficial ownership registries, and effective rules regulating the interaction between the private and the public sector are in place.

Or. en

Amendment 251 Nuno Melo

Proposal for a directive Article 3 – paragraph 3

Text proposed by the Commission

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

#### Amendment

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

## Amendment 252 Elena Yoncheva, Klára Dobrev, Sándor Rónai, Petar Vitanov

# Proposal for a directive Article 3 – paragraph 3

Text proposed by the Commission

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

#### Amendment

3. Member States shall take measures to ensure that key preventive tools are in place, such the development of national anti-corruption strategies in consultation with the relevant specialised bodies referred to in Article (4) and civil society, an open access to information of public interest, effective rules for the disclosure and management of conflicts of interests in the public sector, effective rules for the disclosure and verification of assets of public officials and effective rules for the disclosure and transparency of national political parties financing.

Or. en

### Justification

References to regulation of interaction between the private and the public sector are delated to be further elaborated in a new paragraph.

Amendment 253 Tomas Tobé

Proposal for a directive Article 3 – paragraph 3

Text proposed by the Commission

3. Member States shall take measures to ensure that key preventive tools such as an open access to information of public interest, effective rules for the disclosure

## Amendment

3. Member States shall take measures to ensure that key preventive tools such as an open access to information of public interest, effective rules for the disclosure

PE754.808v01-00 74/197 AM\1288247EN.docx

and management of conflicts of interests in the public sector, effective rules for the disclosure and verification of assets of public officials and effective rules regulating the interaction between the private and the public sector are in place. and management of conflicts of interests in the public sector, effective rules for the disclosure and verification of assets of public officials and effective rules regulating the interaction between the private and the public sector are in place.

Member States shall adopt and implement an anticorruption strategy and action plan; this shall involve the participation of competent authorities.

Or. en

Amendment 254 Nuno Melo

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

Text proposed by the Commission

Amendment

 elimination of administrative barriers and regulatory complexity that hinder timely decision-making on citizens' requests and condition their access to information and the decision-making process;

Or. en

## Justification

The numbing of interactions between Public Administration and citizens can create incentives for corrupt practices, whether to speed up procedures or to waive formal requirements

Amendment 255 Nuno Melo

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

Text proposed by the Commission

Amendment

 effective rules for the disclosure and management of conflicts of interests in the public sector. Amendment 256 Nuno Melo

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

Text proposed by the Commission

Amendment

an open access to information of public interest;

Or. en

Amendment 257 Nuno Melo

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

Text proposed by the Commission

Amendment

 an anticorruption strategy and action plan drafted with the participation of competent authorities and civil society

Or. en

Amendment 258 Elena Yoncheva, Klára Dobrev, Sándor Rónai, Petar Vitanov

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

Text proposed by the Commission

Amendment

3a. Member States shall take measures to implement effective mechanisms to regulate the interaction between the private and public sectors, including interest representation. Such measures shall at least include the following provisions:

- a) all persons or private entities carrying out interest representation are registered in a national public register, which provides public and easily accessible information through a single gateway.
- b) establishing a code of conduct for public officials, including rules for their interactions with persons or private entities carrying out interest representation.
- c) establishing minimum required information to be publically disclosed in regards to the interaction between public officials and persons or private entities carrying out interest representation.

Or. en

Amendment 259 Daniel Freund

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

Text proposed by the Commission

Amendment

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

Or. en

Amendment 260 Elena Yoncheva, Klára Dobrev, Sándor Rónai, Petar Vitanov

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

### Amendment

3b. Member States shall take measures to regulate the movement of public officials from positions of public office to positions in the same field in the private or voluntary sector in either direction. Those measures shall include restrictions on post-term employment of public officials and post-term employment of interest representatives with a period of time, as determined in national law, following the end of their mandate during which public officials and interest representatives shall not undertake employment related to their former professional activities.

Or. en

Amendment 261
Daniel Freund

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

Text proposed by the Commission

Amendment

3b. The institutions, bodies, offices and agencies of the Union shall take measures to ensure that key preventive tools, including at least the preventive tools listed under paragraph 3 of this Article, are in place in their respective administrations.

Or. en

Amendment 262 Elena Yoncheva, Klára Dobrev, Sándor Rónai, Petar Vitanov

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

*Text proposed by the Commission* 

Amendment

PE754.808v01-00 78/197 AM\1288247EN.docx

3c. Member States shall take measures to ensure transparency and accountability of public procurements. Such measures shall include creating a public and easily accessible national procurement register, providing standardised data, including information on all procurement contracts concluded by the public authorities.

Or. en

Amendment 263 José Gusmão

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

Text proposed by the Commission

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

#### Amendment

4. Member States shall adopt comprehensive and up-to-date measures to prevent corruption in both the public and private sectors, adapted to the specific risks of an area of activity. Such areas shall at least include common high-risk areas such as the financial sector, health, digital, agri business and pharma sector, public procurement and the construction sector. Such measures shall at least include actions to strengthen integrity and to prevent opportunities for corruption among:

Or. en

Amendment 264
Daniel Freund

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

Text proposed by the Commission

4. Member States shall adopt comprehensive and up-to-date measures to

Amendment

4. Member States shall adopt comprehensive and up-to-date measures to

 prevent corruption in both the public and private sectors, adapted to the specific risks of an area of activity. Such measures shall at least include actions to strengthen integrity *and* to prevent opportunities for corruption among:

prevent corruption in both the public and private sectors, adapted to the specific risks of an area of activity. Such measures shall at least include actions to strengthen integrity, *transparency and accountability* to prevent opportunities for corruption among:

Or. en

Amendment 265 Nuno Melo

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

Text proposed by the Commission

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

### Amendment

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

Or. en

Amendment 266 Tomas Tobé

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

Text proposed by the Commission

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

### Amendment

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

PE754.808v01-00 80/197 AM\1288247EN.docx

# Amendment 267 Daniel Freund

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

Text proposed by the Commission

(a) high level officials;

#### Amendment

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

Or. en

## Amendment 268 Daniel Freund

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

Text proposed by the Commission

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

#### Amendment

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

Or. en

Amendment 269 Elena Yoncheva, Klára Dobrev, Sándor Rónai, Petar Vitanov

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

Text proposed by the Commission

(b) members of law enforcement and the judiciary, including measures relating to their appointment and conduct, and by

#### Amendment

(b) members of law enforcement and the judiciary, including measures relating to their *merit-based* appointment and

AM\1288247EN.docx 81/197 PE754.808v01-00

ensuring adequate remuneration and equitable pay scales.

conduct, and by ensuring adequate remuneration and equitable pay scales.

Or. en

Amendment 270 Laura Ferrara, Sabrina Pignedoli, Maria Angela Danzì

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

Text proposed by the Commission

Amendment

(ba) Effective rules addressing the interaction between the public and private sectors, including the regulation of lobbying and the revolving door. In particular the setting of minimum standards concerning lobbying, including: (i) the concepts of lobbying, lobbyists and public officials subject to the law; (ii) common minimum information to be disclosed regarding lobbyists' meetings with officials; (iii) common minimum requirements to ensure that such information is publicly available.

Or. it

Amendment 271
Daniel Freund

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

Text proposed by the Commission

Amendment

4a. The institutions, bodies, offices and agencies of the Union shall put in place comprehensive and up-to-date measures to prevent corruption of Union officials, adapted to the specific risks of the areas of activity covered by their respective administrations. Such measures shall at least include actions to strengthen integrity, transparency and

PE754.808v01-00 82/197 AM\1288247EN.docx

accountability, and to prevent opportunities for corruption among high level Union officials, including measures relating to their appointment and the conduct to be followed during and after the performance of their public function.

Or. en

Amendment 272 Daniel Freund

Proposal for a directive Article 3 – paragraph 5 – subparagraph 1

Text proposed by the Commission

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

Amendment

Member States, as well the institutions, bodies, offices and agencies of the Union, shall regularly perform an assessment to identify the sectors most at risk of corruption.

Or. en

Amendment 273 José Gusmão

Proposal for a directive Article 3 – paragraph 5 – subparagraph 1

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 274
Daniel Freund

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

AM\1288247EN.docx 83/197 PE754.808v01-00

## Text proposed by the Commission

Following that assessment, Member States shall:

#### Amendment

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

Or. en

Amendment 275 Nuno Melo

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

Text proposed by the Commission

Amendment

- (b) develop plans to address the main risks in the sectors identified.
- (b) develop prevention or risk management plans, in which services or acts most susceptible to bribery, exploitation or diversion of funds and personal favoritism or favoritism towards third parties are identified, as well as measures to reduce risks and ways to react to illicit practices.

Or. en

Amendment 276 Tomas Tobé

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

Text proposed by the Commission

Amendment

- (b) develop plans to address the main risks in the sectors identified.
- (b) develop prevention or risk management plans to address the main risks in the sectors identified, in particular where services or acts are most subject to to bribery, exploitation, diversion of funds or personal bias towards third parties.

Or. en

# Amendment 277 Elena Yoncheva, Klára Dobrev, Sándor Rónai, Petar Vitanov

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

Text proposed by the Commission

Amendment

- (b) develop plans to address the main risks in the sectors identified.
- (b) develop *anti-corruption action* plans to address the main risks in the sectors identified.

Or. en

Amendment 278 Daniel Freund

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

Text proposed by the Commission

Amendment

(ba) monitor that sectors identified as at risk of corruption adequately implement the actions indicated in the plans referred to in paragraph 5, point (b), and effectively apply the key preventive tools referred to in paragraph 3.

Or. en

Amendment 279 José Gusmão

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

Text proposed by the Commission

Amendment

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

Or. en

Amendment 280 José Gusmão

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

Text proposed by the Commission

Amendment

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

Member States shall publish information in open data formats including, but not limited to, government budgets, government spending, public procurement, voting records, permits and concessions, state subsidies, large tax benefits and, cross-border tax rulings for high-net-worth individuals.

Or. en

Amendment 281 Daniel Freund

Proposal for a directive Article 3 – paragraph 6

Text proposed by the Commission

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

Amendment

6. Member States, as well the institutions, bodies, offices and agencies of the Union shall regularly involve and consult civil society, non-governmental organizations, community-based organizations and academia, in the development, monitoring, and assessment of anti-corruption laws and policies, and

PE754.808v01-00 86/197 AM\1288247EN.docx

establish an enabling environment for civil society to work and have meaningful engagement in anti-corruption activities.

Or. en

Amendment 282 José Gusmão

# Proposal for a directive Article 3 – paragraph 6

Text proposed by the Commission

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

#### Amendment

6. Where appropriate, Member States shall take measures to promote the participation of civil society, nongovernmental organizations and community-based organizations in anticorruption activities and assessments.

Member States shall establish an enabling environment for civil society to work and have meaningful engagement in anticorruption activities.

Or. en

Amendment 283 Cristian Terheş

Proposal for a directive Article 3 – paragraph 6

Text proposed by the Commission

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

### Amendment

6. Where appropriate, Member States shall take measures to promote the participation of civil society, nongovernmental organizations and community-based organizations in awareness-raising campaigns with a view to prevent corruption.

Or. en

## Amendment 284 Nuno Melo

# Proposal for a directive Article 3 – paragraph 6

Text proposed by the Commission

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

#### Amendment

6. Where appropriate, Member States shall *adopt* measures to promote the participation of civil society, nongovernmental organizations and community-based organizations in anticorruption activities.

Or. en

Amendment 285 José Gusmão

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

Text proposed by the Commission

#### Amendment

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

Member States shall take the necessary measures to ensure that a specialised body as defined in Article 4 or another competent authority examines on a regular basis the declaration by a public official of assets and interests and measures such declaration against the tax declaration by the public official. If such examination reveals a property owned, possessed or controlled by the public official, which is not in accordance with the taxed revenues of the public official, the appropriate measures shall be taken

PE754.808v01-00 88/197 AM\1288247EN.docx

in order to identify the origin of the property.

Or. en

Amendment 286 Laura Ferrara, Sabrina Pignedoli, Maria Angela Danzì

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

Text proposed by the Commission

Amendment

6a. Member States shall take the necessary measures to ensure that a specialised body as defined in Article 4 or another competent authority regularly examines public officials' declarations of assets and financial interests and compares these declarations with what they have declared to the tax authorities. If these examinations reveal the existence of assets undeclared by the public official, Member States shall take the appropriate measures to identify their origin.

