







# Procedure file

| Basic information  |   |
|--|---|
| COD - Ordinary legislative procedure (ex-codecision procedure)<br>Directive  | 2023/0135(COD)<br>Awaiting Parliament's position in 1st reading |
| Combating corruption<br>Repealing JHA act 2003/568 <a href="#">2002/0817(CNS)</a><br>Amending Directive 2017/1371 <a href="#">2012/0193(COD)</a>   |   |
| Subject<br>7.30.30 Action to combat crime<br>7.30.30.06 Action to combat economic fraud and corruption<br>7.40.04 Judicial cooperation in criminal matters<br>8.40.09 European officials, EU servants, staff regulations |   |
| Legislative priorities<br><a href="#">Joint Declaration 2023-24</a>  |   |

| Key players                   |  |  |            |
|-------------------------------|--|--|------------|
| European Parliament           | Committee responsible  | Rapporteur   | Appointed  |
|                               | LIBE <a href="#">Civil Liberties, Justice and Home Affairs</a>   |  <a href="#">STRUGARIU Ramona</a>      | 06/07/2023 |
|                               |  | Shadow rapporteur  |            |
|                               |  |  <a href="#">YONCHEVA Elena</a>        |            |
|                               |  |  <a href="#">FREUND Daniel</a>         |            |
|                               |  |  <a href="#">BUXADÉ VILLALBA Jorge</a> |            |
|                               |  |  <a href="#">GUSMÃO José</a>           |            |
|                               | Committee for opinion  | Rapporteur for opinion   | Appointed  |
|                               | CONT <a href="#">Budgetary Control</a><br>(Associated committee) |  <a href="#">CHINNICI Caterina</a>     | 18/07/2023 |
|                               | JURI <a href="#">Legal Affairs</a>                               | The committee decided not to give an opinion.  |            |
| Council of the European Union | Commission DG  | Commissioner   |            |
| European Commission           | <a href="#">Migration and Home Affairs</a>                       | JOHANSSON Ylva   |            |

| Key events |   |                               |         |
|------------|---|-------------------------------|---------|
| 03/05/2023 | Legislative proposal published  | <a href="#">COM(2023)0234</a> | Summary |
| 01/06/2023 | Committee referral announced in Parliament, 1st reading   |                               |         |
| 14/09/2023 | Referral to associated committees announced in Parliament                                       |                               |         |
| 31/01/2024 | Vote in committee, 1st reading  |                               |         |
| 31/01/2024 | Committee decision to open interinstitutional negotiations with report adopted in committee     |                               |         |
| 21/02/2024 | Committee report tabled for plenary, 1st reading  | <a href="#">A9-0048/2024</a>  | Summary |
| 26/02/2024 | Committee decision to enter into interinstitutional negotiations announced in plenary (Rule 71) |                               |         |
| 27/02/2024 | Committee decision to enter into interinstitutional negotiations confirmed by plenary (Rule 71) |                               |         |

| Technical information      |  |
|----------------------------|--|
| Procedure reference        | 2023/0135(COD)   |
| Procedure type             | COD - Ordinary legislative procedure (ex-codecision procedure)   |
| Procedure subtype          | Legislation  |
| Legislative instrument     | Directive  |
|                            | Repealing JHA act 2003/568 <a href="#">2002/0817(CNS)</a><br>Amending Directive 2017/1371 <a href="#">2012/0193(COD)</a>   |
| Legal basis                | Treaty on the Functioning of the EU TFEU 082-p1; Treaty on the Functioning of the EU TFEU 083-p1-a1; Treaty on the Functioning of the EU TFEU 283-p2; Treaty on the Functioning of the EU TFEU 83-p1-a3; Treaty on the Functioning of the EU TFEU 083-p2; Rules of Procedure EP 57 |
| Other legal basis          | Rules of Procedure EP 159  |
| Stage reached in procedure | Awaiting Parliament's position in 1st reading  |
| Committee dossier          | LIBE/9/11968   |

