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## **INFORMATION NOTE**

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**From:** General Secretariat of the Council  
**To:** Permanent Representatives Committee/Council

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**Subject:** 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  
- Outcome of the European Parliament's first reading  
(Brussels, 25 to 26 March 2026)

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## **I. INTRODUCTION**

In accordance with the provisions of Article 294 of the TFEU and the Joint declaration on practical arrangements for the codecision procedure<sup>1</sup>, a number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this proposal at first reading.

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<sup>1</sup> OJ C 145, 30.6.2007, p. 5.

In this context, the Chair of the Committee on Civil Liberties, Justice and Home Affairs (LIBE) Javier ZARZALEJOS (EPP, ES) presented on behalf of LIBE a compromise amendment (amendment number 221) to the abovementioned proposal for a Directive, for which the rapporteur Raquel GARCÍA HERMIDA-VAN DER WALLE (Renew, NL) had prepared a draft report. This amendment had been agreed during the informal contacts referred to above. In addition, the European Conservatives and Reformists (ECR) political group tabled a procedural motion<sup>2</sup> to the draft legislative act.

## II. VOTE

When it voted on 26 March 2026, the plenary adopted the compromise amendment (amendment number 221) to the abovementioned proposal for a Directive. No other amendments were adopted. The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto<sup>3</sup>.

The Parliament's position reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position.

The act would then be adopted in the wording which corresponds to the Parliament's position.

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<sup>2</sup> Under Rule 60(3) a group or the low threshold may request that plenary vote on amendments to the draft legislative act instead of the provisional agreement.

<sup>3</sup> The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in *bold and italics*. The symbol "■" indicates deleted text.

**P10\_TA(2026)0094**

## **Combating corruption**

**European Parliament legislative resolution of 26 March 2026 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 (COM(2023)0234 – C9-0162/2023 – 2023/0135(COD))**

**(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2023)0234),
- having regard to Article 294(2) and Article 82(1), point (d), and Article 83(1) and (2), of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0162/2023),
- having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
- having regard to the reasoned opinions submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the Swedish Parliament and the Italian Chamber of Deputies, asserting that the draft legislative act does not comply with the principle of subsidiarity,
- having regard to the opinion of the European Economic and Social Committee of 25 October 2023<sup>1</sup>,
- having regard to the opinion of the Committee of the Regions of 29 November 2023<sup>2</sup>,

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<sup>1</sup> OJ C, C/2024/886, 6.2.2024, ELI: <http://data.europa.eu/eli/C/2024/886/oj>.

<sup>2</sup> OJ C, C/2024/1048, 9.2.2024, ELI: <http://data.europa.eu/eli/C/2024/1048/oj>.

- having regard to the provisional agreement approved by the committee responsible under Rule 75(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 10 December 2025 to approve Parliament’s position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
  - having regard to Rule 60 of its Rules of Procedure,
  - having regard to the opinion of the Committee on Budgetary Control,
  - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A9-0048/2024),
1. Adopts its position at first reading hereinafter set out;
  2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

P10\_TC1-COD(2023)0135

**Position of the European Parliament adopted at first reading on 26 March 2026 with a view to the adoption of Directive (EU) 2026/... of the European Parliament and of the Council on combatting 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 EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 82(1), point (d), and Article 83(1) and (2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee<sup>1</sup>,

Having regard to the opinion of the Committee of the Regions<sup>2</sup>,

Acting in accordance with the ordinary legislative procedure<sup>3</sup>,

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<sup>1</sup> OJ C, C/2024/886, 6.2.2024, ELI: <http://data.europa.eu/eli/C/2024/886/oj>.

<sup>2</sup> OJ C, C/2024/1048, 9.2.2024, ELI: <http://data.europa.eu/eli/C/2024/1048/oj>.

<sup>3</sup> Position of the European Parliament of 26 March 2026.

Whereas:

- (1) Corruption remains a significant problem at 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. ***Combating corruption is essential for strengthening the quality of democracy and for the full realisation of the rule of law.*** 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.

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- (2) Council Framework Decision 2003/568/JHA<sup>4</sup> 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<sup>5</sup> (*the 'Convention 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. Those 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 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.

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<sup>4</sup> Council Framework Decision 2003/568/JHA of 22 July 2003 on combating corruption in the private sector (OJ L 192, 31.7.2003, p. 54, ELI: [http://data.europa.eu/eli/dec\\_framw/2003/568/oj](http://data.europa.eu/eli/dec_framw/2003/568/oj)).

<sup>5</sup> 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 (OJ C 195, 25.6.1997, p. 2).

- (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 can be inferred from objective and factual circumstances. As this Directive provides for minimum rules, Member States remain free to adopt or maintain more stringent rules concerning corruption offences. ***This Directive builds upon the existing legal framework and should not be interpreted as aiming to weaken current national anti-corruption rules.***
- (4) Corruption is a transnational phenomenon that affects all societies and economies. Measures adopted at national or Union level should recognise that 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 Co-operation and Development (OECD) and the United Nations Office against Drugs and Crime (UNODC).

- (5) ***Diverse manifestations of corruption necessitate a coordinated and harmonised approach among Member States to address its root causes and consequences effectively. To effectively tackle*** 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 ***corruption offences and corruption-related offences*** are defined in national and international law, failings in integrity, undisclosed conflicts of interest or serious breaches of ***integrity*** rules can ***result in corruption offences*** 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 and integrity, including by regulating in areas such as conflict of interest, lobbying and revolving doors. Public bodies should seek the highest standards of integrity, transparency and ***freedom from undue influence*** as an important part of tackling corruption more broadly. ***A public service staffed with individuals with a high level of skills and integrity is a fundamental pillar for efficient, transparent and effective Member States that aim to eradicate corruption effectively. Enhancing transparency, efficiency and the use of objective criteria in the recruitment and promotion of public officials could help to achieve such staffing. As the private sector also plays a key role in preventing and detecting corruption, Member States can encourage the development and implementation of robust and effective compliance mechanisms within private companies. In order to ensure a common approach regarding the effectiveness of such compliance mechanisms, which could include a risk map, a code of conduct, third-party evaluation, and internal control and audit, Member States can cooperate in developing common guidelines.***

(6) *While this Directive fully respects all relevant provisions of national constitutions, constitutional principles and laws, it is emphasised that unduly shielding individuals – particularly those holding public office – from accountability for corruption offences might undermine public trust in a manner incompatible with the objectives of this Directive.*

(7) *Without prejudice to their institutional and administrative autonomy, Member States should have in place bodies or **organisational** units tasked with the prevention and repression of corruption. Member States **are not obliged to create new bodies or organisational units, such as specialised courts or tribunals, under this Directive, and can** decide to assign **the same body or organisational unit with both** preventive and repressive functions as well as with tasks related to other criminal offences, such as organised crime. In accordance with the principle of Member States' autonomy, such bodies or units do not necessarily need to be central bodies or organisational units. With full respect for Member States' institutional and administrative autonomy, when such anti-corruption bodies have the power to take decisions on cases brought to their attention or identified by them, or make any recommendations that they consider necessary, they should operate without undue interference or undue influence from others, thus being protected against undue external interventions or pressure. In order to ensure that such bodies or organisational units operate effectively, Member States should ensure that resources and powers allocated to such bodies or organisational units are commensurate with the proper administration of their tasks and allow for specialised knowledge on the prevention and repression of corruption.*

- (8) *In order to raise citizens' awareness of the scope, characteristics and effects of corruption, it should be possible to undertake various measures, including in cooperation with relevant stakeholders such as civil society, academia and the media. Such measures could include, for example, dedicated sources of information, compilations of publications and relevant regulation, and awareness-raising campaigns and seminars open to the public and in an accessible language.*
- (9) The Union is a party to the United Nations Convention Against Corruption (UNCAC), which is the most comprehensive international legal instrument to combat corruption, combining measures to prevent and fight corruption. It requires that parties to the Convention take legislative and other measures to establish criminal offences concerning bribery, misappropriation and money laundering and consider taking legislative or other measures to criminalise additional acts, such as the abuse of functions, trading in influence and illicit enrichment. In line with the commitments contained in the political declaration adopted at the 2021 United Nations General Assembly special session against corruption entitled ‘Our common commitment to effectively addressing challenges and implementing measures to prevent and combat corruption and strengthen international cooperation’, the Union should, to the extent possible, go beyond the minimum requirements of UNCAC and lay down additional measures for preventing and combatting corruption. This Directive draws on the observations and best practices emanating from the Mechanism for the Review of Implementation of the UNCAC.
- (10) Taking account of the evolution of corruption threats, the legal obligations of the Union and Member States under international law, and the development of national legal frameworks, the definition of corruption *offences* should be further approximated across all Member States so that it covers corrupt conduct more comprehensively.

- (11) To avoid impunity for corruption offences in the public sector, the scope of application of this Directive should be well defined. First, the concept of public official should also cover persons working in international organisations, including in the institutions, agencies and bodies of the Union and international courts. Second, as many entities or persons exercise public functions without holding a formal office, the concept of public official should 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 **public** service, who have been vested with public authority or are subject to the control or supervision of public authorities in relation to the carrying-out of such a **public service function**, even if they do not hold formal office. For the purposes of this Directive, the definition of public official should also cover persons **performing public service functions** in state-owned and state-controlled enterprises, as well as in asset-management foundations and privately owned companies performing public service functions and **in** the legal persons established or maintained by them. Any person holding a legislative office **at national, regional or local level** should be **assimilated to a national** official for the purposes of this Directive **in accordance with national law**.