Or. it

Amendment 287 Laura Ferrara, Sabrina Pignedoli, Maria Angela Danzì

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

Text proposed by the Commission

Amendment

6b. Member States shall take the necessary measures to ensure that cash contributions in excess of EUR 500 per year per donor, or other forms of support of equivalent value, made to political parties and movements are made public and include the identity of the donor, the size of the contribution or the value of the benefit or other form of support and the date of payment by means of an entry in a

special register maintained at the registered office of the political party or movement, inclusion in financial statements and publication on the official website of the political party or movement.

Or. it

# Amendment 288 Daniel Freund

# Proposal for a directive Article 4 – paragraph 1

Text proposed by the Commission

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

#### Amendment

- 1. Member States shall take the necessary measures to ensure that one or several bodies, or organisation units specialised in the prevention of corruption is or are in place. *The tasks of such bodies shall include:*
- (a) the management of asset declarations of public officials;
- (b) monitoring compliance with transparency rules applicable to public officials and public entities and to the financing of political parties, and the enforcement of sanctions related to breaches of such provisions and rules;
- (c) monitoring compliance with the statutory provisions and rules related to conflicts of interests in the public and private sectors, and the enforcement of sanctions related to breaches of such provisions and rules;
- (d) the issuing of warnings related to risks of corruption;
- (e) cooperation with competent authorities, bodies or organizational units specialized in the repression of corruption.

Or. en

## Amendment 289 Jorge Buxadé Villalba

# Proposal for a directive Article 4 – paragraph 1

Text proposed by the Commission

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

### Amendment

1. Member States shall take the necessary measures to ensure that *a body* or organisation *unit* specialised in the prevention of corruption is *in place at national level. This specialised body or organisation unit shall have offices or delegations in the other State administrations, which shall be required to report their actions to the central specialised body or organisation unit.* 

Or. es

Amendment 290 Tomas Tobé

Proposal for a directive Article 4 – paragraph 1

Text proposed by the Commission

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

## Amendment

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

Or. en

Amendment 291
Daniel Freund

Proposal for a directive Article 4 – paragraph 2

AM\1288247EN.docx 91/197 PE754.808v01-00

## Text proposed by the Commission

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

#### Amendment

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

Or. en

Amendment 292 Jorge Buxadé Villalba

Proposal for a directive Article 4 – paragraph 2

Text proposed by the Commission

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

#### Amendment

2. Member States shall take the necessary measures to ensure that a national body or organisational unit specialised in the repression of corruption is in place. This specialised body or organisational unit shall have offices or delegations in the other State administrations, which shall be required to report their actions to the central specialised body or organisation unit.

Or. es

Amendment 293 Elena Yoncheva, Klára Dobrev, Sándor Rónai, Petar Vitanov

Proposal for a directive Article 4 – paragraph 2

*Text proposed by the Commission* 

Text proposed by the Commission

2. Member States shall take the

Amendment

2. Member States shall take the

PE754.808v01-00 92/197 AM\1288247EN.docx

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

necessary measures to ensure that one or several bodies, or organisational units specialised in the repression *and investigation* of corruption, *including high-level corruption*, is or are in place.

Or. en

Amendment 294 Daniel Freund

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

Text proposed by the Commission

Amendment

2a. Member States shall take the necessary measures to ensure that an organisational unit specialised in the identification, notification, representation and coordination of victims of corruption is in place.

Or. en

## Justification

Victims of corruption face serious challenges when attempting to establish and understand their rights and potential remedies.

An independent coordinator to ensure that their rights are upheld, and that they are compensated for their loss, is essential. This justification is based on a proposal of Transparency International.

Amendment 295 Daniel Freund

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

Text proposed by the Commission

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

Amendment

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

## Amendment 296 Daniel Freund

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

Text proposed by the Commission

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

#### Amendment

(a) are functionally and operationally independent from the government, carry out their functions free from undue political inteferences, and are continually provided with a sufficient number of qualified staff and the financial, technical and technological resources, as well as the powers and tools necessary to ensure the effective performance and the proper administration of their tasks:

Or. en

## Amendment 297 Laura Ferrara, Sabrina Pignedoli, Maria Angela Danzì

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

Text proposed by the Commission

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

#### Amendment

(a) are functionally independent of the government in accordance with the fundamental principles of the legal system of the Member State and have a sufficient number of qualified staff and the financial, technical and technological resources, as well as the powers and tools necessary to ensure the proper administration of their tasks and to implement the provisions necessary to comply with Articles 3 to 6;

Or. it

## Amendment 298 Elena Yoncheva, Klára Dobrev, Sándor Rónai, Petar Vitanov

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

Text proposed by the Commission

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

#### Amendment

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

Or. en

## Amendment 299 Cristian Terheş

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

Text proposed by the Commission

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

### Amendment

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

Or. en

Amendment 300 Elena Yoncheva, Klára Dobrev, Sándor Rónai, Petar Vitanov

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

Text proposed by the Commission

Amendment

(aa) are consulted in the process of

AM\1288247EN.docx 95/197 PE754.808v01-00

development and formulation of a national anti-corruption strategy referred to in Article 3(3);

Or. en

Amendment 301 Cristian Terheş

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

Text proposed by the Commission

Amendment

(aa) are established by law, respect the fundamental rights, the right to a fair trial, are independent and impartial

Or. en

Amendment 302 Elena Yoncheva, Klára Dobrev, Sándor Rónai, Petar Vitanov

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

Text proposed by the Commission

Amendment

(ab) are managed by executive member or members with an adequate and sufficient term of office, ensuring functional political independence. The executive member or members shall be appointed through a transparent, open and non-discriminatory procedure in accordance with the principle of legislative oversight. The selection criteria shall be predictable and known no less than 1 year before the planned appointment.

Or. en

**Amendment 303** 

PE754.808v01-00 96/197 AM\1288247EN.docx

#### **Daniel Freund**

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

Text proposed by the Commission

Amendment

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

Or. en

Amendment 304 Elena Yoncheva, Klára Dobrev, Sándor Rónai, Petar Vitanov

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

Text proposed by the Commission

(c) provide public access to relevant information on the exercise of their activities, with due regard for the protection of personal data and the confidentiality of investigations;

Amendment

(c) provide public access to relevant information on the exercise of *their* activities, including annual reports on their activities, with due regard for the protection of personal data and the confidentiality of investigations;

Or. en

Amendment 305 Cristian Terheş

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

Text proposed by the Commission

(c) provide public access to *relevant* information on the exercise of their activities, with due regard for the protection of personal data and the confidentiality of investigations;

Amendment

(c) provide public access to information on the exercise of their activities, with due regard for the protection of personal data, *access of parties to the file* and the confidentiality of

AM\1288247EN.docx 97/197 PE754.808v01-00

Or en

Amendment 306 Cristian Terheş

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

Text proposed by the Commission

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

#### Amendment

(d) operate and take decisions in accordance with transparent procedures established by law, *repecting the principle of equitable, impartial and independent administration of justice* with the effect of ensuring integrity and accountability.

Or. en

Amendment 307
Daniel Freund

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

Text proposed by the Commission

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

Amendment

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

Or en

Amendment 308
Daniel Freund

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

Text proposed by the Commission

Amendment

PE754.808v01-00 98/197 AM\1288247EN.docx

(da) submit regular reports on their activities to the relevant executive and legislative bodies, and publish such reports on their websites, with the effect of ensuring integrity, publicity, and accountability.

Or. en

Amendment 309 José Gusmão

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

Text proposed by the Commission

Amendment

(da) have clear rules and protocols enabling swift and where possible automatic data sharing, within Member States and across the EU to the extent that is needed to fulfil their duties.

Or. en

Amendment 310 Jorge Buxadé Villalba

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

Text proposed by the Commission

Amendment

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

Or. es

Amendment 311 Elena Yoncheva, Klára Dobrev, Sándor Rónai, Petar Vitanov

Proposal for a directive Article 4 a (new)

### Article4a

# Coordination of Union strategy on combating corruption

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

Or. en

### Justification

The wording is based on Article 20 of Directive 2011/36/EU on preventing and combating trafficking, which is the legal basis for establishing the function of the EU Anti-Trafficking Coordinator.

Amendment 312 José Gusmão

Proposal for a directive Article 5 – paragraph 1

Text proposed by the Commission

Amendment

Member States shall take the necessary

Member States shall take the necessary

PE754.808v01-00 100/197 AM\1288247EN.docx

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

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

Or. en

Amendment 313 Tomas Tobé

Proposal for a directive Article 5 – paragraph 1

Text proposed by the Commission

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

### Amendment

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

Or. en

Amendment 314 Nuno Melo

Proposal for a directive Article 5 – paragraph 1

Text proposed by the Commission

Member States shall take the necessary

Amendment

Member States shall take the necessary

AM\1288247EN.docx 101/197 PE754.808v01-00

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

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

Or. en

Amendment 315 Elena Yoncheva, Klára Dobrev, Sándor Rónai, Petar Vitanov

Proposal for a directive Article 5 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 316 Tomas Tobé

Proposal for a directive Article 5 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

Every second year Member States shall asses the implementation of this Directive

PE754.808v01-00 102/197 AM\1288247EN.docx

and resources proven most effective to strengthen the national authorities in the fight against corruption.

Or. en

# **Amendment 317 Cristian Terhes**

# Proposal for a directive Article 6 – paragraph 1

Text proposed by the Commission

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

#### Amendment

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

Or. en

Amendment 318 Elena Yoncheva, Klára Dobrev, Sándor Rónai, Petar Vitanov

# Proposal for a directive Article 6 – paragraph 1

Text proposed by the Commission

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

#### Amendment

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

Or. en

# Amendment 319 Daniel Freund

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

Text proposed by the Commission

### Amendment

1a. The institutions, bodies, offices and agencies of the Union shall take necessary measures to ensure adequate resources for and the provision of training for Union officials to be able to identify different forms of corruption and corruption risks that may occur in the exercise of their duties and to react in a timely and appropriate manner to any suspicious activity.

Or. en

Amendment 320 Tomas Tobé

# Proposal for a directive Article 6 – paragraph 2

Text proposed by the Commission

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

### Amendment

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

Or. en

Amendment 321 Nuno Melo

PE754.808v01-00 104/197 AM\1288247EN.docx

# Proposal for a directive Article 6 – paragraph 2

Text proposed by the Commission

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

#### Amendment

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

Or. en

Amendment 322 José Gusmão

# Proposal for a directive Article 6 – paragraph 2

Text proposed by the Commission

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

#### Amendment

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

Or. en

Amendment 323 José Gusmão

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

AM\1288247EN.docx 105/197 PE754.808v01-00

## Text proposed by the Commission

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

### Amendment

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

Or. en

# **Amendment 324 Cristian Terhes**

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

Text proposed by the Commission

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

#### Amendment

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

Or. en

# Amendment 325 Daniel Freund

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

Text proposed by the Commission

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

### Amendment

(a) the promise, offer or giving, directly or through an intermediary, of an *undue* advantage of any kind to a public official for that official or for a third party in order for the public official to act or refrain from acting in accordance with his

PE754.808v01-00 106/197 AM\1288247EN.docx

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

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

Or en

## Justification

Without undue, any kind of advantage (e.g. a pen, totebag, etc.) would constitute a bribe. This is disproportionate.

Amendment 326
Daniel Freund

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

Text proposed by the Commission

(b) the request or receipt by a public official, directly or through an intermediary, of an advantage of any kind or the promise of such an advantage for that official or for a third party, in order for the public official to act or to refrain from acting in accordance with his duty or in the exercise of that official's functions (passive bribery).

### Amendment

(b) the request or receipt by a public official, directly or through an intermediary, of an *undue* advantage of any kind or the *request or acceptance of a* promise of such an *undue* advantage for that official or for a third party, in order for the public official to act or to refrain from acting in accordance with his duty or in the exercise of that official's functions (passive bribery).

Or. en

### Justification

It is the request and /or acceptance what gives rise to a criminal responsibility (not the simple receipt of a promise)

Amendment 327 José Gusmão

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

Text proposed by the Commission

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

Amendment

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

AM\1288247EN.docx 107/197 PE754.808v01-00

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

Or. en

Amendment 328 Cristian Terheş

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

Text proposed by the Commission

(b) the request or receipt by a public official, directly or through an intermediary, of an advantage of any kind or the promise of such an advantage for that official or for a third party, in order for the public official to act or to refrain from acting in accordance with his duty or in the exercise of that official's functions (passive bribery).