| Documentation gateway   |             |                               |            |      |         |
|---|-------------|-------------------------------|------------|------|---------|
| Legislative proposal  |             | <a href="#">COM(2023)0234</a> | 03/05/2023 | EC   | Summary |
| Committee draft report  |             | <a href="#">PE753.573</a>     | 21/09/2023 | EP   |         |
| Amendments tabled in committee                                  |             | <a href="#">PE754.808</a>     | 16/10/2023 | EP   |         |
| Committee opinion   | <b>CONT</b> | <a href="#">PE753.561</a>     | 07/11/2023 | EP   |         |
| Committee of the Regions: opinion                               |             | <a href="#">CDR3805/2023</a>  | 29/11/2023 | CofR |         |
| Committee report tabled for plenary, 1st reading/single reading |             | <a href="#">A9-0048/2024</a>  | 21/02/2024 | EP   | Summary |

**PURPOSE:** to update and strengthen the EUs rules on combating corruption.

**PROPOSED ACT:** Directive of the European Parliament and of the Council.

**ROLE OF THE EUROPEAN PARLIAMENT:** the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

**BACKGROUND:** corruption remains a significant problem at the Union level, threatening the stability and security of societies, including by enabling organised and other serious crime. 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.

[Council Framework Decision 2003/568/JHA](#) lays down requirements on the criminalisation of corruption concerning the private sector. The Convention drawn up on the basis of Article K.3(2)(c) of the Treaty on European Union on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union addresses certain acts of corruption involving officials of the European Communities or officials of the Member States in general. These instruments are, however, not sufficiently comprehensive, and the current criminalisation of corruption varies across Member States hampering a coherent and effective response across the Union. Enforcement gaps and obstacles in cooperation between the competent authorities of different Member States have also emerged.

This proposed Directive aims to amend and expand the provisions of those instruments. Since the amendments to be made are of substantial number and nature, both instruments should, in the interests of clarity, be replaced in their entirety in relation to the Member States bound by this Directive. Moreover, it is necessary to strengthen the legal framework to combat bribery and to provide law enforcement and prosecution with the necessary tools.

**CONTENT:** the proposed Directive seeks to establish 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. It modernises the existing EU anti-corruption legal framework by:

- harmonising definitions of criminal offences prosecuted as corruption to cover not only bribery but also misappropriation, trading in influence, abuse of functions, as well as obstruction of justice and illicit enrichment related to corruption offences. The proposal makes all offences under the United Nations Convention against Corruption mandatory under EU law and brings together public and private sector corruption;
- underlining the need to address the fight against corruption from a preventive perspective. It aims to explore activities to raise awareness on the fight against corruption, through education and research programmes, involving civil society and non-governmental organisations;
- requiring Member States to put or have in place bodies in their national legal orders that are specialised in the prevention and repression of corruption. Such bodies need to be independent, have sufficient human, financial, technical and technological resources and have the necessary powers for the exercise of their tasks;
- setting the minimum maximum penalty between four and six years, depending on the seriousness of the offence, which is an increase in comparison to the existing penalties at EU level for bribery (one to three years for bribery in the private sector);
- establishing a list of sanctions and measures, which are not necessarily of a criminal nature, such as the temporary or permanent exclusion from public procurement;
- ensuring 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 effective and transparent process pre-established by law, and in a timely manner;
- laying down provisions on limitation periods to allow the competent authorities to investigate, prosecute and adjudicate the criminal offences covered by this proposal, as well as the execution of relevant sanctions, for a sufficient time period. This proposal sets the minimum length of the limitation periods between eight to fifteen years, depending on the seriousness of the offence;
- establishing rules and procedures to protect individuals who report information they acquired in a work-related context on breaches of EU law in key policy areas;
- ensuring investigative tools which are provided for in national law for organised crime or other serious crime cases can also be used in cases of money laundering;
- envisioning enhanced cooperation between Member States authorities, the Commission, Europol, Eurojust, the European Anti-Fraud Office and the European Public Prosecutors Office.