- (12) *High-level officials should be understood as persons who exercise key executive, administrative, legislative or judicial functions. Such functions can include actively participating in the development or execution of governmental functions, determining and implementing policies, enforcing laws, proposing or implementing legislation, adopting and implementing by-laws or normative decrees, taking decisions on government expenditure and taking decisions on the appointment of individuals to key executive, administrative, legislative or judicial functions, as well as deciding on court cases. High-level officials can include national officials such as heads of central and regional government, members of central and regional government, deputy ministers, state secretaries, key political advisers, heads and members of a minister's private office or cabinet when such have been established, as well as members of parliamentary chambers, members of constitutional and supreme courts, the prosecutor general, and members of supreme audit institutions, as well as members of the College of Commissioners of the European Commission and the European Parliament.*

- (13) *It is necessary to strengthen the legal framework to combat bribery and to ensure that law enforcement and prosecution authorities are equipped with effective and proportionate tools. In the context of the bribery of public officials, two types of bribery can be distinguished. Active bribery in the public sector occurs where a person promises, offers or gives an undue advantage of any kind in order to influence a public official. Passive bribery in the public sector occurs where a public official requests or receives such undue advantage, or accepts the offer or the promise thereof in order to act or to refrain from acting in a certain manner. Advantages can be tangible or intangible, and pecuniary or non-pecuniary. An advantage is not considered to be undue where, for example, it is permitted by law or by administrative rules or in cases of minimum gifts or gifts of very low value. This Directive should also establish 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 can be diminished by each bribe. The offence of bribery in the public sector builds on the offences of passive and active corruption defined in Articles 2 and 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union and should not be interpreted or applied in a manner that is more lenient than those provisions of the Convention.*

- (14) *Conduct in breach of professional duties by directors or workers of private-sector entities in the course of economic, financial or business activities can be detrimental to the interests of a private-sector company, and can also distort competition in relation to the purchase of goods or commercial services to the detriment of both potential competitors and the general public. The criminalisation of bribery in the private sector aims to deter both kinds of harm. It should contribute to preventing third parties from interfering in the fair conduct of business by promising, offering or giving any undue advantage to directors or workers of private-sector entities for them to act or to refrain from acting, in breach of their duties (active bribery in the private sector). The offence should also cover directors and workers of private-sector entities who request or receive any undue advantage, or accept the offer or the promise thereof, in order to act or to refrain from acting, in breach of their duties (passive bribery in the private sector).*
- (15) In order to ensure that public officials do not intentionally ***damage the financial interests of the public or private entity concerned by using*** funds for purposes other than those for which they were intended, rules on the offence of misappropriation by public officials of property whose management is entrusted to them should be laid down. In order **■** for misappropriation to constitute a criminal offence, it should lead to an advantage for the public official or a third party ***or damage to the financial interests of the public or private entity concerned. In order to take a comprehensive approach to the fight against corruption, Member States are also encouraged to criminalise misappropriation in the private sector. Member States should not define the offence as requiring both the establishment of damage and advantage.***

- (16) *The exertion of influence over public decision-makers with a view to obtaining an undue advantage can seriously hamper the proper functioning of public administrations. To adequately tackle it, the constituent elements of the offence of trading in influence should cover two different situations, when carried out intentionally. First, the offence should cover the promising, offering or giving of any undue advantage aimed at the exertion of improper influence with a view to obtaining an undue advantage from a public official. Second, it should also cover the request or receipt of any undue advantage, or the acceptance of an offer or a promise thereof, in order to exert improper influence with a view to obtaining an undue advantage from a public official. Such conduct should constitute a criminal offence irrespective of whether the influence was claimed or real and whether the influence was exerted and whether or not the influence led to the outcome intended. The offence should not cover the legitimate exercise of acknowledged forms of interest or legal representation which can seek to legitimately influence public decision-making but do not entail an undue exchange of advantages. Such forms of interest representation, such as advocacy, are often carried out in a regulated environment precisely so that a lack of transparency does not allow them to become gateways to corruption. Having in place well-functioning 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. For the purposes of the offence of trading in influence, the undue advantage to exert improper influence includes remuneration for those forms of representation where such activities are carried out in a manner fulfilling the other elements of the offence, including due to a relevant violation of the applicable rules.*

- (17) The *unlawful exercise of public functions risks undermining public trust, the rule of law and economic fairness and can cause serious harm to the public interest. In order to prevent such harm, Member States should identify serious violations of law, be they actions or omissions, or both. Such serious violations might include for example the violation of legislative or regulatory provisions designed to guarantee free access and contracts on equal terms for candidates, or the deliberate misapplication of the law by judges or arbitrators. Member States should be able to limit the application of the offence of unlawful exercise of public functions to certain categories of public officials. In identifying the relevant serious violations of law, Member States could have regard to matters including whether conduct is committed in order to obtain an undue advantage for the official in question or for a third party or whether it is committed in order to cause damage to the legitimate rights or interests of a person.*

- (18) The obstruction of justice is a criminal offence committed in support of corruption, ***among other offences. This is acknowledged in Member States' criminal law.*** It is therefore necessary to ***criminalise*** the obstruction of justice, which entails the exercise of physical force, threats or intimidation, or the inducement of false testimony or evidence. Actions aimed at interfering with the giving of testimony or production of evidence, or with the exercise of official duties by judicial or law enforcement officials should also fall within the scope of this offence. In line with the UNCAC, this Directive applies only to the obstruction of justice in proceedings relating to a corruption offence. ***When transposing this Directive, Member States should not be obliged to establish a specific offence of obstruction of justice relating to corruption offences, as established in Chapter II of this Directive, where their national law includes a general provision criminalising the obstruction of justice, applicable to all offences, including corruption. Member States remain free to criminalise such conduct through several criminal offences at national level.***

- (19) Corruption is driven by the pursuit of 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.
- (20) *Member States should adopt measures to define as a punishable criminal offence the intentional concealment or disguising of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property is derived from the commission of the offences of bribery in the public or private sector, misappropriation, trading in influence, obstruction of justice, or inciting, aiding and abetting, and attempt, as set out in this Directive.*
- (21) *Illegal political financing can be a means of inducing decision-makers to take decisions which might be in the interest of the financier. Member States should consider taking appropriate action against types of illegal political financing in line with the principle of proportionality, and accountability and transparency rules at Union and national level, while fully respecting the fundamental freedoms of the internal market and the electoral rights of the Union citizens. While not regulated by this Directive, Member States could consider criminalising such illegal political financing where it represents a threat to the democracy of the Member States and the Union.*

- (22) The criminal offence of enrichment *from corruption offences should cover the conduct of a public official who acquires, possesses or uses property which the public official knows to be derived from corruption offences committed by another public official. The offences of enrichment from corruption offences and concealment are without prejudice to Directive (EU) 2018/1673 of the European Parliament and of the Council<sup>6</sup> and in particular Article 3(5) and recital 11 on ‘self-laundering’ thereof, where applicable.* When considering whether property is derived from any kind of criminal involvement in a corruption offence and whether the person knew that, the specific circumstances of the 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. *In addition, the proceeds obtained from corruption offences can be confiscated on the basis of Directive (EU) 2024/1260 of the European Parliament and of the Council<sup>7</sup>. That Directive also includes provisions on other types of confiscation including, under certain conditions, on the confiscation of proceeds, or other property the value of which corresponds to proceeds, which were transferred by a suspected or accused person to third parties, or which were acquired by third parties from a suspected or accused person, where the relevant third parties knew or ought to have known that the purpose of the transfer or acquisition was to avoid confiscation.*

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<sup>6</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, ELI: <http://data.europa.eu/eli/dir/2018/1673/oj>).

<sup>7</sup> Directive (EU) 2024/1260 of the European Parliament and of the Council of 24 April 2024 on asset recovery and confiscation (OJ L, 2024/1260, 2.5.2024, ELI: <http://data.europa.eu/eli/dir/2024/1260/oj>).

- (23) In order to deter corruption throughout the Union, Member States should lay down minimum types and levels of ***criminal and non-criminal penalties*** for the criminal offences defined in this Directive. The maximum levels of imprisonment and other penalties should be sufficiently high to deter possible offenders and to reflect the harmfulness of corruption **■** . At the same time, those levels should be proportionate to the seriousness of each corruption offence and be consistent with levels of criminal ***penalties*** set in Union and national law. Member States should ensure that ***penalties*** are enforced to the extent necessary in order to deter the commission of those offences. ***If national law establishes*** the eventuality of suspended or conditional sentences, early release, parole or pardoning of persons convicted of any of the offences referred to in this Directive, judicial authorities should be able to take into account the seriousness of the criminal offences concerned among other factors.
- (24) This Directive should not affect the proper and effective application of disciplinary measures or penalties other than those of a criminal nature, such as administrative ***penalties***. ***Penalties*** that cannot be equated to criminal ***penalties***, which are imposed on the same person for the same conduct, can be taken into account when sentencing that person for a criminal offence defined by this Directive. The principle of the prohibition on being tried or punished twice in criminal proceedings for the same criminal offence (*ne bis in idem*) should be fully respected.

(25) *Member States are encouraged to enable their* competent authorities to impose, in addition or as an alternative to imprisonment, *penalties* or measures that are not necessarily of a criminal nature, such as ■ exclusion from *tender procedures or temporary bans on running for public office*. Such measures have a general dissuasive effect and could 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 to an effective remedy.