### Amendment

(b) the request or receipt by a public official, directly or through an intermediary, of an advantage of any kind or the *unequivocal acceptance of a* promise of such an advantage for that official or for a third party, in order for the public official to act or to refrain from acting in accordance with his duty or in the exercise of that official's functions (passive bribery).

Or. en

Amendment 329 Laura Ferrara, Sabrina Pignedoli, Maria Angela Danzì

Proposal for a directive Article 7 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(ba) The fact that a public official takes up, receives or retains, directly or indirectly, an interest in an undertaking or transaction undermining his or her impartiality, independence or objectivity for which, at the time of the event, he or she is wholly or partly responsible for the

PE754.808v01-00 108/197 AM\1288247EN.docx

supervision, administration, liquidation or payment.

Or it

Amendment 330 Laura Ferrara, Sabrina Pignedoli, Maria Angela Danzì

Proposal for a directive Article 7 – paragraph 1 – point b b (new)

Text proposed by the Commission

Amendment

The fact that a public official, in *(bb)* the course of his or her duties relating either to the supervision and/or control of a private undertaking, or to the conclusion of contracts of any kind with a private undertaking or to the giving of an opinion on such contracts, or to having proposed directly to the competent authority decisions relating to the operations carried out by a private undertaking or to having given an opinion on such decisions, acquired or received an interest by way of employment, advice or capital in one of those undertakings before the expiry of a period of three years from the date on which those duties ceased.

Or. it

Amendment 331 Daniel Freund

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

Text proposed by the Commission

(a) the promise, offer or giving, directly or through an intermediary, an undue advantage of any kind to a person who in any capacity directs or works for a private-sector entity, for that person or for

## Amendment

(a) the promise, offer or giving, directly or through an intermediary, an undue advantage of any kind to a person who in any capacity directs or works for a private-sector entity, for that person or for a third party, in order for that person to act or to refrain from acting, in breach of that person's duties (active bribery); a third party, in order for that person to act or to refrain from acting, in breach of that person's duties, when such breach of duty involves, or could involve, a distortion of competition in relation to the purchase of goods or commercial services, a serious damage to the private-sector entity, or a harm to consumers (active bribery);

Or. en

## Justification

Without this specification the criminal act becomes a criminal act of disobedience - the offence consist exclusively of the promise, offer of giving.

FWD 2003/568 - combating corruption in the private sector - MS were given the possibility to chose whether to limit criminalisation of bribery in the private sector to cases involving distortion of competition.

Since this is a directive providing for minimum harmonisation, it should be limited to mire serious cases of bribery in the private sector (MS may always decide to go beyond)

# Amendment 332 Cristian Terheş

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

Text proposed by the Commission

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

#### Amendment

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

Or. en

Amendment 333 José Gusmão

PE754.808v01-00 110/197 AM\1288247EN.docx

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

Text proposed by the Commission

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

#### Amendment

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

Or. en

Amendment 334
Daniel Freund

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

Text proposed by the Commission

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

#### Amendment

(b) the request or receipt by a person, directly or through an intermediary, of an undue advantage of any kind or the request or acceptance of the promise of such an advantage, for that person or for a third party, while in any capacity directing or working for a private-sector entity, to act or to refrain from acting, in breach of that person's duties, when such breach of duty involves a distortion of competition in relation to the purchase of goods or commercial services, a significant damage to the private-sector entity, or a harm to consumers (passive bribery).

Or. en

Justification

*See justification for point a in this Article.* 

AM\1288247EN.docx 111/197 PE754.808v01-00

# Amendment 335 Cristian Terheş

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

Text proposed by the Commission

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

#### Amendment

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

Or. en

Amendment 336 José Gusmão

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

Text proposed by the Commission

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

#### Amendment

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

Or. en

Amendment 337 Karolin Braunsberger-Reinhold

Proposal for a directive

PE754.808v01-00 112/197 AM\1288247EN.docx

## Article 9 – paragraph 1 – introductory part

Text proposed by the Commission

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

#### Amendment

Member States shall take the necessary measures to ensure that the following conduct is punishable as a criminal offence, when committed intentionally *and in breach of duty resulting in a financial damage*:

Or. en

## Justification

We need a clear definition of the offense. Currently, Article 9 extends beyond the conventional definition of corruption by Transparency International. This proposed regulation of embezzlement at the European level masked as corruption cannot be justified based on Art. 83 (1) TFEU. It also lacks clarity, particularly concerning the "purpose for which the property was intended", potentially criminalizing minor offenses that shouldn't be subject to criminal law. Furthermore, it should be restructured to require pecuniary damage as a necessary outcome of the breach of duty.

Amendment 338 Karolin Braunsberger-Reinhold

Proposal for a directive Article 9 – paragraph 1 – point a

Text proposed by the Commission

(a) the committing, disbursing, appropriation or use by a public official of property whose management is directly or indirectly entrusted to him *contrary to the purpose for* which *it was intended*;

#### Amendment

(a) the committing, disbursing, appropriation or use by a public official of property whose management is directly or indirectly entrusted to him in breach of their duty to safeguard the pecuniary interests of another which are incumbent upon them by reason of law, by commission of an authority, legal transaction or fiduciary relationship;

Or. en

## Justification

We need a clear definition of the offense. Currently, Article 9 extends beyond the conventional definition of corruption by Transparency International. This proposed regulation of embezzlement at the European level masked as corruption cannot be justified based on Art. 83

(1) TFEU. It also lacks clarity, particularly concerning the "purpose for which the property was intended", potentially criminalizing minor offenses that shouldn't be subject to criminal law. Furthermore, it should be restructured to require pecuniary damage as a necessary outcome of the breach of duty.

Amendment 339
Daniel Freund

Proposal for a directive Article 9 – paragraph 1 – point a

Text proposed by the Commission

(a) the committing, disbursing, appropriation or use by a public official of property whose management is directly or indirectly entrusted to him contrary to the purpose for which it was intended;

#### Amendment

(a) the committing, disbursing, appropriation or use by a public official of property whose management is directly or indirectly entrusted to him contrary to the purpose for which it was intended, when such conduct involves a serious damage to the public administration;

Or. en

Amendment 340 Cristian Terheş

Proposal for a directive Article 9 – paragraph 1 – point a

Text proposed by the Commission

(a) the committing, disbursing, appropriation or use by a public official of property whose management is directly or indirectly entrusted to him contrary to the purpose for which it was *intended*;

# Amendment

(a) the committing, disbursing, appropriation or use by a public official of property whose management is directly or indirectly entrusted to him contrary to the purpose for which it was *entrusted*;

Or. en

## Justification

The term "intended" is unclear and might lead to different interpretations in practice.

Amendment 341 Daniel Freund

PE754.808v01-00 114/197 AM\1288247EN.docx

# Proposal for a directive Article 9 – paragraph 1 – point b

Text proposed by the Commission

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

#### Amendment

(b) the committing, disbursing, appropriation or use, in the course of economic, financial, business or commercial activities, by a person who directs or works, in any capacity, in a private sector entity, of any property whose management is directly or indirectly entrusted to him contrary to the purpose for which it was intended, when such conduct involves a serious damage to the private sector entity.

Or. en

Amendment 342 Cristian Terheş

Proposal for a directive Article 9 – paragraph 1 – point b

Text proposed by the Commission

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

#### Amendment

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

Or. en

Amendment 343 José Gusmão

Proposal for a directive Article 9 – paragraph 1 a (new)

AM\1288247EN.docx 115/197 PE754.808v01-00

#### Amendment

Member States shall take the necessary measures to ensure that the conduct defined in Article 9(1) is punishable as a criminal offence, when committed recklessly or with gross negligence on condition that:

- (a) the property concerned qualifies as public asset in accordance with the legislation of the Member State; and
- (b) such conduct results in loss of economic wealth or in the decrease of the value of the property.

Or. en

# Amendment 344 Daniel Freund

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

Text proposed by the Commission

(a) the promise, offer or giving, directly or through an intermediary, of an undue advantage of any kind to a person or a third party in order for that person to exert real or supposed influence with a view to obtaining an undue advantage from a public official;

#### Amendment

(a) the promise, offer or giving, directly or through an intermediary, of an undue advantage of any kind to a person or a third party in order for that person to exert real or supposed influence with a view to obtaining a public official to act or refrain from acting in accordance with is duties, or to obtaining an undue advantage from a public official;

Or. en

Amendment 345 Cristian Terheş

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

Text proposed by the Commission

Amendment

PE754.808v01-00 116/197 AM\1288247EN.docx

- (a) the promise, offer or giving, directly or through an intermediary, of an undue advantage of any kind to a person or a third party in order for that person to exert real or supposed influence with a view to obtaining an undue advantage from a public official;
- (a) the *unequivocal* promise, offer or giving, directly or through an intermediary, of an undue advantage of any kind to a person or a third party in order for that person to exert real or supposed influence with a view to obtaining an undue advantage from a public official;

Or. en

Amendment 346 Karolin Braunsberger-Reinhold

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

Text proposed by the Commission

(a) the promise, offer or giving, directly or through an intermediary, of an undue advantage of any kind to a person or a third party in order for that person to exert *real or supposed* influence with a view to obtaining an undue advantage from a public official;

#### Amendment

(a) the promise, offer or giving, directly or through an intermediary, of an undue advantage of any kind to a person or a third party in order for that person to exert influence with a view to obtaining an undue advantage from a public official;

Or. en

# Justification

The proposed offense is extremely broad, which in turn could lead to serious consequences. The concept of criminal liability is extended far beyond the relationship between donor and beneficiary which is a characteristic of corruption offenses.

Amendment 347
Daniel Freund

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

Text proposed by the Commission

(b) the request or receipt, directly or through an intermediary, of an undue advantage of any kind or the promise of such an advantage to a person or a third

## Amendment

(b) the request or receipt, directly or through an intermediary, of an undue advantage of any kind or the *request or acceptance of a* promise of such an

party in order for that person to exert real or supposed influence with a view to obtaining an undue advantage from a public official. advantage to a person or a third party in order for that person to exert real or supposed influence with a view to obtaining a public official to act or refrain from acting in accordance with his duties, or to obtaining an undue advantage from a public official.

Or. en

Amendment 348 Cristian Terheş

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

Text proposed by the Commission

(b) the request or receipt, directly or through an intermediary, of an undue advantage of any kind or the promise of such an advantage to a person or a third party in order for that person to exert real or supposed influence with a view to obtaining an undue advantage from a public official.

#### Amendment

(b) the request or receipt, directly or through an intermediary, of an undue advantage of any kind or the *unequivocal acceptance of a* promise of such an advantage to a person or a third party in order for that person to exert real or supposed influence with a view to obtaining an undue advantage from a public official.

Or. en

Amendment 349 Karolin Braunsberger-Reinhold

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

Text proposed by the Commission

(b) the request or receipt, directly or through an intermediary, of an undue advantage of any kind or the promise of such an advantage to a person or a third party in order for that person to exert *real or supposed* influence with a view to obtaining an undue advantage from a public official.

#### Amendment

(b) the request or receipt, directly or through an intermediary, of an undue advantage of any kind or the promise of such an advantage to a person or a third party in order for that person to exert influence with a view to obtaining an undue advantage from a public official.

PE754.808v01-00 118/197 AM\1288247EN.docx

## Justification

The proposed offense is extremely broad, which in turn could lead to serious consequences. The concept of criminal liability is extended far beyond the relationship between donor and beneficiary which is a characteristic of corruption offenses.

Amendment 350 José Gusmão

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

Text proposed by the Commission

Amendment

(ba) the promise of a future job, contract or consultancy/advisery position, usually referred to as revolving doors, with a view to obtain an undue access and advantage from the public sector.

Or. en

Amendment 351 Karolin Braunsberger-Reinhold

Proposal for a directive Article 10 – paragraph 2

Text proposed by the Commission

2. In order for the conduct referred to in paragraph 1 to be punishable as a criminal offence, it shall be irrelevant whether or not the influence is exerted *or* whether or not the supposed influence leads to the intended results.

# Amendment

2. In order for the conduct referred to in paragraph 1 to be punishable as a criminal offence, it shall be irrelevant whether or not the influence is exerted.

Or. en

## Justification

The proposed offense is extremely broad, which in turn could lead to serious consequences. The concept of criminal liability is extended far beyond the relationship between donor and beneficiary which is a characteristic of corruption offenses.