## Combating corruption

---

The Committee on Civil Liberties, Justice and Home Affairs adopted the report by Ramona STRUGARIU (Renew, RO) on the proposal for a directive of the European Parliament and of the Council on combating corruption, replacing Council Framework Decision 2003/568/JHA and the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union and amending Directive (EU) 2017/1371 of the European Parliament and of the Council.

The proposed 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.

The committee responsible recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the proposal as follows:

### Prevention of corruption

Member States should take measures to ensure that key preventive tools are in place, such as:

- an anticorruption strategy and action plan drafted with the participation of competent authorities;
- an open access to information of public interest;

- effective rules: (i) for the periodic and risk-based disclosure and verification of assets and interests of public officials and establishing sanctions for failure to report substantial assets or interests; (ii) on the interaction between the private and the public sector, including regulation of interest representation and revolving doors situations;
- effective measures to ban citizenship by investment and residency by investment schemes.

Member States should, inter alia:

- take measures to ensure transparency in the funding of candidatures for elected public officials and political parties, through annual reporting mechanisms;
- adopt comprehensive and periodically reviewed measures targeting common high-risk areas and include actions to identify and fight against organised crime or other serious crime;
- take steps to create a strong public service culture, based on integrity, transparency and accountability;
- carry out an annual assessment to identify the sectors most at risk from corruption;
- develop anti-corruption plans with implementation and monitoring mechanisms to address the main risks in sectors most exposed to the risk of corruption;
- set up appropriate public procurement systems based on transparency, competition and objective criteria for decision-making;
- actively and regularly mobilise and consult civil society, non-governmental organisations, local associations and academia in the development, monitoring and analysis of anti-corruption laws and policies;
- take measures to prevent corruption involving the private sector through the development of codes of conduct.

Specialised bodies for the prevention of corruption

These bodies should be independent of government and able to take autonomous decisions on individual cases, carry out their functions without undue interference and deal with complaints about breaches of the rules on the prevention of corruption.

Criminal offences

Members believe that the following behaviours, when committed intentionally, should be punishable as criminal offences: (i) illicit political financing; (ii) concealment of corruptly acquired assets; and (iii) misconduct in public office.

Sanctions

The proposal introduces new rules on penalties and procedural safeguards to eliminate any possibility of avoiding prosecution for corruption. The report increases some of the minimum prison sentences to bring them into line with the seriousness of the behaviour in question. Penalties could be up to 7 years' imprisonment.

Penalties for natural persons could include dismissal, suspension and reassignment of a public office, disqualification from holding a public office or performing a public service function and exclusion from access to public funding.

Sanctions applicable to legal persons should include (i) criminal or non-criminal fines, proportionate and appropriate to the gravity of the offence. The maximum amount of such fines should not be less than 10% of the total worldwide turnover of the legal person; (ii) publication, at national or Union level, of all or part of the judicial decision relating to the criminal offence committed and of the sanctions or measures imposed.

Aggravating circumstances would include the fact that the offender (i) took advantage of the vulnerable situation of a person involved in the commission of the offence; (ii) resorted to ingenious deception or the instrumentalisation of public officials in order to commit the offence.

Rights for the public concerned to participate in proceedings

Member States should 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. Moreover, they should take such measures as necessary to ensure that entities or persons who have suffered damage as a result of an act of corruption have the right to initiate legal proceedings against those responsible for that damage in order to obtain proportionate and adequate compensation.

In addition, necessary measures should be taken to ensure that the public concerned has appropriate rights to participate in the proceedings covered by this Directive, for instance as a civil party, where as a result of a corruption offence such public has a sufficient interest, and is entitled to maintain the impairment of a right, in accordance with national law.