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General Secretariat

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2022/0398 (COD)**

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NOTE

From:	Presidency
To:	Delegations
Subject:	Proposal for a Directive of the European Parliament and of the Council on the definition of criminal offences and penalties for the violation of Union restrictive measures

Delegations will find in annex a provisional version of the four column table, as it stands after the technical meetings with the EP on 14 and 15 November 2023. The fourth column has been drafted by the EP and is still under scrutiny by the Presidency.

Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the definition of criminal offences and penalties for the violation of Union restrictive measures

2022/0398(COD)

DRAFT [VURM draft 4CT following ITM8 of 15112023]

15-11-2023 at 16h53

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
Formula				
1	2022/0398 (COD)	2022/0398 (COD)	2022/0398 (COD)	Council to revert Commission to revert DLA check EP to revert
Proposal Title				
2	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the definition of criminal offences and penalties for the violation of Union restrictive measures	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the definition of criminal offences and penalties for the violation of Union restrictive measures	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the definition of criminal offences and penalties for the violation of Union restrictive measures	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the definition of criminal offences and penalties for the violation of Union restrictive measures new green line Text Origin: Commission Proposal
Formula				
3	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,


	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
				<p>new green line</p> <p>Text Origin: Commission Proposal</p>
Citation 1				
4	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 83(1) thereof,	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 83(1) thereof,	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 83(1) thereof,	<p>Having regard to the Treaty on the Functioning of the European Union, and in particular Article 83(1) thereof,</p> <p>new green line</p> <p>Text Origin: Commission Proposal</p>
Citation 1a				
4a		<p><u>Having regard to Council Decision (EU) 2022/2322 of 28 November 2022 on identifying the violation of Union restrictive measures as an area of crime that meets the criteria specified in Article 83(1) of the Treaty on the Functioning of the European Union, and in particular Article 1 thereof,</u></p>		<p><u>Having regard to Council Decision (EU) 2022/2332 of 28 November 2022 on identifying the violation of Union restrictive measures as an area of crime that meets the criteria specified in Article 83(1) of the Treaty on the Functioning of the European Union, and in particular Article 1 thereof,</u></p> <p>new green line</p> <p>Text Origin: Council Mandate TM6 06112023</p>
Citation 2				

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
5	Having regard to the proposal from the European Commission,	Having regard to the proposal from the European Commission,	Having regard to the proposal from the European Commission,	Having regard to the proposal from the European Commission, new green line Text Origin: Commission Proposal
Citation 3				
6	After transmission of the draft legislative act to the national parliaments,	After transmission of the draft legislative act to the national parliaments,	After transmission of the draft legislative act to the national parliaments,	After transmission of the draft legislative act to the national parliaments, new green line Text Origin: Commission Proposal
Citation 4				
7	Acting in accordance with the ordinary legislative procedure,	Acting in accordance with the ordinary legislative procedure,	Acting in accordance with the ordinary legislative procedure,	Acting in accordance with the ordinary legislative procedure, new green line Text Origin: Commission Proposal
Formula				
8	Whereas:	Whereas:	Whereas:	Whereas: new green line