# Amendment 352 Karolin Braunsberger-Reinhold

# Proposal for a directive Article 11

Text proposed by the Commission

Amendment

deleted

#### Article 11

# Abuse of functions

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

- 1. the performance of or failure to perform an act, in violation of laws, by a public official in the exercise of his functions for the purpose of obtaining an undue advantage for that official or for a third party;
- 2. the performance of or failure to perform an act, in breach of duties, by a person who in any capacity directs or works for a private-sector entity in the course of economic, financial, business or commercial activities for the purpose of obtaining an undue advantage for that person or for a third party.

Or. en

## Justification

Articles 7 and 8 already cover situations where individuals are rewarded by third parties for unlawful actions or omissions, in turn making Article 11 redundant. In fact, the scope of Article 11 extends way beyond corruption, and its inclusion is not justified by Art. 83 (1) TFEU. Actions that do not necessarily signify corrupt behavior may still fall under the scope, if a personal advantage is obtained. This can be as small as a public official avoiding work or an employee using company resources e.g. pens for personal purposes.

Amendment 353 Cristian Terheş

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

PE754.808v01-00 120/197 AM\1288247EN.docx

## Text proposed by the Commission

1. the performance of or failure to perform an act, in violation of laws, by a public official in the exercise of his functions for the purpose of obtaining an undue advantage for that official or for a third party;

#### Amendment

1. the performance of or failure to perform an act, in violation of laws, by a public official in the exercise of his functions for the purpose of obtaining an undue advantage for that official or for a third party or causes damage of more than 10,000 euros or a severe violation of the legitimate rights or interests of a natural or legal person;

Or. en

Amendment 354 Nuno Melo

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

Text proposed by the Commission

1. the performance of or failure to perform an act, in violation of laws, by a public official in the exercise of his functions for the purpose of obtaining an undue advantage for that official or for a third party;

#### Amendment

1. the performance of or failure to perform an act, in violation of laws, by a public official in the exercise of his functions for the purpose of obtaining an undue advantage *of any nature* for that official or for a third party;

Or. en

Amendment 355
Daniel Freund

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

Text proposed by the Commission

2. the performance of or failure to perform an act, in breach of duties, by a person who in any capacity directs or works for a private-sector entity in the course of economic, financial, business or commercial activities for the purpose of

# Amendment

2. the performance of or failure to perform an act, *in violation of laws or* in breach of duties, by a person who in any capacity directs or works for a private-sector entity in the course of economic, financial, business or commercial activities

obtaining an undue advantage for that person or for a third party.

for the purpose of obtaining an undue advantage for that person or for a third party. In the private sector, a conduct resulting in a violation of laws or breach of duty shall constitute an abuse of functions pursuant to this article only when such breach involves, or could involve, a distortion of competition in relation to the purchase of goods or commercial services, a significant damage to the private-sector entity concerned, or a harm to consumers.

Or en

## Justification

Abuse of function in the private sector is a new typology of offence. The COM designed it on the basis of abuse of functions in the public sector. But the protected legal interests at stake in the two sectors are different. Criminalisation of abuses in the private sector should be limited to the more serious cases.

Amendment 356 Cristian Terheş

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

Text proposed by the Commission

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

#### Amendment

2. the performance of or failure to perform an act, in breach of duties as foreseen by the primary national legislation, by a person who in any capacity directs or works for a private-sector entity in the course of economic, financial, business or commercial activities for the purpose of obtaining an undue advantage for that person or for a third party or causes damage of more than 10,000 euros or a severe violation of the legitimate rights or interests of a natural or legal person.

Or. en

## Amendment 357 Nuno Melo

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

Text proposed by the Commission

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

#### Amendment

2. the performance of or failure to perform an act, in breach of duties, by a person who in any capacity directs or works for a private-sector entity in the course of economic, financial, business or commercial activities for the purpose of obtaining an undue advantage *of any nature* for that person or for a third party.

Or. en

Amendment 358 Nuno Melo

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

Text proposed by the Commission

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

#### Amendment

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

Or. en

Amendment 359 Tomas Tobé

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

AM\1288247EN.docx 123/197 PE754.808v01-00

## Text proposed by the Commission

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

#### Amendment

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

Or. en

# Amendment 360 Daniel Freund

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

Text proposed by the Commission

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

#### Amendment

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

Or. en

# Amendment 361 Cristian Terheş

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

Text proposed by the Commission

1. the use, directly or through an intermediary, of physical force, threats or intimidation or the promise, offering or

## Amendment

1. the use, directly or through an intermediary, of physical force, threats or intimidation or the *unequivocal* promise,

PE754.808v01-00 124/197 AM\1288247EN.docx

giving of an advantage to induce false testimony or to interfere in the giving of testimony or the production of evidence in a proceeding concerning any of the offences referred to in Article 7 to 11, 13 and 14; offering or giving of an advantage to induce false testimony or to interfere in the giving of testimony or the production of evidence in a proceeding concerning any of the offences referred to in Article 7 to 11, 13 and 14:

Or. en

Amendment 362 José Gusmão

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

Text proposed by the Commission

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

#### Amendment

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

Or. en

Amendment 363 Tomas Tobé

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

Text proposed by the Commission

### Amendment

1a. the alteration, deletion or interference with digital evidence, electronic records or any other digital data relevant to an investigation or judicial proceeding concerning any of the offences referred to in Article 7 to 11, 13 and 14;

Or. en

## Amendment 364 Tomas Tobé

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

Text proposed by the Commission

### Amendment

1b. intentionally influencing, pressuring or coercing witnesses, experts, or any involved parties to abstain from participating, communicating or cooperating with judicial authorities concerning any of the offences referred to in Article 7 to 11, 13 and 14;

Or. en

# Amendment 365 Daniel Freund

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

Text proposed by the Commission

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

### Amendment

2. the use, directly or through an intermediary, of physical force, threats or intimidation to interfere in the exercise of official duties by a person holding a judicial office or a member of law enforcement, or other categories of public officials whose role is to produce accurate evidence and testimony concerning any of the offences referred to in Article 7 to 11, 13 and 14.

Or. en

Amendment 366 José Gusmão

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

PE754.808v01-00 126/197 AM\1288247EN.docx

## Text proposed by the Commission

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

#### Amendment

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

Or. en

Amendment 367 José Gusmão

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

Text proposed by the Commission

#### Amendment

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

Or. en

Amendment 368 Nuno Melo

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

Text proposed by the Commission

Amendment

the unauthorized access to, alteration, deletion, or tampering with digital evidence, electronic records, or any other digital data relevant to an investigation or judicial proceeding concerning any of the offences referred to in Article 7 to 11, 13, and 14;

Or. en

Amendment 369 Nuno Melo

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

Text proposed by the Commission

Amendment

The act of deliberately influencing, pressuring, or coercing witnesses, experts, or any involved parties to abstain from participating, communicating, or cooperating with judicial authorities concerning any of the offences referred to in Article 7 to 11, 13, and 14

Or. en

Amendment 370 Daniel Freund

Proposal for a directive Article 12 a (new)

Text proposed by the Commission

Amendment

## Article12a

## Illicit political financing

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

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

### rules;

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

Or en

## Justification

Something illegal is illicit; the two terms have much in common and overlap greatly, although illicit is the broader category, adding the nuance of grey areas of legality, and suggesting clandestine activities. Illegal means 'against the law, unlawful'. Illicit means almost the same, but it also includes the improper – that is, grey areas of what is lawful or not – and further suggests 'the furtive or clandestine nature of acts so characterized'. Illicit also refers to things or acts that may be forbidden by custom. Inspired by Article 7 of Italian law 147 n. 195 on political party funding

Amendment 371 José Gusmão

Proposal for a directive Article 12 a (new)

Text proposed by the Commission

Amendment

## Article12a

## Registry of Assets

- 1. The Union and Member States shall establish a complete registry of beneficial ownerships to a full set of financial and non-financial assets, such as cash, art, gold or other valuables held at free ports, customs warehouses or safe deposit boxes, yachts and private jets.
- 2. The European Commission shall publish a directive by 2024 in order to

# create an EU Asset Register building on the Member States network of registries.

Or. en

Amendment 372 Karolin Braunsberger-Reinhold

Proposal for a directive Article 13

Text proposed by the Commission

Amendment

Article 13

deleted

Enrichment from corruption offences

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

Or. en

#### Justification

Article 13 should be rejected due to several reasons, the first one being redundancy. There is no need for Article 13 because a nearly identical provision already exists in Article 3(1)(c) of Directive (EU) 2018/1673. Secondly, it could violate the "ne bis in idem" principle. Thirdly, there is no clear legal competence under European law for the burden of proof - this would require a Council decision.

Amendment 373
Daniel Freund

Proposal for a directive Article 13 – paragraph 1

Text proposed by the Commission

Amendment

Member States shall take the necessary measures to ensure that the *intentional* 

Member States shall take the necessary measures to ensure that the *receipt*,

PE754.808v01-00 130/197 AM\1288247EN.docx

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

acquisition, possession or use, by a public official *or by any natural or legal persons*, of property that that official *or person*, knows *or ought to have known* is derived from the commission of any of the offences set out in Articles 7 to *12a* and 14, is punishable as a criminal offence, irrespective of whether that official was involved in the commission of that offence.

When determining whether the property is derived from the offences set out in Articles 7 to 12a and 14, account shall be taken of all the circumstances of the case, including the specific facts and available evidence, such as that the value of the property is substantially disproportionate to the lawful income of the owner of the property.

Or. en

Amendment 374 Nuno Melo

Proposal for a directive Article 13 – paragraph 1

Text proposed by the Commission

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

## Amendment

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

Or. en

Amendment 375 Elena Yoncheva, Klára Dobrev, Sándor Rónai, Petar Vitanov

# Proposal for a directive Article 13 a (new)

Text proposed by the Commission

Amendment

#### Article13a

# Liability for serious negligence

The conduct referred to in Articles 7 to 13 shall constitute a criminal offence when committed with serious negligence.

Or. en

Amendment 376 Karolin Braunsberger-Reinhold

Proposal for a directive Article 14 – paragraph 3

Text proposed by the Commission

Amendment

3. Member States shall take the necessary measures to ensure that attempting any of the offences referred to in Articles 9 and 11 to 13 is punishable as a criminal offence.

deleted

Or. en

## Justification

An "attempt" generally means that no factual success has occurred. The legally undesired purpose has not been achieved the act has not been performed. This needs to be reflected when regulating attempted criminal liability. We need proportionate limits and parameters. Since these details of attempted criminal liability likely will not be harmonized at national level, the proposal is simply unsuitable for the purpose of Article 83 TFEU. In fact, there is neither need nor justification for the shifting of criminal liability resulting from an attempted offence.

Amendment 377 Cristian Terheş

Proposal for a directive Article 15 – paragraph 1

PE754.808v01-00 132/197 AM\1288247EN.docx

## Text proposed by the Commission

1. Member States shall take the necessary measures to ensure that the criminal offences referred to in Articles 7 to 14 are punishable by effective, proportionate and dissuasive criminal penalties.

#### Amendment

1. Member States shall take the necessary measures to ensure that the criminal offences referred to in Articles 7 to 14 are punishable by effective, proportionate and dissuasive criminal penalties.

Member States shall take the necessary measures to ensure that principles such as the rights to a fair trial, including proper rights of defence, presumption of innocence, the independence and impartiality of the judiciary, as well as the principle of "no punishment without law" are at all times respected.

Or. en

Amendment 378
Daniel Freund

Proposal for a directive Article 15 – paragraph 2 – point a

Text proposed by the Commission

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

## Amendment

(a) the criminal offences referred to in Article 7, 12 and 12a are punishable by a maximum term of imprisonment of at least seven years. Offences referred to in Article 7 which have been committed to obtain a legal act shall be punishable by a maximum term of imprisonment of at least five years,;

Or. en

## Justification

There should be distinction from bribery to obtain legal or illegal acts.

