

Countering money laundering by criminal law

2016/0414(COD) - 12/09/2018 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 634 votes to 46, with 24 abstentions, a legislative resolution on the proposal for a directive of the European Parliament and of the Council on countering money laundering by criminal law.

The proposed Directive establishes minimum rules concerning the definition of criminal offences and sanctions in the area of money laundering.

The European Parliament's position adopted at first reading under the ordinary legislative procedure amended the Commission proposal as follows:

European definitions of crimes related to money laundering: Member States shall consider any offence set out in those legal acts as constituting a predicate offence for money laundering.

The definition of 'criminal activity' within the meaning of the Directive means any kind of criminal involvement in the commission of any offence punishable, in accordance with national law, by deprivation of liberty or a detention order for a maximum of more than one year or, as regards Member States that have a minimum threshold for offences in their legal systems, any offence punishable by deprivation of liberty or a detention order for a minimum of more than six months.

The definition of criminal activity shall include any type of criminal participation in committing the offences provided for in [Directive 2017/541](#) on combating terrorism as well as criminal tax crimes related to direct and indirect taxes, as defined by national law.

Money laundering offences: under the Directive, any act of money laundering shall be criminalised if committed intentionally and with the knowledge that the property was derived from criminal activity. Being an accomplice, inciting and attempting to commit a money laundering offence shall also constitute a criminal offence punishable by penalties.

Sanctions: in order to deter money laundering throughout the Union, Member States shall ensure that it is punishable by a maximum term of imprisonment of at least four years.

Member States shall also provide for additional sanctions or measures, such as (i) fines, (ii) temporary or permanent exclusion from access to public funding, including tendering procedures, grants and concessions, (iii) temporary prohibition from engaging in commercial activity or (iv) temporary bans on running for elected office or public office.

Legal persons shall be held liable for any offence referred to in the Directive when committed for their benefit.

Confiscation: Member States shall take the necessary measures to ensure, as appropriate, that their competent authorities freeze or confiscate in accordance with [Directive 2014/42/EU](#), the proceeds derived from and instrumentalities used or intended to be used in the commission or contribution to the commission of the offences.

Jurisdiction: where an offence falls within the jurisdiction of more than one Member State and where any of the Member States concerned can validly prosecute on the basis of the same facts, the Member States concerned shall cooperate in order to decide which of them will prosecute the offender, with the aim of centralising proceedings in a single Member State.

Investigative tools: sufficient staff and targeted training, as well as resources and up-to-date technological capacity, should be made available to the investigative services.