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
				Text Origin: Commission Proposal
Recital 1				
9	(1) In order to ensure the effective application of Union restrictive measures, the integrity of the internal market within the Union, and to achieve a high level of security within the Area of Freedom, Security and Justice, it is necessary to establish minimum rules concerning the definition of criminal offences and penalties with regard to the violation of those Union restrictive measures.	(1) In order to ensure the effective application of Union restrictive measures, the integrity of the internal market within the Union, and to achieve a high level of security within the Area of Freedom, Security and Justice, it is necessary to establish minimum rules concerning the definition of criminal offences and penalties with regard to the violation of those Union restrictive measures.	(1) In order to ensure the effective application of Union restrictive measures, the integrity of the internal market within the Union, and to achieve a high level of security within the Area of Freedom, Security and Justice, it is necessary to establish <u>common</u> minimum rules concerning the definition of criminal offences and penalties with regard to the violation of those Union restrictive measures.	(1) In order to ensure the effective application of Union restrictive measures, the integrity of the internal market within the Union, and to achieve a high level of security within the Area of Freedom, Security and Justice, it is necessary to establish minimum rules concerning the definition of criminal offences and penalties with regard to the violation of those Union restrictive measures. Text Origin: Commission Proposal TM4 09102023
Recital 2				
10	(2) Union restrictive measures, such as measures concerning the freezing of funds and economic resources, the prohibitions on making funds and economic resources available and the prohibitions on entry into or transit through the territory of a Member State, as well as sectoral economic measures and arms embargoes, are an essential tool for the promotion of the objectives of the Common Foreign and Security	(2) Union restrictive measures, such as measures concerning the freezing of funds and economic resources, the prohibitions on making funds and economic resources available and the prohibitions on entry into or transit through the territory of a Member State, as well as sectoral economic <u>and financial</u> measures and arms embargoes, are an essential tool for the promotion of the objectives of the Common Foreign	(2) Union restrictive measures, such as measures concerning the freezing of funds and economic resources, the prohibitions on making funds and economic resources available and the prohibitions on entry into or transit through the territory of a Member State, as well as sectoral economic measures and arms embargoes, are an essential tool for the promotion of the objectives of the Common Foreign and Security	(2) Union restrictive measures, such as measures concerning the freezing of funds and economic resources, the prohibitions on making funds and economic resources available and the prohibitions on entry into or transit through the territory of a Member State, as well as sectoral economic <u>and financial</u> measures and arms embargoes, are an essential tool for the promotion of the objectives of the Common Foreign

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	Policy, as set out in Article 21 of the Treaty on European Union ('TEU'). Those objectives include safeguarding the Union's values, security, independence and integrity, consolidating and supporting democracy, the rule of law, human rights and the principles of international law and maintaining international peace, preventing conflicts and strengthening international security in line with the aims and principles of the United Nations Charter.	and Security Policy ('CFSP'), as set out in Article 21 of the Treaty on European Union ('TEU'). Those objectives include safeguarding the Union's values, security, independence and integrity, consolidating and supporting democracy, the rule of law, human rights and the principles of international law and maintaining <u>preserving</u> international peace, preventing conflicts and strengthening international security in line <u>accordance</u> with the aims and principles of the United Nations Charter.	Policy, as set out in Article 21 of the Treaty on European Union ('TEU'). Those objectives include safeguarding the Union's values, security, independence and integrity, consolidating and supporting democracy, the rule of law, human rights and the principles of international law and maintaining international peace, preventing conflicts and strengthening international security in line with the aims and principles of the United Nations Charter.	and Security Policy ('CFSP'), as set out in Article 21 of the Treaty on European Union ('TEU'). Those objectives include safeguarding the Union's values, security, independence and integrity, consolidating and supporting democracy, the rule of law, human rights and the principles of international law and maintaining <u>preserving</u> international peace, preventing conflicts and strengthening international security in line <u>accordance</u> with the aims and principles of the United Nations Charter. Text Origin: Council Mandate TM4 09102023
Recital 3				
6 11	(3) To ensure the effective application of Union restrictive measures, it is necessary that Member States have effective, proportionate and dissuasive penalties in place for the violation of those Union restrictive measures, including obligations, such as reporting, established therein. It is also necessary that those penalties address the circumvention of Union restrictive measures.	(3) To ensure the effective application of Union restrictive measures, it is necessary that Member States have effective, proportionate and dissuasive penalties in place for the violation of those Union restrictive measures, including obligations, such as reporting, established therein. It is also necessary that those penalties address the circumvention of Union restrictive measures.	(3) To ensure the effective application of Union restrictive measures, it is necessary that Member States have effective, proportionate and dissuasive penalties in place for <u>natural or legal persons who violate or breach</u> the violation of those Union restrictive measures, including obligations, such as <u>transparency and information</u> reporting, established therein. It is also necessary that those penalties address the circumvention of Union	(3) To ensure the effective application of Union restrictive measures, it is necessary that Member States have effective, proportionate and dissuasive penalties <u>and sanctions</u> in place for the violation of those Union restrictive measures, including obligations, such as reporting, established therein. It is also necessary that those penalties <u>and sanctions</u> address the circumvention of Union restrictive measures.