Amendment 379 Elena Yoncheva, Klára Dobrev, Sándor Rónai, Petar Vitanov

Proposal for a directive

AM\1288247EN.docx 133/197 PE754.808v01-00

# Article 15 – paragraph 2 – point a

Text proposed by the Commission

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

#### Amendment

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

Or. en

Amendment 380 Elena Yoncheva, Klára Dobrev, Sándor Rónai, Petar Vitanov

Proposal for a directive Article 15 – paragraph 2 – point b

Text proposed by the Commission

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

#### Amendment

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

Or. en

Amendment 381 Elena Yoncheva, Klára Dobrev, Sándor Rónai, Petar Vitanov

Proposal for a directive Article 15 – paragraph 2 – point c

Text proposed by the Commission

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

Amendment

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

Or. en

**Amendment 382 Daniel Freund** 

PE754.808v01-00 134/197 AM\1288247EN.docx

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

Text proposed by the Commission

Amendment

(a) fines;

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

Or. en

Amendment 383 Daniel Freund

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

Text proposed by the Commission

Amendment

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

Or. en

Amendment 384 Laura Ferrara, Sabrina Pignedoli, Maria Angela Danzì

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

Text proposed by the Commission

Amendment

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

Or. it

Amendment 385 **Daniel Freund** 

AM\1288247EN.docx 135/197 PE754.808v01-00

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

Text proposed by the Commission

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

#### Amendment

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

Or. en

Amendment 386 Daniel Freund

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

Text proposed by the Commission

Amendment

(fa) national or Unionwide publication of the judicial decision relating to the conviction or any sanctions or measures applied, including by referring them to relevant Union institutions;

Or. en

Amendment 387
Daniel Freund

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

Text proposed by the Commission

Amendment

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

Or. en

PE754.808v01-00 136/197 AM\1288247EN.docx

Amendment 388 José Gusmão

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

Text proposed by the Commission

Amendment

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

Or. en

Amendment 389 Javier Zarzalejos, Manfred Weber, Dolors Montserrat, Paulo Rangel, Nuno Melo

Proposal for a directive Article 15 a (new)

Text proposed by the Commission

Amendment

#### Article 15a

Prohibition of pardons and amnesties

Member States shall take the necessary measures to prohibit any pardon for the benefit of those who have been held liable for any of the criminal offences referred to in Articles 7 to 14 and to prohibit any amnesty for any of the criminal offences referred to in Articles 7 to 14.

Or. en

Amendment 390 Daniel Freund

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

#### Amendment

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

Or. en

### Justification

Legal persons should not only be liable for acts of a 'leading person' in their organisation. They should be liable for acts of

associated person who performs services for them, including, but not limited to: a board member, employee, agent or

subsidiary. This amendment is based on a proposal of Transparency International.

## Amendment 391 Daniel Freund

# Proposal for a directive Article 16 – paragraph 2

Text proposed by the Commission

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

### Amendment

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

Or. en

#### Justification

The lack of supervision or control is insufficient as a standard to hold legal persons accountable. A legal person may argue

PE754.808v01-00 138/197 AM\1288247EN.docx

that the provision of any anti-bribery and corruption program would be sufficient to meet this standard. However, if that

program was weak or ineffective, they should be held accountable for such a failure. This amendment is based on a proposal of Transparency International.

# Amendment 392 Daniel Freund

# Proposal for a directive Article 17 – paragraph 1

Text proposed by the Commission

1. Member States shall take the necessary measures to ensure that a legal person held liable for criminal offences pursuant to Article 16 are punishable by effective, proportionate and dissuasive sanctions.

#### Amendment

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

Or. en

# Amendment 393 Daniel Freund

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

Text proposed by the Commission

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

#### Amendment

(a) criminal or non-criminal fines, which are proportionate and commensurate to the gravity of the offence. The maximum limit of such fines shall not be less than twice the gross gain, or twice the gross loss, caused by the offence, or 5 percent of the total worldwide turnover of the legal person, including related entities, in the business year preceding the decision imposing the fine:

## Justification

Both the gain and the loss caused by one of the offences referred to in Articles 7 to 14 should also be considered in the calculation of the fine to ensure that it is sufficiently dissuasive. This amendment is based on a proposal of Transparency International

Amendment 394 Elena Yoncheva, Klára Dobrev, Sándor Rónai, Petar Vitanov

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

Text proposed by the Commission

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

Amendment

(a) criminal or non-criminal fines, the maximum limit of which should not be less than 10 percent of the total worldwide turnover of the legal person, including related entities, in the business year preceding the decision imposing the fine;

Or. en

Amendment 395 Laura Ferrara, Sabrina Pignedoli, Maria Angela Danzì

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

Text proposed by the Commission

(f) the *possibility for public* authorities to annul or rescind a contract with them, in the context of which the offence was committed;

Amendment

(f) the annulment or rescinding of the contract concluded and the assignments conferred with them, in the context of which the offence was committed;

Or. it

Amendment 396 Elena Yoncheva, Klára Dobrev, Sándor Rónai, Petar Vitanov

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

PE754.808v01-00 140/197 AM\1288247EN.docx

Text proposed by the Commission

Amendment

(ia) the publication of all or part of the judicial decision that relates to the criminal offence committed and the sanctions or measures imposed, where there is a public interest, without prejudice to rules on privacy and the protection of personal data.

Or. en

Amendment 397
Daniel Freund

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

Text proposed by the Commission

Amendment

(ia) national or Unionwide publication of the judicial decision relating to the conviction or any sanctions or measures applied, including by referring them to relevant Union institutions.

Or. en

Amendment 398 Daniel Freund

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

Text proposed by the Commission

Amendment

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

- (a) the circumstances in which non-trial resolutions shall not be allowed. These circumstances shall at least include cases of grand corruption, or cases where the legal person, its parent entities, or subsidiary entities, have been priorly convicted, or entered into a non-trial resolution, for any of the offences referred to in Articles 7 to 14, or their equivalent, in any Member State or third country;
- (b) the applicable fines, in line with Article 17(2), point (a). Member States shall take the necessary measures to ensure that the appplication of non-trial resolutions processes shall not automatically exclude criminal or administrative liability in any other jurisdiction, and it shall be without prejudice to cooperation with competent authorities from other relevant jurisdictions, subject to the applicability of the ne bis in idem principle.

Or. en

## Justification

The use of non-trial resolutions must be made subject to a legal framework. Given how prevalent they are in the enforcement

of corruption offences, it is important that prosecutors adhere to and the process follows certain principles. This will make

non-trial resolutions effective to dissuade legal persons from repeat behaviour. This amendment is based on a proposal of Transparency International.

Amendment 399 Elena Yoncheva, Klára Dobrev, Sándor Rónai, Petar Vitanov

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

Text proposed by the Commission

Amendment

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

(a) the *offence involves* a high level official *or constitutes high level corruption*;

PE754.808v01-00 142/197 AM\1288247EN.docx

Amendment 400 José Gusmão

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

Text proposed by the Commission

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

## Amendment

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

Or. en

Amendment 401 Jorge Buxadé Villalba

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

Text proposed by the Commission

(c) the offender obtained a *substantial benefit* or the offence caused *substantial* damage;

Amendment

(c) the offender obtained a benefit and/or unjustified advantage, or the offence caused quantifiable damage, where this is not the act constituting the offence;

Or. es

Amendment 402 Daniel Freund

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

Text proposed by the Commission

Amendment

(ca) the offender took advantage of the vulnerable situation of a person involved

# in the commission of the offence;

Or en

Amendment 403 Daniel Freund

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

Text proposed by the Commission

Amendment

(cb) the offender resorted to ingenious deception or instrumentalisation of public officials in the perpetration of the offence;

Or. en

Amendment 404 Daniel Freund

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

Text proposed by the Commission

Amendment

(ea) the offender actively obstructs inspection, or investigation activities, tampers or destroys evidence, or intimidates or interferes with witnesses or complainants;

Or. en

Amendment 405 Elena Yoncheva, Klára Dobrev, Sándor Rónai, Petar Vitanov

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

Text proposed by the Commission

Amendment

(ga) the offender actively obstructs the

PE754.808v01-00 144/197 AM\1288247EN.docx

inspections, investigation activities, destroys evidence, intimidates or interferes with witnesses or complainants;

Or. en

Amendment 406 Elena Yoncheva, Klára Dobrev, Sándor Rónai, Petar Vitanov

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

Text proposed by the Commission

Amendment

(gb) the offender does not provide assistance to enforcement authorities when legally required;

Or. en

Amendment 407 Elena Yoncheva, Klára Dobrev, Sándor Rónai, Petar Vitanov

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

Text proposed by the Commission

Amendment

(gc) in the case of legal persons, the offence was committed by a person having a leading positons within the legal person concerned.

Or. en

Amendment 408 Elena Yoncheva, Klára Dobrev, Sándor Rónai, Petar Vitanov

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

Text proposed by the Commission

Amendment

(b) where the offender is a legal deleted

AM\1288247EN.docx 145/197 PE754.808v01-00

person and it has implemented effective internal controls, ethics awareness, and compliance programmes to prevent corruption prior to or after the commission of the offence; and

Or. en

Amendment 409 Daniel Freund

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

Text proposed by the Commission

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

#### Amendment

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

Or. en

Amendment 410 Daniel Freund

Proposal for a directive Article 19 – paragraph 1

Text proposed by the Commission

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

Amendment

Member States, as well as the Union institutions, offices, agencies and bodies shall take the necessary measures to ensure that, with regard to their respective administrations, privileges or immunities from investigation and prosecution granted to public officials, for the offences referred to in this Directive:

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

PE754.808v01-00 146/197 AM\1288247EN.docx

- b) only apply to acts carried out during a person's term in office or period of service as a public official; and
- c) can be lifted through an objective, impartial, effective and transparent process pre-established by law, based on clear criteria, that is concluded within a reasonable timeframe, and that is subject to review by the public concerned, subject to proportionality requirements as provided under national law.

Or. en

Amendment 411 José Gusmão

Proposal for a directive Article 19 – paragraph 1

Text proposed by the Commission

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

#### Amendment

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

Such privileges and immunities shall:

- (a) be limited to acts carried out in the performance of official duties;
- (b) only apply to acts carried out during a person's term in office or period of service as a public official; and
- (c) be lifted through an objective, impartial, effective and transparent process pre-established by law, based on clear criteria, and that is concluded within a reasonable timeframe.

Or. en

# Amendment 412 Elena Yoncheva, Klára Dobrev, Sándor Rónai, Petar Vitanov

# Proposal for a directive Article 19 – paragraph 1

Text proposed by the Commission

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

Amendment

Member States shall take the necessary measures to ensure that privileges or immunities from investigation and prosecution granted to national officials for the offences referred to in this Directive can be lifted, either at the national official's own initiative or through an objective, impartial, effective and transparent process pre-established by law, based on clear criteria, and that is concluded within a reasonable timeframe. Member States shall take the necessary measures to ensure that privileges and immunities accorded to public officials shall not be applicable in instances of investigation and prosecution of cases involving high level corruption.

Or. en

Amendment 413 Daniel Freund

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

Text proposed by the Commission

Amendment

Member States shall take the necessary measures to ensure that there is no personal immunity from investigation and prosecution granted to high level officials for corruption offences committed through legal persons or arrangements that are personal asset-holding vehicles.

Or. en

Amendment 414
Daniel Freund

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

Text proposed by the Commission

Amendment

Member States shall take the necessary measures to ensure that in cases of grand corruption, personal immunity is not granted to high level officials of the investigating or prosecuting Member State if the criminal offence concerns goods, services, transactions or activities of a value of at least EUR 10 000 000. In cases of grand corruption involving high level officials from another Member State, Member States shall take the necessary measures to ensure that personal immunity is not granted to such officials if the criminal offence concerns goods, services, transactions or activities of a value of at least EUR 10 000 000.

Or en

Amendment 415 Daniel Freund

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

Text proposed by the Commission

Amendment

Member States, as well as EU institutions, offices, agencies and bodies shall take necessary measures to establish procedures through which a public official accused of an offence as referred to in this Directive may, where appropriate, be removed, suspended or reassigned by the competent authority, without prejudice to the principle of presumption of innocence.

Amendment 416 Jorge Buxadé Villalba

Proposal for a directive Article 19 a (new)

Text proposed by the Commission

Amendment

#### Article 19a

## Equality before the law

Member States shall take the necessary measures to uphold the principle of equality before the law, and ensure compliance therewith, in relation to the offences referred to in this Directive, by means of:

- 1) the prohibition of granting general pardons;
- 2) the restrictive and duly justified interpretation of the possibility of granting individual pardons;
- 3) the prohibition of the adoption of amnesty laws.

Or. es

Amendment 417 Jean-Paul Garraud

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

Text proposed by the Commission

Amendment

(ba) an offender who, at the time of the offence, was subject to the Staff Regulations or the Conditions of Employment of Other Servants, provided that a Member State has jurisdiction over such offences when they are committed outside its territory;

Amendment 418 Elena Yoncheva, Klára Dobrev, Sándor Rónai, Petar Vitanov

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

Text proposed by the Commission

Amendment

(ca) the offence is committed in any Member State and is a case of high level corruption.