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(26) *In order to enhance the criminal justice response to offences concerning corruption and to deter the commission of those offences, the penalties regime against legal persons and natural persons should be clarified and brought into line with other Union criminal law instruments. Under Directives 2009/81/EC<sup>8</sup>, 2014/23/EU<sup>9</sup>, 2014/24/EU<sup>10</sup> and 2014/25/EU<sup>11</sup> of the European Parliament and of the Council, a conviction, by way of final judgment, for corruption is grounds for an exclusion from participating in a procurement procedure or a concession award procedure. Nevertheless, Member States should also be able to decide to include, among the criminal or non-criminal penalties or measures which can be imposed on legal persons and natural persons, the exclusion of such legal persons from tender procedures or concessions, in order to also cover procurement procedures and concession award procedures below the thresholds of the relevant directives.*

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<sup>8</sup> Directive 2009/81/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security, and amending Directives 2004/17/EC and 2004/18/EC (OJ L 216, 20.8.2009, p. 76, ELI: <http://data.europa.eu/eli/dir/2009/81/oj>).

<sup>9</sup> Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts (OJ L 94, 28.3.2014, p. 1, ELI: <http://data.europa.eu/eli/dir/2014/23/oj>).

<sup>10</sup> Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65, ELI: <http://data.europa.eu/eli/dir/2014/24/oj>).

<sup>11</sup> Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243, ELI: <http://data.europa.eu/eli/dir/2014/25/oj>).

(27) 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 *their* worldwide turnover *or based on fixed maximum amounts*. *Non-trial resolutions are being applied in the context of corruption offences and often viewed as a pragmatic and efficient way to resolve cases that would otherwise require a significant amount of time and resources to investigate and prosecute before reaching a court. However, non-trial resolutions might also present some challenges, and Member States are encouraged to take such challenges into account.*

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(28) *While there is no obligation to increase sentences*, Member States should *ensure that the judge or the court is able to take into account the aggravating circumstances set out in this Directive, as implemented in national law, when sentencing offenders. It remains within the discretion of the judge or the court to determine whether to increase the sentence due to the specific* aggravating circumstances, *taking into account the specific circumstances in each individual case*. Member States should not be obliged to provide for █ aggravating circumstances *where national law provides for the criminal offences defined in Council Framework Decision 2008/841/JHA<sup>12</sup> to be punishable as separate criminal offences and this could lead to* more severe penalties. █

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<sup>12</sup> *Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime (OJ L 300, 11.11.2008, p. 42, ELI: [http://data.europa.eu/eli/dec\\_framw/2008/841/oj](http://data.europa.eu/eli/dec_framw/2008/841/oj)).*

- (29) Member States should ensure that *the judge or the court is able to take into account the mitigating circumstances set out in this Directive, as implemented in national law, when sentencing offenders*. Subject to judicial discretion, such circumstances should cover those cases in which offenders provide information or otherwise collaborate with authorities. Similarly, where legal persons have implemented *genuine, effective and duly assessed* internal controls, ethics and compliance programmes, it should be possible to consider such actions as mitigating circumstances *when sanctioning such legal persons*. Lower *penalties* should also be considered where, upon discovery of an offence, a legal person swiftly discloses information and takes remedial measures. In any case, it *remains* within the discretion of the judge or the court to determine the actual amount of the *penalty due to the specific mitigating circumstances*, taking into account the *specific circumstances* in each individual *case, including, where applicable, the fact that the legal person has compliance programmes only for cosmetic purposes, also called "window dressing"*.

- (30) Members of parliament and other public officials can have immunity or legal protection from investigation or prosecution, which helps strengthen their independence by protecting them against unfounded complaints, in particular with regard to opinions expressed or votes cast in the course of performing their functions. However, such immunities can hamper the effective investigation and prosecution of corruption offences, including by affecting the detection and investigation or prosecution of other persons who do not enjoy immunity and might have participated in the offence. There should therefore be an appropriate balance between, on the one hand, any immunities or jurisdictional privileges accorded to public officials for acts performed in the exercise of their functions, and, on the other hand, the possibility of effectively investigating, prosecuting and adjudicating corruption offences. ***Member States should ensure that privileges with regard to and immunity from investigation and prosecution granted to national officials for the offences referred to in this Directive can be lifted. However, Member States should not be obliged to change their national constitutions or constitutional principles when transposing this Directive. In the transposition of this Directive into national law as well as in the application of national law transposing this Directive, those privileges and immunity, including respect for the freedom of the member's mandate, are fully taken into account. This Directive should not affect the legitimate exercise of acknowledged forms of interest representation which can seek to legitimately influence public decision-making but do not entail an undue exchange of advantages. Interest representation is important for the creation of policy that is supported by civil society and can contribute legitimately to the public sector.***

- (31) *Without prejudice to the set-up of their national judicial systems*, discretionary powers under national law not to prosecute persons for criminal offences referred to in this Directive ■ should be exercised in accordance with clear rules and criteria. ***Such rules should aim to take into account the need, in general, for effective, proportionate and dissuasive criminal penalties for corruption offences and ensure the effectiveness of the judicial process.***
- (32) ***This Directive is without prejudice to the general rules and principles of national criminal law on the application and execution of sentences in accordance with the concrete circumstances in each individual case.***
- (33) Given, ***in particular***, the mobility of ***certain*** perpetrators and proceeds stemming from criminal activities, as well as the complex cross-border investigations required to combat corruption, all Member States should establish their jurisdiction in order to enable the competent authorities to investigate and prosecute that crime ***effectively***, including where the offence is committed in whole or in part in its territory. As part of that obligation, Member States should ensure that jurisdiction is also established in situations where an offence is committed by means of information system used on their territory, whether or not that technology is based in their territory.

- (34) 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 adjudication 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.
- (35) Corruption offences *can be* difficult **I** to identify and investigate, as they mostly occur *covertly*. 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 *competent authorities* 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), including on the use *of* investigative tools to successfully carry out proceedings and the identification and quantification of proceeds of corruption in the context of *asset recovery* and confiscation. In addition, this Directive facilitates the gathering of information and evidence by setting out mitigating circumstances for offenders that help the authorities. *The training of law enforcement and the judicial authorities should concern criminal investigation and criminal proceedings of offences falling within the scope of this Directive.*
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- (36) Persons reporting information to competent authorities concerning past, ongoing or planned instances of corruption, having acquired such information 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>13</sup> applies to reports of breaches affecting the financial interests of the Union as referred to in Article 325 of the Treaty on the Functioning of the European Union (TFEU) 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>14</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 *have access to* the necessary protection, *in accordance with national law*.

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<sup>13</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, p. 17, ELI: <http://data.europa.eu/eli/dir/2019/1937/oj>).

<sup>14</sup> Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29, ELI: <http://data.europa.eu/eli/dir/2017/1371/oj>).

(37) *Since the general public is negatively affected by corruption offences and cannot generally represent itself as a victim in criminal proceedings, for the purposes of effective enforcement, members of the public concerned should have the possibility of acting on behalf of the general interest in corruption cases, in accordance with national law and subject to the relevant procedural rules. This Directive does not require Member States to introduce new procedural rights for the members of the public concerned. However, when such procedural rights for members of the public concerned exist in a Member State in equivalent situations concerning criminal offences other than those provided for pursuant to this Directive, such as the right to participate in proceedings as a civil party, such procedural rights should also be granted to the members of the public concerned in proceedings concerning the corruption offences defined in this Directive. The rights of the members of the public concerned are without prejudice to the rights of victims as set out in Directive 2012/29/EU of the European Parliament and of the Council<sup>15</sup>. The notions of ‘members of the public concerned’ and ‘victims’ should remain distinct, and Member States should not be required to apply victims’ rights to members of the public concerned. This Directive does not require Member States to grant to members of the public concerned the procedural rights in criminal proceedings that they grant to categories of persons other than members of the public concerned.*

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<sup>15</sup> 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>).

- (38) *This Directive requires Member States to adopt and publish a national strategy on preventing and combatting corruption. Member States are encouraged to develop the national strategy in consultation with civil society, anti-corruption bodies or organisational units, independent experts, researchers and other stakeholders. The national strategy should take into account the Member States' needs, specificities and challenges.*
- (39) Independent civil society organisations are crucial for the proper functioning of democracy, and play a key role in upholding the common values on which the Union 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, *where appropriate*.

(40) 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 proactively promote media freedom and media pluralism. The Commission Recommendation on the protection, safety and empowerment of journalists and other media professionals in the European Union of 16 September 2021, the 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’) of 27 April 2022 as well as Directive *(EU) 2024/1069 of the European Parliament and of the Council*<sup>16</sup> include important safeguards and standards to ensure that journalists, human rights defenders and others can carry out their role unhindered.

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<sup>16</sup> Directive *(EU) 2024/1069* of the European Parliament and of the Council *of 11 April 2024* on protecting persons who engage in public participation from manifestly unfounded *claims* or abusive court proceedings (‘Strategic lawsuits against public participation’) (OJ L, 2024/1069, 16.4.2024, ELI: <http://data.europa.eu/eli/dir/2024/1069/oj>).