	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
			restrictive measures.	new green line Text Origin: Commission Proposal TM6 06112023
Recital 4				
12	<p>(4) The effective application of Union restrictive measures calls for common criminal definitions of conduct infringing Union restrictive measures. Member States should ensure that this conduct constitutes a criminal offence when committed with intent as well as with serious negligence, in case the natural or legal person knew or should have known, that their conduct would infringe Union restrictive measures.</p>	<p>(4) The effective application of Union restrictive measures calls for common criminal <u>minimum rules concerning the definitions of criminal conduct infringing violating prohibitions and obligations included in</u> Union restrictive measures. Member States should ensure that this conduct constitutes a criminal offence when committed with intent, <u>in so far as it amounts to an infringement of a prohibition or an obligation set out in a Union restrictive measure or set out in a national provision implementing a Union restrictive measure, where national implementation of these measures is required. The Directive should cover only</u> as well as with serious negligence, in case the natural or legal person knew or <u>violations. Thus, it should not apply to violations involving funds, economic resources, goods, services, transactions or activities of a value of less than EUR 10 000. Furthermore, minor cases of violations related to travel bans</u></p>	<p>(4) The effective application of Union restrictive measures calls for common criminal definitions of conduct infringing <u>violating</u> Union restrictive measures. Member States should ensure that this <u>that</u> conduct constitutes a criminal offence when committed with intent as well as with serious <u>or with</u> negligence, in case <u>where</u> the natural or legal person knew or should have known, that their conduct would infringe <u>violate</u> Union restrictive measures.</p>	<p>COM proposal EP fine with the COM's proposal</p> <p>COM drafting proposal: (4) The effective application of Union restrictive measures calls for common minimum rules concerning the definitions of criminal conduct violating breaching prohibitions and obligations included in Union restrictive measures. Member States should ensure that this conduct constitutes a criminal offence when committed with intent and in breach of a prohibition or an obligation set out in a Union restrictive measure or set out in a national provision implementing a Union restrictive measure, where national implementation of these measures is required. Member States may decide not to criminalise violations involving funds, economic resources, goods, services, transactions or activities of a value of less than EUR 10 000. As this Directive establishes only minimum rules, Member States may decide whether to extend their national criminal law to such conducts. The exclusion of certain violations from the scope of this Directive does not affect</p>

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		<p>should have known, that <u>be excluded from its scope. The notion of minor cases is to be interpreted in accordance with national law. As this Directive establishes only minimum rules, Member States may decide whether to extend</u> their national criminal law to such conduct. <u>The exclusion of certain violations from the scope of this Directive does not affect any obligations set out in</u> would infringe Union restrictive measures <u>to ensure that violations are punishable by effective, proportionate and dissuasive criminal or other sanctions.</u></p>		<p>any obligations set out in Union restrictive measures to ensure that violations are punishable by effective, proportionate and dissuasive criminal or other sanctions.</p> <p>COM to provide a new drafting proposal</p> <p>some part of the text depend on the outcome of the trilogue</p> <p>Commission to revert</p> <p>TM6 06112023 TM8 15112023</p>
Recital 4a				
12a		<p><u>(4a) Union restrictive measures may provide for exceptions in the form of exemptions or derogations from the prohibitions laid down therein. These are of particular importance for example for the delivery of humanitarian aid. A conduct either covered by an exemption provided for in a Union restrictive measure or authorised by the competent authorities of the Member States by means of a derogation in accordance with a Union restrictive measure should not be regarded as a violation of a Union restrictive measure. In</u></p>		<p><u>(4a) Union restrictive measures may provide for exceptions in the form of exemptions or derogations from the prohibitions laid down therein. These are of particular importance for example for the delivery of humanitarian aid. A conduct either covered by an exemption provided for in a Union restrictive measure or authorised by the competent authorities of the Member States by means of a derogation in accordance with a Union restrictive measure should not be regarded as a violation of a Union restrictive measure. [In</u></p>