Or. en

Amendment 419 Daniel Freund

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

Text proposed by the Commission

Amendment

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

Or. en

Amendment 420 José Gusmão

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

Text proposed by the Commission

Amendment

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

Or. en

# Amendment 421 Karolin Braunsberger-Reinhold

# Proposal for a directive Article 21 – paragraph 2

Text proposed by the Commission

Amendment

- 2. The limitation period referred to in paragraph 1 shall not be shorter than:
- (a) fifteen years from the time when the offence was committed, for the criminal offences referred to in Articles 7 and 12;
- (b) ten years from the time when the offence was committed, for the criminal offences referred to in Articles 8 to 11;
- (c) eight years from the time when the offence was committed, for the criminal offences referred to in Articles 13 and 14.

deleted

Or. en

## Justification

The limitation periods seem excessively long and disrupt the internal coherence of systems within the Member States (Art. 82 TFEU). Regarding the limitation periods for enforcement of sanctions, the interference with the coherence of the criminal law systems of the Member States is particularly serious and unjustified. EU-law should not override these national rules, which are oriented towards the principle of guilt and the idea of individual justice. Only the judgement of the concrete case can reflect the extent of wrongfulness as well as establish guilt individually.

Amendment 422 Daniel Freund

Proposal for a directive Article 21 – paragraph 2 – point a

Text proposed by the Commission

(a) fifteen years from the time when the offence was committed, for the criminal offences referred to in Articles 7 and 12; Amendment

(a) fifteen years from the time when the offence was committed, for the *start of the prosecution of the* criminal offences referred to in Articles 7 and 12;

PE754.808v01-00 152/197 AM\1288247EN.docx

## Amendment 423 Daniel Freund

# Proposal for a directive Article 21 – paragraph 2 – point b

Text proposed by the Commission

(b) ten years from the time when the offence was committed, for the criminal offences referred to in Articles 8 to 11:

#### Amendment

(b) ten years from the time when the offence was committed, for the *start of the prosecution of the* criminal offences referred to in Articles 8 to 11;

Or en

## Amendment 424 Daniel Freund

# Proposal for a directive Article 21 – paragraph 2 – point c

Text proposed by the Commission

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

#### Amendment

(c) eight years from the time when the offence was committed, for the *start of the prosecution of the* criminal offences referred to in Articles *12a*, 13 and 14.

Or. en

Amendment 425 Laura Ferrara, Sabrina Pignedoli, Maria Angela Danzì

Proposal for a directive Article 21 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Member States shall take the necessary measures to ensure that the limitation period referred to in paragraph 1 is suspended from the date of issuance of the conviction concluding the first

instance of the proceedings or of the conviction order, until the effective date of the judgment concluding the proceedings or the date on which the sentencing order becomes final.

Or it

Amendment 426 Karolin Braunsberger-Reinhold

Proposal for a directive Article 21 – paragraph 3

Text proposed by the Commission

Amendment

- 3. By way of derogation from paragraph 2, Member States may establish a shorter limitation period, provided that the period may be interrupted or suspended in the event of specified acts and that the applicable rules on the suspension and limitation periods do not hamper the effectiveness of the judicial process and the dissuasive application of penalties. This period shall not be shorter than:
- (a) ten years for the criminal offences referred to in Articles 7 and 12;
- (b) eight years for the criminal offences referred to in Articles 8 to 11;
- (c) five years for the criminal offences referred to in Articles 13 and 14.

deleted

Or. en

## Justification

The limitation periods seem excessively long and disrupt the internal coherence of systems within the Member States (Art. 82 TFEU). Regarding the limitation periods for enforcement of sanctions, the interference with the coherence of the criminal law systems of the Member States is particularly serious and unjustified. EU-law should not override these national rules, which are oriented towards the principle of guilt and the idea of individual justice. Only the judgement of the concrete case can reflect the extent of wrongfulness as well as establish guilt individually.

PE754.808v01-00 154/197 AM\1288247EN.docx

# Amendment 427 Daniel Freund

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

Text proposed by the Commission

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

#### Amendment

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

Or. en

Amendment 428 Daniel Freund

Proposal for a directive Article 21 – paragraph 3 – point a

Text proposed by the Commission

(a) ten years for the criminal offences referred to in Articles 7 and 12;

Amendment

(a) ten years for *the start of the prosecution of* the criminal offences referred to in Articles 7 and 12;

Or. en

Amendment 429 Daniel Freund

Proposal for a directive Article 21 – paragraph 3 – point b

Text proposed by the Commission

(b) eight years for the criminal offences referred to in Articles 8 to 11;

Amendment

(b) eight years for *the start of the prosecution of* the criminal offences

AM\1288247EN.docx 155/197 PE754.808v01-00

Or en

**Amendment 430 Daniel Freund** 

Proposal for a directive Article 21 – paragraph 3 – point c

Text proposed by the Commission

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

Amendment

(c) five years for *the start of the* **prosecution of** the criminal offences referred to in Articles 12a, 13 and 14.

Or. en

Amendment 431 Karolin Braunsberger-Reinhold

Proposal for a directive Article 21 – paragraph 4

Text proposed by the Commission

Amendment

- 4. Member States shall take the necessary measures to enable the enforcement of a penalty of imprisonment following a final conviction for at least:
- (a) fifteen years from the date of the final conviction for any of the criminal offences referred to in Articles 7 and 12;
- (b) ten years from the date of the final conviction for any of the criminal offences referred to in Articles 8 to 11;
- (c) eight years from the date of the final conviction for any of the criminal offences referred to in Articles 13 and 14.

deleted

Or. en

Justification

The limitation periods seem excessively long and disrupt the internal coherence of systems

PE754.808v01-00 AM\1288247EN.docx 156/197

within the Member States (Art. 82 TFEU). Regarding the limitation periods for enforcement of sanctions, the interference with the coherence of the criminal law systems of the Member States is particularly serious and unjustified. EU-law should not override these national rules, which are oriented towards the principle of guilt and the idea of individual justice. Only the judgement of the concrete case can reflect the extent of wrongfulness as well as establish guilt individually.

Amendment 432 Daniel Freund

Proposal for a directive Article 21 – paragraph 4 – point c

Text proposed by the Commission

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

Amendment

(c) eight years from the date of the final conviction for any of the criminal offences referred to in Articles *12a*, 13 and 14.

Or. en

Amendment 433 Karolin Braunsberger-Reinhold

Proposal for a directive Article 21 – paragraph 5

Text proposed by the Commission

Amendment

- 5. By way of derogation from paragraph 4, Member States may establish a shorter limitation period, provided that the period may be interrupted or suspended in the event of specified acts and that the applicable rules on the suspension and limitation periods do not hamper the effectiveness of the judicial process and the dissuasive application of penalties. This period shall not be shorter than:
- (a) ten years from the date of the final conviction for any of the criminal offences referred to in Articles 7 and 12;
- (b) eight years from the date of the final conviction for any of the criminal

AM\1288247EN.docx 157/197 PE754.808v01-00

deleted

offences referred to in Articles 8 to 11;

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

Or. en

# Justification

The limitation periods seem excessively long and disrupt the internal coherence of systems within the Member States (Art. 82 TFEU). Regarding the limitation periods for enforcement of sanctions, the interference with the coherence of the criminal law systems of the Member States is particularly serious and unjustified. EU-law should not override these national rules, which are oriented towards the principle of guilt and the idea of individual justice. Only the judgement of the concrete case can reflect the extent of wrongfulness as well as establish guilt individually.

Amendment 434 Daniel Freund

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

Text proposed by the Commission

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

Amendment

(c) five years from the date of the final conviction for any of the criminal offences referred to in Articles *12a*, 13 and 14.

Or. en

Amendment 435 José Gusmão

Proposal for a directive Article 21 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. Member States shall take the necessary measures to ensure that no limitation period shall apply if an offence is classified as grand corruption.

Or. en

PE754.808v01-00 158/197 AM\1288247EN.docx

## Justification

Grand corruption is often concealed for a long period of time and presents serious challenges for law enforcement to unwind such cases across multiple borders. An unlimited limitation period is therefore required to prevent such serious cases becoming time barred.

Amendment 436
Daniel Freund

Proposal for a directive Article 21 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. Member States shall take the necessary measure to ensure that no limitation period applies to offences that qualify as grand corruption.

Or. en

## Justification

Grand corruption is often concealed for a long period of time and presents serious challenges for law enforcement to unwind

such cases across multiple borders. An unlimited limitation period is therefore required to prevent such serious cases becoming time barred. This amendment is based of a proposal by Transparency International.

Amendment 437 José Gusmão

Proposal for a directive Article 22 – paragraph 1

Text proposed by the Commission

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

## Amendment

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

# Amendment 438 Daniel Freund

# Proposal for a directive Article 22 – paragraph 1

Text proposed by the Commission

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

#### Amendment

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

Or. en

Amendment 439 Cristian Terhes

# Proposal for a directive Article 22 – paragraph 2

Text proposed by the Commission

2. In addition to the measures referred to in paragraph 1, Member States shall ensure that persons reporting offences referred to in this Directive and providing evidence or otherwise cooperating with the investigation, prosecution or adjudication of such offences are provided the necessary protection, support and assistance in the context of criminal proceedings.

#### Amendment

2. In addition to the measures referred to in paragraph 1, Member States shall ensure that persons reporting offences referred to in this Directive and providing evidence or otherwise cooperating with the investigation, prosecution or adjudication of such offences are provided the necessary protection, support and assistance in the context of criminal proceedings, and their right to a fair trial is respected.

Or. en

Amendment 440 Daniel Freund

# Proposal for a directive

PE754.808v01-00 160/197 AM\1288247EN.docx

## Article 22 – paragraph 2 a (new)

Text proposed by the Commission

#### Amendment

2a. Member States shall create instruments in accordance with their national legal system to enable persons to anonymously report offences covered by this Directive, where such instruments do not yet exist.

Or. en

Amendment 441 José Gusmão

Proposal for a directive Article 23 – paragraph 1

Text proposed by the Commission

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

#### Amendment

Member States shall take the necessary measures to ensure that effective investigative tools, such as those used in countering organised crime or other serious crimes, including those listed in Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters, or those used in the area of financial crime, such as the single access point to bank account registries in accordance with the Directive (EU) 2019/1153 or other tools, such as a EU Asset Register, which help to obtain company information to detect the beneficial ownership are available to persons, units or services responsible for investigating or prosecuting the criminal offences referred to in this Directive

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

# Amendment 442 Cristian Terheş

# Proposal for a directive Article 23 – paragraph 1

Text proposed by the Commission

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

#### Amendment

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

Member States shall take all necessary measures to ensure the right to a fair trial and remedy, the right to defence and the presumption of innocence are at all times respected.

Or. en

# Amendment 443 Laura Ferrara, Sabrina Pignedoli, Maria Angela Danzì

# Proposal for a directive Article 23 – paragraph 1

Text proposed by the Commission

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

### Amendment

Member States shall take the necessary measures to ensure that effective investigative tools, such as those used in countering organised crime or other serious crimes, are available to persons, units or services responsible for investigating or prosecuting the criminal offences referred to in this Directive. These tools shall also include the use of wiretapping or electronic devices and the possibility of conducting undercover police operations.

## Amendment 444 Tomas Tobé

# Proposal for a directive Article 23 – paragraph 1

Text proposed by the Commission

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

## Amendment

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

Or. en

Amendment 445 Caterina Chinnici, Ramona Strugariu

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

Text proposed by the Commission

#### Amendment

Member States shall take the necessary measures to ensure that their competent authorities freeze or confiscate, as appropriate, in accordance with Directive [OP: please insert the reference to Directive on asset recovery and confiscation COM(2022) 245 final], the proceeds derived from the commission or contribution to the commission of any of the offences referred to in this Directive.

Or. en

## **Amendment 446**

## Nuno Melo

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

Text proposed by the Commission

Amendment

To ensure the effective use of these tools, Member States shall promote and facilitate the continuous training and skill development of personnel responsible for combating corruption. This shall include familiarising them with new and emerging corruption tactics, and the corresponding investigative techniques.