- (41) *To effectively address the criminal offences defined in this Directive, it is necessary that competent authorities in the Member States collect accurate, consistent and comparable statistical data on those offences. Member States should therefore ensure that an adequate system is in place for the recording, production and transmission of existing statistical data on the offences defined in this Directive. It is important that those statistical data are used by Member States to analyse the scale of and trends in offences related to corruption, as well as for providing information to citizens. Member States should publish relevant statistical data on proceedings related to corruption offences, extracted from data that already exists at a centralised or decentralised level within the whole Member State. Those data can be analysed and used by the Commission in the context of the monitoring, implementation and evaluation of this Directive, as well as the application of any of the instruments in the Rule of Law Toolbox, such as the annual Rule of Law Report.*

- (42) To combat corruption effectively, the efficient exchange of information between competent authorities responsible for the prevention, detection, investigation or prosecution of corruption offences is crucial. Member States should ensure that information is exchanged *between competent law enforcement authorities using Europol's Secure Information Exchange Network Application (SIENA)* in an effective and timely manner in accordance with national and Union law. This Directive, which aims to lay down common definitions of corruption offences, should serve as a benchmark for information exchange and cooperation between the competent national authorities under Regulations (EU) No 603/2013<sup>17</sup>, (EU) 2018/1240<sup>18</sup> and (EU) 2018/1862<sup>19</sup> of the

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<sup>17</sup> Regulation (EU) No 603/2013 of the European Parliament and of the Council of 26 June 2013 on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes, and amending Regulation (EU) No 1077/2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (OJ L 180, 29.6.2013, p. 1, ELI: <http://data.europa.eu/eli/reg/2013/603/oj>).

<sup>18</sup> Regulation (EU) 2018/1240 of the European Parliament and of the Council of 12 September 2018 establishing a European Travel Information and Authorisation System (ETIAS) and amending Regulations (EU) No 1077/2011, (EU) No 515/2014, (EU) 2016/399, (EU) 2016/1624 and (EU) 2017/2226 (OJ L 236, 19.9.2018, p. 1, ELI: <http://data.europa.eu/eli/reg/2018/1240/oj>).

<sup>19</sup> Regulation (EU) 2018/1862 of the European Parliament and of the Council of 28 November 2018 on the establishment, operation and use of the Schengen Information System (SIS) in the field of police cooperation and judicial cooperation in criminal matters, amending and repealing Council Decision 2007/533/JHA, and repealing Regulation (EC) No 1986/2006 of the European Parliament and of the Council and Commission Decision 2010/261/EU, (OJ L 312, 7.12.2018, p. 56, ELI: <http://data.europa.eu/eli/reg/2018/1862/oj>).

European Parliament and of the Council, Directives (EU) 2016/681<sup>20</sup>, (EU) 2019/1153<sup>21</sup> and (EU) 2023/977<sup>22</sup> of the European Parliament and of the Council,

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- <sup>20</sup> Directive (EU) 2016/681 of the European Parliament and of the Council of 27 April 2016 on the use of passenger name record (PNR) data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime (OJ L 119, 4.5.2016, p. 132, ELI: <http://data.europa.eu/eli/dir/2016/681/oj>).
- <sup>21</sup> Directive (EU) 2019/1153 of the European Parliament and of the Council of 20 June 2019 laying down rules facilitating the use of financial and other information for the prevention, detection, investigation or prosecution of certain criminal offences, and repealing Council Decision 2000/642/JHA (OJ L 186, 11.7.2019, p. 122, ELI: <http://data.europa.eu/eli/dir/2019/1153/oj>).
- <sup>22</sup> Directive (EU) 2023/977 of the European Parliament and of the Council of 10 May 2023 on the exchange of information between the law enforcement authorities of Member States and repealing Council Framework Decision 2006/960/JHA (OJ L 134, 22.5.2023, p. 1, ELI: <http://data.europa.eu/eli/dir/2023/977/oj>).

and Council Decision 2008/633/JHA<sup>23</sup>.

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<sup>23</sup> Council Decision 2008/633/JHA of 23 June 2008 concerning access for consultation of the Visa Information System (VIS) by designated authorities of Member States and by Europol for the purposes of the prevention, detection and investigation of terrorist offences and of other serious criminal offences (OJ L 218, 13.8.2008, p. 129, ELI: <http://data.europa.eu/eli/dec/2008/633/oj>).

(43) Corruption is a cross-cutting concern, and vulnerabilities, as well as the most appropriate way of tackling them, differ from sector to sector. Member States should therefore, *within appropriate intervals*, perform an assessment to identify the sectors *or occupations* most at risk of corruption and develop *measures* to address the main risks in the sectors *or occupations* identified, including by *regularly* organising, *as appropriate*, awareness-raising activities adapted to the specificities of the sectors *or occupations* identified. Member States that have broad national anti-corruption strategies in place could also choose to address their risk assessments in those strategies, as long as the risks are assessed and the measures are reviewed regularly. For instance, as stated in the report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of Regions of 23 January 2019 entitled ‘Investor Citizenship and Residence schemes in the European Union’ investor residence schemes are among the sectors *that bear* high risks for corruption and should therefore be included in the assessments of the sectors most at risk of corruption and the training sessions to be conducted by Member States as provided for by this Directive.

- (44) To provide for an equivalent level of protection between the Union's and the national financial interests, the provisions of Directive (EU) 2017/1371 should be aligned with those of this Directive. To that end, the rules applicable to criminal offences affecting the Union's financial interests as regards criminal or non-criminal penalties, aggravating and mitigating circumstances and limitation periods should be equivalent to those laid down by this Directive.
- (45) The implementation of this Directive should ensure a level of protection of the Union's financial interests which is equivalent to the protection of the national financial interests.
- (46) Since the objectives of this Directive, namely to establish common minimal rules concerning the definitions of criminal offences in the area of corruption in all Member States and the availability of effective, proportionate and dissuasive criminal penalties for those offences, cannot be sufficiently achieved by Member States but can rather, by reason of the scale and effects of this Directive, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union (TEU). In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary to achieve those objectives.

- (47) The intended dissuasive effect of the application of criminal law *penalties* requires particular caution with regard to fundamental rights. This Directive respects fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union (the ‘Charter’) and in particular the right to liberty and security, the protection of personal data, the freedom to choose an occupation and right to engage in work, the freedom to conduct a business, the right to property, the right to an effective remedy and to a fair trial, the presumption of innocence and the right of defence, the principles of the legality and proportionality of criminal offences and *penalties*, as well as the principle of *ne bis in idem*.
- (48) ***In accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council<sup>24</sup> the European Data Protection Supervisor delivered an opinion on 21 June 2023.***
- (49) **█** In accordance with Article 3 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the TEU and to the TFEU, Ireland has notified, ***by letter of 10 July 2023***, its wish to take part in the adoption and application of this Directive.

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<sup>24</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39, ELI: <http://data.europa.eu/eli/reg/2018/1725/oj>).

(50) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark annexed to the TEU and to the TF EU, Denmark is not taking part in the adoption of this Directive and is not bound by it or subject to its application. Council Framework Decision 2003/568/JHA shall continue to be binding upon and applicable to Denmark,

HAVE ADOPTED THIS DIRECTIVE:

## *Chapter I*

### **GENERAL PROVISIONS**

#### Article 1

##### Subject matter and scope

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

#### Article 2

##### Definitions

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

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- (1) ‘property’ means funds or assets of any kind, ***including crypto assets***, 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 funds or assets;

- (2) ‘public official’ means:
- (a) a Union official, or a national official of a Member State or of a third country;
  - (b) any other person assigned and exercising a public service function, *in accordance with national law, including those mandated by or under the authority of a public authority* in Member States or third countries;
  - (c) a person assigned and exercising a public service function for an international organisation or for an international court;

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

- (a) an official or other servant engaged under contract by the Union within the meaning of the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Union laid down in Council Regulation (EEC, Euratom, ECSC) No 259/68<sup>25</sup> (the ‘Staff Regulations’), or
- (b) seconded to the Union by a Member State or by any public or private body, and who carries out functions equivalent to those performed by Union officials or other servants.

***Members of an institution, body, office or agency of the Union and the staff of such bodies shall be assimilated to Union officials, inasmuch as the Staff Regulations do not apply to them;***

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<sup>25</sup> Regulation (EEC, Euratom, ECSC) No 259/68 of the Council of 29 February 1968 laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities and instituting special measures temporarily applicable to officials of the Commission (OJ L 56, 4.3.1968, p. 1).

(4) ‘national official’ means any person holding an executive, administrative or judicial office at national, regional or local level, whether appointed or elected, ***or employed on the basis of a contract***, whether permanent or temporary, paid or unpaid, irrespective of that person’s seniority.

Any person holding a legislative office at national, regional or local level ***shall be assimilated to*** a national official, ***in accordance with national law***;

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(5) *‘arbitrator’ means any person called upon to render a legally binding decision in disputes submitted by the parties to the arbitration agreement where the status of arbitrators is set out in national law;*

(6) *‘juror’ means any person acting as a member of a body responsible for deciding on the guilt of an accused person within the framework of a trial, in accordance with national law;*

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(7) ‘breach of duty’ means, as a minimum, any ■ behaviour constituting a breach of a statutory duty or 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;

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(8) ‘legal person’ means any entity having legal personality under applicable national law, except for States or public bodies in the exercise of State authority and for public international organisations;

- (9) ‘high-level official’ *means a public official who is entrusted with key executive, administrative, legislative or judicial functions in accordance with national law; this may include:* heads of central and regional government, members of central and regional government, █ deputy ministers, state secretaries, *key political advisers*, heads and members of a minister’s private office *or cabinet when such have been established*, members of parliamentary chambers, members of █ constitutional and supreme courts, *a prosecutor general*, and members of supreme audit institutions *as well as members of the College of Commissioners of the European Commission and of the European Parliament.*

*The provisions of this Directive concerning high -level officials shall be understood without prejudice to immunities and privileges established under national constitutions or laws.*

## *Chapter II*

### *CORRUPTION OFFENCES*

#### Article 3

##### Bribery in the public sector

Member States shall take the necessary measures to ensure that, *where it is intentional*, the following conduct *constitutes* a criminal offence:

- (a) the promise, *offering* 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 *that* official to act or refrain from acting in the exercise of that official’s functions (active bribery in the public sector);

- (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 the offer** or the promise of such an advantage for that official or for a third party, in order for **that** official to act or to refrain from acting in the exercise of that official's functions (passive bribery in the public sector).