Or. en

Amendment 447 José Gusmão

Proposal for a directive Article 23 a (new)

Text proposed by the Commission

Amendment

## Article23a

Rights of Victims

Rights of victims and compensation for damage

- 1. Member States shall protect and enable victims to have their views and concerns presented and considered at appropriate stages during criminal proceedings against offenders, in a manner that is not prejudicial to the rights of the defence.
- 2. Member States shall take the necessary measures to ensure that the rights afforded to victims under Directive 2012/29/EU are also applicable to the victims of corruption, and to ensure that any victim of corruption:
- (a) is identified and notified of their status as a victim of corruption at the earliest possible opportunity;

- (b) without prejudice to Art. 11(5) of Directive 2012/29/EU, has the right to a review of a decision not to prosecute or a decision to enter into a non-trial resolution;
- (c) has the right to satisfaction including, but not limited to, an acknowledgement of the breach, an expression of regret, a formal apology or another appropriate modality;
- (d) has the right to a guarantee of non-repetition; and
- (e) is entitled to injunctive relief where applicable.
- 3. Member States shall ensure that any qualified public interest entity may, as a representative of the interests of victims of corruption and in accordance with national law, take action before the courts or competent administrative bodies to ensure that their rights under paragraph 2 are protected.
- 4. Member States shall take such measures as necessary to ensure that entities or persons who have suffered damage as a result of an act of corruption have the right to initiate legal proceedings against those responsible for that damage in order to obtain compensation.

Or. en

Amendment 448 Elena Yoncheva, Klára Dobrev, Sándor Rónai, Petar Vitanov

Proposal for a directive Article 23 a (new)

Text proposed by the Commission

Amendment

# Article23a

## Victims compensation

1. Member States shall take measures to ensure that victims of the criminal offences referred to in this Directive shall

be afforded the rights under Directive 2012/29/EU.

2. Member States shall take measures to ensure the identification and timely notification of victims of corruption. Member States shall accord victims of corruption the right to instigate legal proceedings with the aim of securing proportional and adequate compensation for the infringement of their rights.

Or. en

Amendment 449 Daniel Freund

Proposal for a directive Article 23 a (new)

Text proposed by the Commission

Amendment

#### Article23a

# National Strategies

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

Or. en

Amendment 450 Nuno Melo

Proposal for a directive Article 23 a (new)

PE754.808v01-00 166/197 AM\1288247EN.docx

## Amendment

### Article23a

Considering the evolving nature of corruption and the increasing use of digital platforms, Member States shall ensure the availability of digital investigative tools and capabilities, including but not limited to digital forensics, cybersecurity resources, and encrypted communication interception, in line with the respect for fundamental rights and data protection regulations.

Or. en

Amendment 451 Daniel Freund

Proposal for a directive Article 23 b (new)

Text proposed by the Commission

Amendment

## Article23b

# Rights of victims and compensation for damage

- 1. Member States shall protect and enable victims to have their views and concerns presented and considered at appropriate stages during criminal proceedings against offenders, in a manner that is not prejudicial to the rights of the defence.
- 2. Member States shall take the necessary measures to ensure that the rights afforded to victims under Directive (EU) 2012/29 are also applicable to the victims of corruption, and to ensure that any victim of corruption:
- (a) is identified and notified of their status as a victim of corruption at the earliest possible opportunity;
- (b) without prejudice to Art. 11(5) of Directive (EU) 2012/29, has the right to a review of a decision not to prosecute or a

- decision to enter into a non-trial resolution;
- (c) has the right to satisfaction including, but not limited to, an acknowledgement of the breach, an expression of regret, a formal apology or another appropriate modality;
- (d) has the right to a guarantee of non-repetition; and
- (e) is entitled to injunctive relief where applicable.
- 3. Member States shall take the necessary measures to ensure that the victims who have suffered damage as a result of an act of corruption have the right to initiate legal proceedings against those responsible for that damage in order to obtain compensation.

Or. en

Amendment 452 Daniel Freund

Proposal for a directive Article 23 c (new)

Text proposed by the Commission

Amendment

## Article23c

Rights for the public concerned to participate in proceedings

Member States shall take the necessary measures to ensure that the public concerned have appropriate rights to participate in the proceedings covered by this Directive, for instance as a civil party, where as a result of a corruption offence they have a sufficient interest, and are entitled to maintain the impairment of a right, in accordance with national law.

Member States shall take the necessary measures to ensure that members of the public concerned may participate in the proceedings covered by this Directive,

PE754.808v01-00 168/197 AM\1288247EN.docx

including by taking action before the courts or competent administrative bodies, when they meet at least the following criteria:

- (a) have a non-profit making character;
- (b) have a statutory objective that is relevant to the action brought before a relevant court or competent administrative body with regard to one of the offences covered by this Directive;
- (c) have been established for at least five years prior to the date of its application to the relevant court or competent administrative body;
- (d) make publicly available in plain and intelligible language by any appropriate means, information that demonstrates that the entity complies with the criteria required to participate in the proceedings covered by this Directive and information about the sources of their funding, its organisational structure, its statutory purpose and its activities.

Or. en

Amendment 453 José Gusmão

Proposal for a directive Article 24 – paragraph 1

Text proposed by the Commission

Without prejudice to the rules on crossborder cooperation and mutual legal assistance in criminal matters, Member States' authorities, Europol, Eurojust, the European Public Prosecutor's Office, the European Anti-Fraud Office (OLAF) and the Commission shall, within their respective competences, cooperate with each other in the fight against the criminal offences referred to in this Directive. To that end, where appropriate, Europol, Eurojust, the European Public Prosecutor's

#### Amendment

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

Office, the European Anti-Fraud Office (OLAF), and the Commission shall provide technical and operational assistance in accordance with their respective mandates to facilitate the coordination of investigations and prosecutions by the competent authorities.

Member States shall take the necessary measures to ensure that an organisational unit specialised in the identification, notification, representation and coordination of victims of corruption is in place.

Or. en

Amendment 454 Jorge Buxadé Villalba

Proposal for a directive Article 24 – paragraph 1

Text proposed by the Commission

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

## Amendment

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

Or. es

## Justification

As its representatives have expressed during this legislative process, the EPPO has the power to investigate, prosecute and bring to justice crimes against the EU's financial interests; not to provide technical and operational assistance to Member States. In this sense, mentioning the cooperation between the different bodies within the framework of their respective competences is sufficient to achieve the objectives of this Directive.

Amendment 455 Daniel Freund

Proposal for a directive Article 24 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 456 Cristian Terheş

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

Text proposed by the Commission

Amendment

Member States' authorities and Europol, Eurojust, the European Public Prosecutor's Office, the European Anti-Fraud Office (OLAF) and the Commission shall take all necessary measures to ensure the right to a fair trial and remedy, the right to defence and the presumption of innocence are at all times respected.

Or. en

Amendment 457 Daniel Freund

Proposal for a directive Article 24 a (new)

Text proposed by the Commission

Amendment

#### Article24a

## Anti-corruption network

An anti-corruption network shall be established to support the Commission and to facilitate the exchange of best practices in relation to the implementation of this Directive, and to provide practical guidance to competent authorities in various areas of common interest. The network shall be composed of representatives from specialised bodies referred to in Article 3, relevant civil society organisation, independent experts, researchers and other stakeholders and shall be chaired by the Commission. The network shall be convened at regular intervals. The network shall:

- (a) advise the Commission in relation to the implementation of the measures provided for in this Directive;
- (b) analyse national strategies on anticorruption adopted by Member States in order to identify best practices;
- (c) share best practices to improve cooperation among competent authories and Europol, Eurojust, and the European

PE754.808v01-00 172/197 AM\1288247EN.docx

Or. en

Amendment 458 Caterina Chinnici, Ramona Strugariu

Proposal for a directive Article 24 a (new)

Text proposed by the Commission

Amendment

## Article24a

Platform on prevention and repression of corruption

- 1. A platform on prevention and repression of corruption (the 'platform') shall be established under the aegis of the Commission. The platform shall be composed of representatives from specialised bodies referred to in Article 4 and shall be chaired by a representative from the Commission. The platform shall be convened at regular intervals.
- 2. The platform shall:
- a) promote identification and exchange of best practices in prevention and repression of corruption;
- b) promote the exchange of information and operational cooperation among the specialised bodies;
- c) share information and best practices to enhance cooperation with third countries.
- 3. Representatives from Europol, Eurojust, the European Public Prosecutor's Office and the European Anti-Fraud Office (OLAF) may be invited to participate in the meetings of the platform, also in order to facilitate the cooperation referred to in Article 24.

Or. en

# Amendment 459 Elena Yoncheva, Klára Dobrev, Sándor Rónai, Petar Vitanov

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

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 460 José Gusmão

Proposal for a directive Article 25 – paragraph 3 – point a

Text proposed by the Commission

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

## Amendment

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

Or. en

Amendment 461 Daniel Freund

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

Text proposed by the Commission

### Amendment

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

PE754.808v01-00 174/197 AM\1288247EN.docx

## Justification

In line with UNCAC Art. 60(7), financial resources should be made available for member states to provide technical support

to third countries, especially to ensure better coordination in support of investigations and prosecutions. This amendment is based on a proposal of Transparency International.

Amendment 462 José Gusmão

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

Text proposed by the Commission

Amendment

4a. The Commission shall inform Member States about financial resources at the Union level to contribute financially to the efforts of third countries to combat corruption through technical assistance programmes and projects, and to facilitate the coordination of investigations and prosecutions.

Or. en

Amendment 463 Balázs Hidvéghi

Proposal for a directive Article 25 a (new)

Text proposed by the Commission

Amendment

Article 25a

Corruption offences committed by EU officials

The competent national authorities shall pay particular attention to ensuring that corruption offences committed by EU officials are subject to effective investigation and that criminal proceedings are brought without delay.

The competent national authorities shall immediately inform the national parliaments where criminal proceedings have been brought against EU officials for corruption offences.

Or. hu

Amendment 464 Daniel Freund

Proposal for a directive Article 26 – title

Text proposed by the Commission

Amendment

Data collection and statistics

Data collection, statistics, and reporting

Or. en

Amendment 465 Laura Ferrara, Sabrina Pignedoli, Maria Angela Danzì

Proposal for a directive Article 26 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Or. it

Amendment 466 José Gusmão

Directive.

Proposal for a directive Article 26 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall collect

1. Member States shall collect

PE754.808v01-00 176/197 AM\1288247EN.docx

statistical data on the criminal offences as referred to in Articles 7 to 14 of this Directive.

disaggregated statistical data on each of the criminal offences as referred to in Articles 7 to 14 of this Directive.

Or. en

Amendment 467 Daniel Freund

Proposal for a directive Article 26 – paragraph 1

Text proposed by the Commission

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

#### Amendment

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

Or. en

## Justification

It is important that the data collected is disaggregated by each of the offences in Articles 7-14 in order to ensure that an

effective analysis of how each of the offences is implemented across the Union can be undertaken. This amendment is based on a proposal of Transparency International.

Amendment 468 Elena Yoncheva, Klára Dobrev, Sándor Rónai, Petar Vitanov

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

Text proposed by the Commission

Amendment

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

Or. en

Amendment 469 Elena Yoncheva, Klára Dobrev, Sándor Rónai, Petar Vitanov

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

Text proposed by the Commission

Amendment

(b) the number of cases investigated;

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

Or. en

Amendment 470 Elena Yoncheva, Klára Dobrev, Sándor Rónai, Petar Vitanov

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

Text proposed by the Commission

Amendment

(ba) the number of cases involving high level officials investigated, including those involving cross-border cooperation;

Or. en

Amendment 471 Elena Yoncheva, Klára Dobrev, Sándor Rónai, Petar Vitanov

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

Text proposed by the Commission

Amendment

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

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

Or. en

Amendment 472 Elena Yoncheva, Klára Dobrev, Sándor Rónai, Petar Vitanov

Proposal for a directive

PE754.808v01-00 178/197 AM\1288247EN.docx

# Article 26 – paragraph 2 – point f a (new)

Text proposed by the Commission

Amendment

(fa) the number of convictions for corruption crimes related to offences committed by a public official;

Or. en

Amendment 473
Daniel Freund

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

Text proposed by the Commission

Amendment

(fa) the assets frozen and confiscated in relation to corruption offences, and their estimated value;

Or. en

Amendment 474 José Gusmão

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

Text proposed by the Commission

Amendment

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

Or. en

Amendment 475 Daniel Freund

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

(ja) the number and form of non-trial resolutions entered into with legal persons;

Or. en

## Justification

Information and data on non-trial resolutions is not always made public. It is important that this information is collected

together with the other pieces of data mentioned in Article 26.

Amendment 476 Daniel Freund

Proposal for a directive Article 26 – paragraph 3

Text proposed by the Commission

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

#### Amendment

- 3. Member States shall, on an annual basis and by 1 June:
- *a)* publish, in a machine-readable and disaggregated format, the statistical data referred to in paragraph 2 for the previous year;
- b) produce a quantitative and qualitative assessment carried based on the statistical data referred to in paragraph 2 for the previous year;
- c) transmit such data and assessement to the Commission.

Or. en

Amendment 477 Elena Yoncheva, Klára Dobrev, Sándor Rónai, Petar Vitanov

PE754.808v01-00 180/197 AM\1288247EN.docx

# Proposal for a directive Article 26 – paragraph 3

Text proposed by the Commission

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

#### Amendment

3. Member States shall, on an annual basis and by 1 June, *publish*, *in a publicly available manner and* in a machinereadable and disaggregated format, the statistical data referred to in paragraph 2 for the previous year and inform the Commission *and the European Anti-Corruption Coordinator thereof.* 

Or. en

Amendment 478
Daniel Freund

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

Text proposed by the Commission

#### Amendment

3a. The Commission shall, within one year from the entry into force of this Directive, develop tools and processes to facilitate the reporting referred to in paragraph 3, including standard formats for the different types of reported data, to ensure their relevance and objectivity.

Or. en

Amendment 479
Daniel Freund

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

Text proposed by the Commission

Amendment

3b. The Commission shall, on an annual basis and by 31 December, carry out a comparative analysis of the statistical data and of the quantitative and

qualitative assessments reported by the Member States pursuant to paragraph 3. The comparative analysis shall be carried out in cooperation with members of the EU anti-corruption network. It shall identify any deficiencies in data collection, and offer support to Member States in order to address them.

Or. en

Amendment 480 Daniel Freund

Proposal for a directive Article 26 a (new)

Text proposed by the Commission

Amendment

#### Article26a

## EU Anti-Corruption Report

The results of the comparative analysis referred to in Article 26 shall be made public by the Commission, on an annual basis and by 1 April, in the form of a yearly EU Anti-Corruption Report. The Anti-Corruption Report shall include:

- (a) a comprehensive country-specific assessment of anti-corruption efforts and related results achieved in each Member State in key public and private sectors for the previous year;
- (b) a comprehensive overview of the public and private sectors most affected by misappropriation of EU funds in each Member State;
- (c) the identification of corruption-related trends across Member States, and a detailed description of systemic corruption issues at the Union level for the previous year;
- (d) sector-specific recommendations for each Member States, taking into account to the severity and impact of the corruption-related challenges, and

PE754.808v01-00 182/197 AM\1288247EN.docx

modulated according to the scale of potential impact for a wider range of Union policies.

Within three months from the publication of the Anti-Corruption Report, the Member States shall provide written replies to the Commission, indicating measures and follow up actions to be taken to address the identified country-specific and sector-specific shortcomings. The Commission shall promptly review and publish the replies provied by the Member States.

Or. en

Amendment 481 Daniel Freund

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

Text proposed by the Commission

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

#### Amendment

- (2) Article 4(2) *is* replaced *by the following:*
- '(1) Member States shall take the necessary measures to ensure that the following conduct is punishable as a criminal offence, when committed intentionally:
- (a) the promise, offer, giving or rewarding, directly or through an intermediary, of an undue advantage of any kind to a public official for that official or for a third party in order for the public official to act or refrain from acting or in the exercise of that official's functions in a way which damages or is likely to damage the Union's financial interests (active bribery);

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

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

- (2) Member States shall take the necessary measures to ensure that the following conduct shall be punishable as a criminal offence, when committed intentionally and in the course of economic, financial, business or commercial activities:
- (a) the promise, offer, giving or rewarding, directly or through an intermediary, of an undue advantage of any kind to a person who in any capacity directs or works for a private-sector entity, for that person or for a third party, in order for that person to act or to refrain from acting, in breach of that person's duties in a way which damages or is likely to damage the Union's financial interests (active bribery);
- (b) the request or receipt by a person, directly or through an intermediary, of an undue advantage of any kind or the promise of such an advantage, for that person or for a third party, while in any capacity directing or working for a private-sector entity, to act or to refrain from acting, in breach of that person's duties in a way which damages or is likely to damage the Union's financial interests (passive bribery).'

PE754.808v01-00 184/197 AM\1288247EN.docx

## Amendment 482 Daniel Freund

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

Text proposed by the Commission

Amendment

- (2a) Article 4(3) is replaced by the following:
- '3. Member States shall take the necessary measures to ensure that the following conduct is punishable as a criminal offence, when committed intentionally:
- (a) the committing, disbursing, appropriation or use by a public official of property whose management is directly or indirectly entrusted to him contrary to the purpose for which it was intended in any way which damages the Union's financial interests or is likely to damage the Union's financial interests;
- (b) the committing, disbursing, appropriation or use, in the course of economic, financial, business or commercial activities, by a person who directs or works, in any capacity, in a private sector entity, of any property whose management is directly or indirectly entrusted to him contrary to the purpose for which it was intended in any way which damages the Union's financial interests or is likely to damage the Union's financial interests.'

Or. en

**Amendment 483 Daniel Freund** 

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

- (2b) In Article 4 the following paragraphs are inserted:
- '3a.Member States shall take the necessary measures to ensure that the following conduct is punishable as a criminal offence, when committed intentionally:
- (a) the promise, offer or giving, directly or through an intermediary, of an undue advantage of any kind to a person or a third party in order for that person to exert real or supposed influence with a view to obtaining an undue advantage from a public official in a way which damages or is likely to damage the Union's financial interests;
- (b) the request or receipt, directly or through an intermediary, of an undue advantage of any kind or the promise of such an advantage to a person or a third party in order for that person to exert real or supposed influence with a view to obtaining an undue advantage from a public official in a way which damages or is likely to damage the Union's financial interests.

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

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

- 2. the performance of or failure to perform an act, in breach of duties, by a person who in any capacity directs or works for a private-sector entity in the course of economic, financial, business or commercial activities for the purpose of obtaining an undue advantage for that person or for a third party in a way which damages or is likely to damage the Union's financial interests.
- 3. the use, directly or through an intermediary, of physical force, threats or intimidation to interfere in the exercise of official duties by a person holding a judicial office or a member of law enforcement in relation to the commission of offences as referred to in this Directive.
- 3c.Member States shall take the necessary measures to ensure that the following conduct is punishable as a criminal offence, when committed intentionally:
- 1. the use, directly or through an intermediary, of physical force, threats or intimidation or the promise, offering or giving of an advantage to induce false testimony or to interfere in the giving of testimony or the production of evidence in a proceeding concerning the commission of offences as referred to in this Directive;
- 2. the use, directly or through an intermediary, of physical force, threats or intimidation to interfere in the exercise of official duties by a person holding a judicial office or a member of law enforcement in relation to the commission of offences as referred to in this Directive.
- 3d.Member States shall take the necessary measures to ensure that the intentional acquisition, possession or use by a public official of property that is significantly disproportionate to and cannot be justified by the lawful income of the public official shall be punishable as a criminal offence, where the national court is satisfied that such property is derived from any kind of criminal involvement in the commission of an offence as set out in this Directive.

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

Or. en

Amendment 484 Daniel Freund

Proposal for a directive Article 28 – paragraph 1 – point 2 c (new)

Text proposed by the Commission

Amendment

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

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

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

Or. en

Amendment 485 Daniel Freund

Proposal for a directive

PE754.808v01-00 188/197 AM\1288247EN.docx

Article 28 – paragraph 1 – point 3 Directive (EU) 2017/1371 Article 7(3)

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 486 Daniel Freund

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

Text proposed by the Commission

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

Amendment

Member States shall take the necessary measures to ensure that the criminal offence referred to in Article 4(2(2)) to 4(3b) is punishable by a maximum penalty of at least five years of imprisonment when it involves considerable damage or advantage.

Or. en

Amendment 487
Daniel Freund

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

Text proposed by the Commission

Amendment

AM\1288247EN.docx 189/197 PE754.808v01-00

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

Or. en

Amendment 488 Daniel Freund

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

Text proposed by the Commission

Amendment

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

deleted

Or. en

Amendment 489 Daniel Freund

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

Text proposed by the Commission

Amendment

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

Or. en

## Amendment 490 Daniel Freund

# Proposal for a directive Article 28 – paragraph 1 – point 4 – introductory part

Text proposed by the Commission

Amendment

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

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

Or. en

Amendment 491 Daniel Freund

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

Text proposed by the Commission

Amendment

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

deleted

Or. en

Amendment 492 Daniel Freund

Proposal for a directive Article 28 – paragraph 1 – point 8 Directive (EU) 2017/1371 Article 12, paragraphs (2), (3) and (4)

Text proposed by the Commission

(a) fifteen years from the time when the offence was committed, for the

Amendment

(a) fifteen years from the time when the offence was committed, for the

AM\1288247EN.docx 191/197 PE754.808v01-00

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criminal offences referred to in Articles 3, 4(1) and (2);

criminal offences referred to in Articles 3, 4(1) and (2(1)) and (3c)

Or. en

Amendment 493 Daniel Freund

Proposal for a directive Article 28 – paragraph 1 – point 8 Directive (EU) 2017/1371 Article 12, paragraphs (2), (3) and (4)

Text proposed by the Commission

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

### Amendment

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

Or. en

Amendment 494 Daniel Freund

Proposal for a directive Article 28 – paragraph 1 – point 8 Directive (EU) 2017/1371 Article 12, paragraph (2), (3), and (4)

Text proposed by the Commission

#### Amendment

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

Or. en

Amendment 495 Daniel Freund

Proposal for a directive Article 28 – paragraph 1 – point 8

PE754.808v01-00 192/197 AM\1288247EN.docx

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Directive (EU) 2017/1371 Article 12, paragraphs (2), (3) and (4)

Text proposed by the Commission

Amendment

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

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

Or. en

Amendment 496 Daniel Freund

Proposal for a directive Article 28 – paragraph 1 – point 8 Directive (EU) 2017/1371 Article 12, paragraphs (2), (3) and (4)

Text proposed by the Commission

Amendment

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

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

Or. en

Amendment 497 Daniel Freund

Proposal for a directive Article 28 – paragraph 1 – point 8 Directive (EU) 2017/1371 Article 12, paragraphs (2), (3) and (4)

Text proposed by the Commission

Amendment

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

Or. en

Amendment 498 Daniel Freund

AM\1288247EN.docx 193/197 PE754.808v01-00

EN

# Proposal for a directive Article 28 – paragraph 1 – point 8

Directive (EU) 2017/1371 Article 12, paragraphs (2), (3) and (4)

Text proposed by the Commission

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

#### Amendment

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

Or. en

Amendment 499 Daniel Freund

Proposal for a directive Article 28 – paragraph 1 – point 8 Directive (EU) 2017/1371 Article 12, paragraphs (2), (3) and (4)

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 500 Daniel Freund

Proposal for a directive Article 28 – paragraph 1 – point 8 Directive (EU) 2017/1371 Article 12, paragraphs (2), (3) and (4)

Text proposed by the Commission

Amendment

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

Or. en

PE754.808v01-00 194/197 AM\1288247EN.docx

## Amendment 501 Daniel Freund

Proposal for a directive Article 28 – paragraph 1 – point 8 Directive (EU) 2017/1371 Article 12, paragraphs (2), (3) and (4)

Text proposed by the Commission

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

#### Amendment

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

Or. en

Amendment 502 Daniel Freund

Proposal for a directive Article 28 – paragraph 1 – point 8 Directive (EU) 2017/1371 Article 12, paragraphs (2), (3) and (4)

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 503 Daniel Freund

Proposal for a directive Article 28 – paragraph 1 – point 8 Directive (EU) 2017/1371 Article 12, paragraphs (2), (3) and (4)

Text proposed by the Commission

Amendment

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

Or en

Amendment 504 Laura Ferrara, Sabrina Pignedoli, Maria Angela Danzì

Proposal for a directive Article 29 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. The provisions of this Directive shall not affect the right of Member States to apply or introduce more stringent laws, regulations or administrative provisions with regard to transparency requirements and applicable penalties than those laid down in this Directive.

Or. it

Amendment 505 José Gusmão

Proposal for a directive Article 29 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Where Member States have more extensive sanctions and measures in place than this Directive, the transposition of the Directive will not limit them in relation to Article 15, Article 16, Article 17, Article 18, Article 19 and Article 20.

Or. en

Amendment 506 Elena Yoncheva, Klára Dobrev, Sándor Rónai, Petar Vitanov

Proposal for a directive Article 30 – paragraph 3

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# Text proposed by the Commission

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

#### Amendment

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

Or. en