***For the purposes of this Article, arbitrators and jurors shall be considered to be public officials.***

#### Article 4

##### Bribery in the private sector

Member States shall take the necessary measures to ensure that, **where it is intentional** and in the course of economic, financial, **or** business or commercial activities, **the following conduct constitutes a criminal offence**:

- (a) the promise, **offering** or giving, directly or through an intermediary, **of** an undue advantage of any kind to a person who **in any capacity** directs or works in 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 in the private sector);

- (b) the request or receipt by a person who in any capacity directs or works in a private-sector entity, directly or through an intermediary, of an undue advantage of any kind or the ***acceptance of the offer or the*** promise of such an advantage 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 (passive bribery in the private sector).

## Article 5

### Misappropriation

1. Member States shall take the necessary measures to ensure that, ***where it is intentional, the committing, disbursing, appropriation or use by a public official of property whose management is directly or indirectly entrusted to that public official contrary to the purpose for which it was intended, constitutes*** a criminal offence, ***either*** when committed ***for that official's advantage or for the advantage of another person or entity, or when damaging the financial interests of the public or private entity concerned.***



2. ***Member States may take the necessary measures to ensure that, where it is intentional,*** the committing, disbursing, appropriation or use, in the course of economic, financial, ***or*** business or commercial activities, by a person who in any capacity ***directs or works*** in a private-sector entity, of any property whose management is directly or indirectly entrusted to ***that person*** contrary to the purpose for which it was intended, ***constitutes a criminal offence, either when committed for that person's advantage or for the advantage of another person or entity, or when damaging the financial interests of the public or private entity concerned.***

Article 6  
Trading in influence

1. Member States shall take the necessary measures to ensure that, *where it is intentional*, the following conduct *constitutes* a criminal offence **■** :
  - (a) the promise, *offering* or giving, directly or through an intermediary, of an undue advantage of any kind to *any* person to exert *improper* influence *over an action or omission by a public official in the exercise of that official's functions* with a view to obtaining an undue advantage from a public official;
  - (b) the request or receipt, directly or through an intermediary, of an undue advantage of any kind, or the *acceptance of an offer or a* promise of such an advantage, *by any* person to exert *improper* influence *over an action or omission by a public official in the exercise of that official's functions* with a view to obtaining an undue advantage from a public official.

*For the purposes of this Article, arbitrators and jurors shall be considered to be public officials.*

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

## Article 7

### Unlawful exercise of public functions

Member States shall take the necessary measures to ensure that, where intentional, *at least certain serious violations of law in the performance of or failure to perform an act by a public official in the exercise of that official's functions constitute* criminal offences. *Member States may limit the application of this Article to certain categories of public officials.*

## Article 8

### Obstruction of justice

Member States shall take the necessary measures to ensure that, *where it is intentional*, the following conduct *constitutes one or several* criminal offences:

- (a) the use, directly or through an intermediary, of physical force, threats or intimidation or the *promising*, 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 *in relation to the commission of* any of the offences referred to in Articles 3 to 6, 9 and 11;
- (b) 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* any of the offences referred to in Articles 3 to 6, 9 and 11.

## Article 9

### Enrichment from corruption offences

Member States shall take the necessary measures to ensure that the intentional acquisition, possession or use *of property* by a public official *knowing at the time of receipt, that such property was derived from the commission by another public official* of any of the offences *referred to* in Articles 3 to 6, 8 and 11, *constitutes* a criminal offence.

## Article 10 Concealment

*Member States shall take the necessary measures to ensure that the intentional concealment or disguising of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property is derived from the commission of any of the offences referred to in Articles 3 to 6, 8 and 11 constitutes a criminal offence.*

## Article 11

### Inciting, aiding and abetting, and attempt

1. Member States shall take the necessary measures to ensure that inciting *the commission of a criminal offence* referred to in Articles 3 to 6 and 8 to 10 *constitutes* a criminal offence.
2. Member States shall take the necessary measures to ensure that aiding and abetting *the commission of a criminal offence* referred to in Articles 3 to 6 and 8 to 10 *constitutes* a criminal offence.

3. Member States shall take the necessary measures to ensure that *an attempt to commit* a criminal offence referred to in Articles 9 and 10 is punishable as a criminal offence, and shall consider taking the necessary measures to ensure that an attempt to commit at least one of any of the criminal offences referred to in Articles 3 to 6 is punishable as a criminal offence.

## Article 12

### Penalties and measures for natural persons

1. Member States shall take the necessary measures to ensure that the criminal offences referred to in Articles 3 to 11 are punishable by effective, proportionate and dissuasive criminal penalties.
2. Member States shall take the necessary measures to ensure that:
  - (a) the criminal *offence* referred to in Article 3, *where the act to be performed or the refraining from acting to be performed by the official is in breach of that official's duties*, is punishable by a maximum term of imprisonment of at least *five* years;
  - (b) the criminal offences referred to in *Article 5(1) and Articles 9 and 10* are punishable by a maximum term of imprisonment of at least *four* years; █
  - (c) the criminal *offences* referred to in *Article 3, where the act to be performed or the refraining from acting to be performed by the official is not in breach of that official's duties, and Articles 4 and 6* are punishable by a maximum term of imprisonment of at least *three* years.

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3. ■ Member States may provide *that conduct described in Article 5 does not constitute a criminal offence where the advantage or damage involved is less than EUR 10 000. Member States shall take the necessary measures to ensure that the threshold of EUR 10 000 or more may be met through a series of conduct covered by Article 5 that is linked and of the same kind, where that conduct is carried out by the same offender.*

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4. Without prejudice to paragraphs 1 *and 2 of this Article*, Member States shall take the necessary measures to ensure that natural persons who have *committed* offences referred to in Articles 3 to 6 *and 8 to 11* may be subject to *additional criminal or non-criminal penalties or measures* ■ that are *proportionate to the gravity of the conduct. Such penalties or measures may include the following:*

- (a) fines;
- (b) the removal, suspension and reassignment from a public office;

- (c) the disqualification from:
  - (i) holding a public office,
  - (ii) exercising a public service function,
  - (iii) holding office in a legal person owned in whole or in part by that Member State,

(iv) the *practice of business* activities *that resulted in or enabled the relevant* offence ■ ;

- (d) *temporary bans on running for public office;*
- (e) withdrawal of permits *and* authorisations to pursue activities *that resulted in or enabled the relevant* offence;
- (f) exclusions from access to public funding, including tender procedures, grants, concessions *and licences;*
- (g) *where there is a public interest, publication of all or part of the judicial decision that relates to the criminal offence committed and the penalties or measures imposed, without prejudice to rules on privacy and the protection of personal data.*

## Article 13

### Liability of legal persons

1. Member States shall ■ ensure that legal persons can be held liable for ■ criminal offences referred to in Articles 3 to **6 and 8 to 11** *where such offences have been* committed for the benefit of those legal persons by any person *who has a leading position within the legal person concerned*, acting either individually or as part of an organ of *that* legal person, based on one or more of the following:
  - (a) a power of representation of the legal person;
  - (b) *an* authority to take decisions on behalf of the legal person; or
  - (c) *an* authority to exercise control within the legal person.
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 of this Article has made possible the commission *by a person under its authority of a criminal offence* referred to in Articles 3 to **6 and 8 to 11** for the benefit of *that* legal person.
3. Liability of legal persons under paragraphs 1 and 2 of this Article shall not preclude criminal proceedings against natural persons who *commit, incite or are* accessories *to* the criminal offences referred to in Articles 3 to **6 and 8 to 11**.

## Article 14

### ***Penalties and measures for legal persons***

1. Member States shall take the necessary measures to ensure that a legal person held liable pursuant to Article 13(1) or (2) is punishable by effective, proportionate and dissuasive ***criminal or non-criminal penalties or measures***.
2. Member States shall take the necessary measures to ensure that ***penalties*** or measures for legal persons ***held*** liable pursuant to Article 13(1) or (2) ***for the criminal offences referred to in Articles 3 to 6 and 8 to 11 shall include criminal or non-criminal fines, the amount of which shall be proportionate to the gravity of the conduct and to the individual, financial and other circumstances of the legal person concerned, and may include other criminal or non-criminal penalties or measures that are proportionate to the gravity of the conduct, such as:***

■

- (a) ■ exclusion ■ from entitlement to public benefits or aid;
- (b) ***exclusions from access to public funding, including tender procedures, grants, concessions and licences;***
- (c) ■ temporary or permanent disqualification ■ from the ***practice of business*** activities;
- (d) ■ withdrawal of permits ***and*** authorisations to pursue activities ***which have resulted in or enabled the relevant*** offence ■ ;

- (e) **█** possibility for public authorities to annul or rescind a contract **█** , in the context of which the offence was committed;
- (f) **█** placing **█** under judicial supervision;
- (g) **█** judicial winding-up **█** ;
- (h) **█** closure of establishments **█** used for committing the offence; and
- (i) *where there is a public interest, publication of all or part of the judicial decision relating to the criminal offence committed and the penalties or measures imposed, without prejudice to rules on privacy and the protection of personal data.*

3. *Member States shall take the necessary measures to ensure that, at least a legal person held liable pursuant to Article 13(1) for the criminal offences referred to in Articles 3 to 6, and 9 is punishable by criminal or non-criminal fines, the amount of which shall be proportionate to the gravity of the conduct and to the individual, financial and other circumstances of the legal person concerned. Member States shall take the necessary measures to ensure that the maximum level of such fines is not less than:*

(a) *for criminal offences referred to in Articles 3 to 5:*

*(i) 5% of the total worldwide turnover of the legal person, either in the business year preceding that in which the offence was committed, or in the business year preceding that of the decision to impose the fine; or alternatively*

*(ii) an amount corresponding to EUR 40 000 000;*

*(b) for criminal offences referred to in Articles 6, 8 and 9:*

*(i) 3% of the total worldwide turnover of the legal person, either in the business year preceding that in which the offence was committed, or in the business year preceding that of the decision to impose the fine; or alternatively*

*(ii) an amount corresponding to EUR 24 000 000.*

*Member States may establish rules for cases where it is not possible to determine the amount of the fine on the basis of the total worldwide turnover of the legal person in the business year preceding that in which the offence was committed, or in the business year preceding that of the decision to impose the fine.*

**I**

## Article 15

### Aggravating ◻ circumstances

◻

1. *To the extent that it does not already form part of the constituent elements of the criminal offences referred to in Articles 3 to 6 and 9, Member States shall take the necessary measures to ensure that ◻, in relation to the **relevant** criminal offences referred to in Articles 3 to 6 and 9 to 11, the circumstance that the offences have been committed within the framework of a criminal organisation within the meaning of Council Framework Decision 2008/841/JHA is regarded as an aggravating circumstance.*
- 2.. *To the extent that the following circumstances do not already form part of the constituent elements of the criminal offences referred to in Articles 3 to 6 and 9, Member States may take the necessary measures to ensure that, in relation to the relevant offences referred to in Articles 3 to 6 and 9 to 11, one or more of the following circumstances can, in accordance with national law, be regarded as an aggravating circumstance:*
  - (a) the offender is a high-level official;

- (b) the offender has *previously* been convicted *by a final judgment* of *offences of the same nature as those* referred to *in* Articles 3 to **6 and 9** to 11;
- (c) the offender obtained a substantial benefit or the offence caused substantial damage, *to the extent that such benefit or damage can be determined*;



- (d) the offender exercises investigation, prosecution or adjudication functions;
- (e) *the offender took advantage of the vulnerable situation of a person involved in the commission of the offence*;



- (f) the offender is an obliged entity within the meaning of Article 2 of Directive (EU) 2015/849 of the European Parliament and of the Council<sup>26</sup>, or an employee of an obliged entity, or has the power, whether individually or as part of an organ of the obliged entity, to represent that entity, or the authority to take decisions on behalf of that entity or to exercise control within the obliged entity, and has committed the offence in the exercise of his or her professional activities.

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<sup>26</sup> Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73, ELI: <http://data.europa.eu/eli/dir/2015/849/oj>).

*Article 16*  
**Mitigating** circumstances

Member States shall take the necessary measures to ensure that, in relation to the relevant offences referred to in Articles 3 to 6 and 8 to 11, one or more of the following circumstances can, in accordance with national law, be regarded as a mitigating circumstance :

- (a) the offender provides the competent authorities with information which they would not otherwise have been able to obtain, helping them to identify or bring to justice *the* other offenders;
- (b) the offender provides the competent authorities with information they would not otherwise have been able to obtain, helping them to find evidence ;
- (c) where a legal person *is held liable for any of the offences referred to Articles 3 to 6 and 8 to 11* and, *unless it constitutes a ground for exclusion of liability*, it has implemented effective internal controls, ethics awareness, and compliance programmes to prevent corruption prior to or after the commission of the offence;

- (d) where ■ a legal person *is held liable for any of the offences referred to Articles 3 to 6 and 8 to 11* and it has, once the offence has been discovered, rapidly and voluntarily disclosed the offence to the competent authorities and taken remedial measures.

*The mitigating circumstances referred to in points (c) and (d) are applicable only to legal persons.*

#### Article 17

Privileges with regard to and immunity from investigation and prosecution of corruption offences

*Unless it is contrary to their constitutions, constitutional principles and laws*, Member States shall take the necessary measures to ensure that privileges with regard to and immunity from investigation and prosecution granted to national officials for the criminal offences referred to in this Directive can be lifted ■ .

■

Article 18  
Jurisdiction

1. ***Each*** Member State shall ***take the necessary measures to*** establish ***its*** jurisdiction over the criminal offences referred to in this Directive where:
  - (a) the offence ***was*** committed in whole or in part ***within*** its territory;
  - (b) the offender is ***one of its nationals***.
  
2. ***A Member State shall inform the Commission where it decides to extend its jurisdiction to one or more criminal offences referred to in this Directive which have been committed outside its territory, where:***
  - (a) ***the offender is a habitual resident in its territory;***
  - (b) ***the offence is committed against one of its nationals or its habitual residents;***
  - (c) ***the offence is committed for the benefit of a legal person established in its territory;***
  - (d) ***the offence is committed for the benefit of a legal person in respect of any business done in whole or in part on its territory.***

3. Where a criminal offence referred to in this Directive falls within the jurisdiction of more than one Member State, *those* Member States shall cooperate to determine which *Member State is to* conduct *the* criminal proceedings. The matter shall, where appropriate, be referred to Eurojust in accordance with Article 12(2) of Council Framework Decision 2009/948/JHA<sup>27</sup>.
4. In █ cases referred to in paragraph 1, point (b), █ Member *States* shall *take the necessary measures to* ensure that the exercise of *their* jurisdiction is not subject to the condition that prosecution can be initiated only following a denunciation from the State *of the place where* the criminal offence was committed or following a report made █ in the State where the criminal offence was committed.

#### Article 19

##### █ Limitation periods █

1. Member States shall take the necessary measures to provide for a limitation period *that enables the investigation, prosecution, trial and adjudication* of the criminal offences referred to in Articles 3 to 6 and 8 to 11 *for a sufficient period of time after the commission of those criminal offences, in order for those criminal offences to be tackled effectively* █. Such limitation period shall *be as follows*:
  - (a) *at least eight* years from the commission of a criminal offence *punishable by a maximum term of imprisonment of at least four years*;
  - (b) *at least five* years from the commission of a criminal offence *punishable by a maximum term of imprisonment of at least three years*.█
2. *Member States shall take the necessary measures to provide for a limitation period that enables the enforcement of penalties imposed following a final conviction for the*

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<sup>27</sup> Council Framework Decision 2009/948/JHA of 30 November 2009 on prevention and settlement of conflicts of exercise of jurisdiction in criminal proceedings (OJ L 328, 15.12.2009, p. 42, ELI: [http://data.europa.eu/eli/dec\\_framw/2009/948/oj](http://data.europa.eu/eli/dec_framw/2009/948/oj)).

*criminal offences referred to in Articles 3 to 6 and 8 to 11 for a sufficient period of time after that conviction. Such limitation period shall be as follows:*

(a) *at least ten years* from the date of the final conviction *in the following cases:*

(i) *a penalty of imprisonment of more than one year, or alternatively*

(ii) *a penalty of imprisonment for a criminal offence punishable by a maximum term of imprisonment of at least four years;*

(b) *at least five years* from the date of the final conviction *in the following cases:*

(i) *a penalty of imprisonment of up to one year, or alternatively*

(ii) *a penalty of imprisonment for a criminal offence punishable by a maximum term of imprisonment of at least three years.*

■

3. By way of derogation from paragraph *1 of this Article*, Member States may establish a shorter limitation period, provided that such limitation period may be interrupted or suspended in the event of specified acts **I**. This period shall not be shorter than:
- (a) *five years for criminal offences punishable by a maximum term of imprisonment of at least four years;*
  - (b) *three years for criminal offences punishable by a maximum term of imprisonment of at least three years;*
4. *By way of derogation from paragraph 2 of this Article, Member States may establish a shorter limitation period, provided that such limitation period may be interrupted or suspended in the event of specified acts. This period shall not be shorter than:*
- (a) *five years from the date of the final conviction in the following cases:*
    - (i) *a penalty of imprisonment of more than one year, or alternatively*
    - (ii) *a penalty of imprisonment for a criminal offence punishable by a maximum term of imprisonment of at least four years;*
  - (b) *three years from the date of the final conviction in the following cases:*
    - (i) *a penalty of imprisonment of up to one year, or alternatively*
    - (ii) *a penalty of imprisonment for a criminal offence punishable by a maximum term of imprisonment of at least three years.*

**I**

### *Chapter III*

#### *PREVENTION, REPORTING AND INVESTIGATION*

##### *Article 20*

##### ■ *Prevention of corruption*

1. Member States shall take appropriate action, such as information and awareness-raising campaigns ■ , to raise awareness *among the public and in the private sector* on the *impact and* harmfulness of corruption *with the objective of* reducing the overall commission of corruption offences as well as the risk of corruption.
2. Member States shall take measures to ensure a *high level of integrity*, transparency and accountability in public administration and public decision-making with a view to preventing corruption. *Member States shall promote a public service culture based on those principles, ensuring that national officials and administrations continue to develop their capacity to uphold adequate professional standards, and their awareness of conflict-of-interest situations and of the risks of corruption.*

3. Member States shall take measures to ensure that ■ preventive tools *are in place*. *Those tools may include, for instance, appropriate* access to information of public interest, ■ rules for the disclosure and management of conflicts of interest in the public sector, *measures to ensure transparency in the funding of candidatures for elected* public officials and *political parties, rules for asset declarations and verification of such declarations, interest declarations by national officials designated by national law and regulation of revolving-door situations involving such officials, rules regarding failure to report substantial assets or interests, and* rules regulating the interaction between the private and the public sector ■ .
4. Member States shall *ensure that* measures to prevent corruption in both the public and private sectors, *are available and tailored* to the specific risks of an area of activity. Such measures shall at least include activities to strengthen integrity and to prevent opportunities for corruption among:
- (a) high-level officials;
  - (b) ■ law enforcement and *judicial authorities*, including measures relating to their appointment and conduct ■ .

5. Member States shall, *within appropriate intervals*, perform an assessment to identify the sectors *or occupations* most at risk of corruption *and develop measures to address the main risks in the sectors or occupations identified*.
6. **■** Following the assessment referred *in paragraph 5*, Member States shall, *as appropriate, regularly organise awareness-raising activities adapted to the specificities of the sectors or occupations identified, including on ethics*.  
**■**
7. Where appropriate, Member States shall take measures to promote the participation of civil society, *academia*, non-governmental organisations and community-based organisations in anti-corruption activities.

*Article 21*  
*National strategies*

*Without prejudice to existing policies, each Member State shall adopt and publish a national strategy on preventing and combatting corruption, establishing objectives, priorities and corresponding measures and the means to meet those objectives. Member States shall strive to ensure that such national strategy is developed in consultation with civil society, the relevant bodies or units referred to in Article 22, independent experts, researchers and other stakeholders, and shall take into account the Member States' needs, specificities and challenges.*

Article 22  
*Anti-corruption bodies or organisational units*

1. To advance the fight against corruption on a common basis, Member States shall ensure that one or several bodies or organisational units tasked with the prevention of corruption are in place and possess the necessary expertise to fight against corruption. The tasks of such bodies or organisational units may include, as appropriate:
  - (a) *the assessment of asset declarations of national officials, as designated by national law;*
  - (b) *monitoring compliance with transparency rules applicable to national officials and public entities;*

- (c) *monitoring compliance with the statutory provisions and rules related to conflicts of interest in the public sector;*
  - (d) *identifying sectors or occupations most at risk of corruption;*
  - (e) *cooperation with competent authorities, bodies or organisational units tasked with the repression of corruption.*
2. Member States shall take the necessary measures to ensure that one or several bodies or organisational units *tasked with* the repression *and investigation* of corruption are in place.
3. Member States shall take the necessary measures to ensure that ■ the bodies or *organisational* units as referred to in paragraph 1 and 2:
- (a) *operate without undue interference;*
  - (b) are known to the public;
  - (c) *where relevant, take decisions or make recommendations in accordance with transparent procedures established by law, regulations or administrative provisions;*
  - (d) *report on their main activities and their results.*

## Article 23

### Resources

Member States shall ensure that the *bodies or organisational units tasked with prevention and repression of corruption* have 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.

## Article 24

### Training

1. Each Member State shall take the necessary measures to *provide up-to-date* training for its national officials to be able to identify different forms of corruption and corruption risks that can occur in the exercise of their duties and to react in a timely and appropriate manner to any suspicious activity.
2. *Without prejudice to judicial independence and differences in the organisation of the judiciary across the Union*, each Member State shall take the necessary measures to *provide specialised and up-to-date* training *for* law enforcement *and judicial* authorities tasked with criminal investigations and *criminal* proceedings of offences falling within the scope of this Directive.

## Article 25

### Protection of persons who report offences or assist the investigation *thereof*

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 3 to 11 *of this Directive and to* the protection of persons reporting such offences, *under the conditions established therein*.
2. In addition to the measures referred to in paragraph 1, Member States shall *take the necessary measures to* ensure that *any person* reporting offences referred to in this Directive, **█** providing evidence or otherwise cooperating with *competent authorities, has access to* protection, support and assistance *measures* in the context of criminal proceedings, *in accordance with national law*.

**█**

## Article 26

### Investigative tools

Member States shall take the necessary measures to ensure that effective *and proportionate* investigative tools **■** are available **■** for investigating or prosecuting the criminal offences referred to in this Directive. *Where appropriate, those tools shall include special investigative tools, such as those used in countering organised crime or in other serious crime cases.*

**■**

## Article 27

### Freezing and confiscation

*Member States shall take the necessary measures to enable the tracing, identifying, freezing and confiscation of instrumentalities and proceeds from the criminal offences referred to in Chapter II of this Directive.*

*Member States bound by Directive 2014/42/EU of the European Parliament and of the Council<sup>28</sup> shall take the measures referred to in the first paragraph of this Article in accordance with that Directive.*

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<sup>28</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, 29.4.2014, p. 39, ELI: <http://data.europa.eu/eli/dir/2014/42/oj>).

*Article 28*  
*Exchange of information*

*Member States shall take the necessary measures to ensure that Europol's Secure Information Exchange Network Application (SIENA) is used for the exchange of information between competent law enforcement authorities in accordance with Article 13 of Directive (EU) 2023/977.*

*Article 29*  
*Rights of victims*

*Without prejudice to Directive 2012/29/EU, Member States shall take the necessary measures to apply the relevant rights under applicable law to the victims of offences under this Directive, including legal persons, where applicable, in accordance with national law.*

█

### *Article 30*

#### *Rights for the public concerned to participate in proceedings*

*Member States shall ensure that persons affected or likely to be affected by the criminal offences referred to in Articles 3 to 9 of this Directive and persons having sufficient interest or maintaining the impairment of a right as well as non-governmental organisations that are involved in the fight against corruption and meet requirements under national law, have appropriate procedural rights in proceedings concerning those offences, where such procedural rights for the public concerned exist in the Member State in proceedings concerning other criminal offences, for instance as a civil party.*



### *Article 31*

#### *Suspension or reassignment of a public official*

*Member States shall consider establishing criminal, administrative or disciplinary procedures under which a public official accused of a criminal offence referred to in this Directive may, where appropriate, be suspended or temporarily reassigned by the competent authority, with due respect for the principle of the presumption of innocence.*

*Chapter IV*  
**COORDINATION AND COOPERATION**

Article 32

Cooperation between the Member States and Union institutions, bodies, offices or agencies

***Where the criminal offences referred to in this Directive are suspected to be of a cross-border nature, the competent authorities of the Member States concerned shall consider referring the information related to those offences to appropriate competent Union institutions, bodies, offices or agencies.***

Without prejudice to the rules on cross-border cooperation and mutual legal assistance in criminal matters, ***the*** Member States **█**, Europol, Eurojust, the European Public Prosecutor's Office ***and*** 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, ***Eurojust shall***, where appropriate, **█** provide ***the*** technical and operational assistance ***needed*** by the competent authorities ***to facilitate coordination of their investigations.***  
***The Commission and OLAF may, where appropriate, provide assistance.***

**█**

## Article 33

### Commission support to Member States and their competent authorities

1. The Commission shall prepare an overview of sectoral risks of corruption in the Union and facilitate information exchange among Member States and experts across the Union.
2. **The tasks of** the Commission, through the EU network against corruption, shall **include**:
- (a) facilitating cooperation and exchange of best practices among Member States' practitioners, **civil society representatives**, experts, researchers and other stakeholders;
  - (b) **upon request, supporting all stakeholders, and in particular Member States, in their** activities, by developing best practices, **non-binding** guidance materials and methodologies.
3. The Commission shall inform Member States about financial resources at Union level available to Member States for the fight against corruption, **including Union anti-corruption programmes with third countries**.

## Article 34

### Data collection and statistics

1. Member States shall ***have a system in place for the recording, production and provision of anonymised*** statistical data on the criminal offences referred to in Articles 3 to 11 of this Directive.
2. The statistical data referred to in paragraph 1 shall, ***as a minimum***, include **■** the following ***existing data, when available at the central level***:
  - (a) the number of criminal ***offences registered and adjudicated by the Member States***;  
**■**
  - (b) the number of ***dismissed court cases, including the number of cases dismissed on the grounds of expiry of the limitation period for the criminal offence concerned***;
  - (c) ***the number of non-trial resolutions for cases of the criminal offences referred to in Articles 3 to 11, when such mechanisms exist in a Member State at any stage of the relevant proceedings***;
  - (d) the number of ***natural persons with specification, when available, of the number of public officials and high-level officials that are***:
    - (i) ***prosecuted***,
    - (ii) ***convicted***,
    - (iii) ***fined***;

- (e) the *number of legal persons that are:*
  - (i) *prosecuted,*
  - (ii) *convicted,*
  - (iii) *fined;*
- (f) the *types and levels of penalties imposed for the criminal offences referred to in Articles 3 to 11;*
- (g) ■ the number of *pardons related to* convictions *regarding Articles 3, 4, 5 and 6.*

■

3. Member States shall, on an annual basis and *where possible* by 1 June, *but no later than 31 December*, publish, in a machine-readable, *easily accessible and comparable* format, the statistical data referred to in paragraph 2 for the previous year and inform the Commission thereof.

■

*Chapter V*  
**FINAL PROVISIONS**

Article 35

Replacement of Council Framework Decision 2003/568/JHA and of the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union

1. Framework Decision 2003/568/JHA is replaced with regard to the Member States bound by this Directive, without prejudice to the obligations of those Member States with regard to the date for transposition of that Framework Decision into national law.

With regard to the Member States bound by this Directive, references to Framework Decision 2003/568/JHA shall be construed as references to this Directive. ***In particular, references to Article 2 of Framework Decision 2003/568/JHA shall be construed as references to Chapter II of this Directive.***

2. The Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union is replaced with regard to the Member States bound by this Directive.

With regard to the Member States bound by this Directive, references to that Convention shall be construed as references to this Directive. ***In particular, references to Article 3 of that Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union shall be construed as references to Chapter II of this Directive.***

#### Article 36

#### Amendments to Directive (EU) 2017/1371

Directive (EU) 2017/1371 is amended as follows:

(1) in Article 2(1), the following point is inserted:

‘(c) ‘high-level official’ means a high-level official as defined in Article 2, ***point (9)***, of Directive (EU) 2026/... ***of the European Parliament and of the Council***<sup>+</sup>.’

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\* *Directive (EU) 2026/... on combatting 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 (OJ L ..., ..., ELI: ...).’;*

(2) Article 4(2) is replaced by the following:

“2. Member States shall take the necessary measures to ensure that passive and active bribery in the public sector, when committed intentionally, constitute criminal offences.

(a) For the purposes of this Directive, ‘passive bribery in the public sector’ means the action of a public official who, directly or through an intermediary, requests or receives advantages of any kind, for himself or for a third party, or accepts a promise of such an advantage, to act or to refrain from acting in accordance with his duty or

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<sup>+</sup> OJ: Please insert in the text the number of the Directive contained in document PE-CONS 01/26 (2023/0135(COD)) and insert the number, date, title, OJ reference and ELI reference of that Directive in the footnote.

in the exercise of his functions in a way which damages or is likely to damage the Union's financial interests.

- (b) For the purposes of this Directive, ‘active bribery in the public sector’ means the action of a person who promises, offers or gives, directly or through an intermediary, an advantage of any kind to a public official for himself or for a third party for him to act or to refrain from acting in accordance with his duty or in the exercise of his functions in a way which damages or is likely to damage the Union's financial interests.”

■

(3) Article 7 is amended as follows:

(a) paragraph 3 is replaced by the following:

‘3. Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 3 *and in Article* 4(1) and (3) are punishable by a maximum term of imprisonment of at least *four* years where those criminal offences involve considerable damage or advantage.

*Member States shall take the necessary measures to ensure that, where the act to be performed or the refraining from acting to be performed by the official is not in breach of that official’s duties, the criminal offences referred to in Article 4(2) are punishable by a maximum term of imprisonment of at least four years* where those criminal offences *involve considerable damage or advantage.*

Member States shall take the necessary measures to ensure that, *where the act to be performed or the refraining from acting to be performed by the official is in breach of that official’s duties*, the criminal offences referred to in Article 4(2) are punishable by a maximum term of imprisonment of at least five years of imprisonment where those criminal offences involve considerable damage or advantage.

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.

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.

*Member States may also provide for a maximum term of imprisonment of at least four years in other serious circumstances defined in their national law.'*

(b) paragraph 4 is replaced by the following:

- ‘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 penalties other than criminal penalties.’

(c) the following paragraph is added:

‘6. Without prejudice to paragraphs 1 to 5 of this Article, Member States shall take the necessary measures to ensure that natural persons who have **committed the** criminal offences referred to in **Articles 3, 4 and 5** of this Directive may be subject to **additional criminal or non-criminal penalties** or measures **which may include those** referred to in Article 12(4) of Directive (EU) 2026/...<sup>+</sup>’

(4) Article 8 is replaced by the following:

‘Article 8

Aggravating and mitigating circumstances

***Member States shall take the necessary measures to ensure that where a criminal offence referred to in Articles 3, 4 or 5 of this Directive is committed within a criminal organisation as defined in Framework Decision 2008/841/JHA, this shall be considered to be an aggravating circumstance.***

Member States **may** take the necessary measures to ensure that **one or more of** the circumstances referred to in Article 15 and 16 of Directive (EU) 2026/ ...<sup>+</sup> **can, in accordance with the relevant provisions of national law**, be regarded as aggravating and mitigating circumstances, in relation to the criminal offences referred to in this Directive.’

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<sup>+</sup> OJ: Please insert in the text the number of the Directive contained in document PE-CONS 01/26 (2023/0135(COD)).

<sup>+</sup> OJ: Please insert in the text the number of the Directive contained in document PE-CONS 01/26 (2023/0135(COD)).

(5) Article 9 is replaced by the following:

‘Article 9

Penalties for legal persons

1. Member States shall take the necessary measures to ensure that a legal person held liable **■** pursuant to Article 6 *is* punishable by effective, proportionate and dissuasive ***criminal or non-criminal penalties or measures***.
2. Member States shall take the necessary measures to ensure that ***penalties*** or measures for legal persons held liable pursuant to Article 6 of this Directive shall include ***criminal or non-criminal fines, the amount of which shall be proportionate to the gravity of the conduct and to the individual, financial and other circumstances of the legal person concerned, and may include other criminal or non-criminal penalties or measures that are proportionate to the gravity of the conduct, such as*** those referred to in Article 14(2) of Directive (EU) 2026/...<sup>+</sup>.

***Insofar as legal persons are held liable pursuant to Article 6(1) of this Directive, for the criminal offences referred to Articles 4(2) and (3) of this Directive, Article 14(3) of Directive (EU) 2026/...<sup>+</sup> is applicable.***

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<sup>+</sup> OJ: Please insert in the text the number of the Directive contained in document PE-CONS 01/26 (2023/0135(COD)).

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(6) Article 12 is amended as follows:

(a) paragraphs 2, 3 and 4 are replaced by the following:

‘2. *Member States shall take the necessary measures to enable the investigation, prosecution, trial and adjudication of criminal offences referred to in Article 3, in Article 4(1) and in Article 5 which are punishable by a maximum term of imprisonment of at least four years, for a period of at least five years from the commission of the criminal offence.*

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3. By way of derogation from paragraph 2, Member States may establish a ■ limitation period *that is shorter than five years, but not shorter than three years*, provided that *such limitation* period may be interrupted or suspended in the event of specified acts

■ . ■

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4. Member States shall take the necessary measures to enable the *investigation, prosecution, trial and adjudication of criminal offences referred to in Articles 4(2) and (3) which are punishable by a maximum term of imprisonment of at least four years, for a period of at least eight years from the commission of the criminal offence.*

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(b) the following paragraphs are added:

- ‘5. By way of derogation from paragraph 4, Member States may establish a ■ limitation period *that is shorter than eight years, but not shorter than five years*, provided that such limitation period may be interrupted or suspended in the event of specified acts ■ . ■  
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6. *Member States shall take the necessary measures to provide for a limitation period of at least five years from the date of the final conviction for a criminal offence referred to in Article 3, Article 4(1) and Article 5 that enables the enforcement of the following penalties imposed following that conviction:*
- (a) *a penalty of imprisonment of more than one year; or alternatively*
- (b) *a penalty of imprisonment for a criminal offence punishable by a maximum term of imprisonment of at least four years.*
7. *By way of derogation from paragraph 6, Member States may establish a limitation period that is shorter than five years, but not shorter than three years, provided that such limitation period may be interrupted or suspended in the event of specified acts.*

8. *Member States shall take the necessary measures to provide for a limitation period of at least ten years from the date of the final conviction for a criminal offence referred to in Article 4(2) and (3) that enables the enforcement of the following penalties imposed following that conviction:*
- (a) *a penalty of imprisonment of more than one year, or alternatively*
  - (b) *a penalty of imprisonment for a criminal offence which is punishable by a maximum term of imprisonment of at least four years.*
9. *By way of derogation from paragraph 8, Member States may establish a limitation period that is shorter than ten years but not shorter than five years, provided that the period may be interrupted or suspended in the event of specified acts.'*

Article 37

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [24 months from *the date of* entry into force of *this Directive*].

*However, for the obligations under Article 20(5) and Article 21, Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [36 months from the date of* entry into force *of this Directive].*

2. When Member States adopt those measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.
3. Member States shall communicate to the Commission the text of the main measures of national law which they adopt in the field covered by this Directive.

#### Article 38

##### Evaluation and reporting

1. By [4 years from *the date of* entry into force *of this Directive*], the Commission shall submit a report to the European Parliament and to the Council, assessing the extent to which the Member States have taken the necessary measures to comply with this Directive.

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2. By ■ [6 years from *the date of* entry into force *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 combatting corruption, *including an assessment of Article 7 and its implementation by Member States*. That report shall also cover the impact of this Directive on fundamental rights and freedoms. On the basis of that assessment, the Commission shall, if necessary, decide on appropriate follow-up actions.

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Article 39

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 40

Addressees

This Directive is addressed to the Member States in accordance with the Treaties.

Done at ...,

*For the European Parliament*

*The President*

*For the Council*

*The President*

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