Commission Proposal		Council Mandate	EP Mandate	Draft Agreement
		<u>implementing this Directive, Member States will take into account that, in line with international humanitarian law, the law of armed conflict and restrictive measures, the implementing rules should not prevent the delivery of humanitarian aid in line with principles of impartiality, humanity, neutrality and independence.</u>	PUBLIC	<u>implementing this Directive, Member States will take into account that, in line with international humanitarian law, the law of armed conflict and restrictive measures, the implementing rules should not prevent the delivery of humanitarian aid in line with principles of impartiality, humanity, neutrality and independence.]</u> depends on the outcome of the trilogue related to recital 9 and Art3(6) COM to provide a new drafting proposal Commission to revert Text Origin: Council Mandate TM8 15112023
Recital 4b				
12b		<u>(4b) In particular, the effective application of Union restrictive measures calls for common minimum rules for the violations of asset freeze measures as laid down in the relevant Council Regulations. These measures include the prohibition to make funds or economic resources available, directly or indirectly, to or for the benefit of natural or legal persons, entities or bodies subject to</u>		<u>(4b) In particular, the effective application of Union restrictive measures calls for common minimum rules for the violations of asset freeze measures as laid down in the relevant Council Regulations. These measures include the prohibition to make funds or economic resources available, directly or indirectly, to or for the benefit of natural or legal persons, entities or bodies subject to</u>

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		<u>asset freeze measures, as well as the obligation to freeze all funds and economic resources belonging to, owned, held or controlled by the same persons, entities or bodies.</u>	PUBLIC	<u>asset freeze measures, as well as the obligation to freeze all funds and economic resources belonging to, owned, held or controlled by the same persons, entities or bodies.</u>
				<div>new green line</div> <div>Text Origin: Council Mandate TM6 06112023</div>
Recital 4c				
12c		<u>(4c) Union restrictive measures also lay down restrictions on admission (travel bans) which should be covered by this Directive. Such measures, usually laid down in a Council Decision adopted on the basis of Article 29 TEU and implemented by means of national law, require Member States to take the necessary measures to prevent the entry into, or transit through, their territories of the natural persons who are subject to Union restrictive measures.</u>		<u>(4c)</u> wait for the outcome of the trilogue EP proposal: (4c) Union restrictive measures also lay down restrictions on admission (travel bans) which should be covered by this Directive. Such measures, usually laid down in a Council Decision adopted on the basis of Article 29 TEU and implemented by means of national law, require Member States to take the necessary measures to prevent the entry into, or transit through, their territories of the natural persons who are subject to Union restrictive measures. The prevention of entry, or transit would also apply to international transit areas, which are part of the territory of the Member States and under their full jurisdiction, and thus these zones fall under the principle of territoriality of this Directive.

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
				<p>related to "all zones" -line 68- new CON's proposal</p> <p>Council to revert EP to revert</p> <p>TM5 23102023 TM6 06112023 TM8 15112023</p>
Recital 4d				
12d				<p><u>(4d) Member States are encouraged to pay particular attention to the mechanisms for granting nationality and residence, in order to prevent individuals subject to Union restrictive measures from using them for violating such measure</u></p> <p>new green line Council to revert</p> <p>TM7 14112023</p>
Recital 4e				
12e		<p><u>(4d) Entering into or continuing any form of transactions, including but not limited to financial transactions as well as the award or continued execution of any public or concession contract falling within the scope of the public procurements Directives, with a third State, bodies of a third State, entities and bodies owned or</u></p>		<p><u>(4d) Entering into or continuing any form of transactions, including but not limited to financial transactions as well as the award or continued execution of any public or concession contract falling within the scope of the public procurements Directives, with a third State, bodies of a third State, entities and bodies directly or</u></p>

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		<u>controlled by a third State or bodies of a third State, should also constitute a criminal offence, to the extent it is prohibited by a Union restrictive measure.</u>		<u>indirectly owned or controlled by a third State or bodies of a third State, should also constitute a criminal offence, to the extent it is prohibited by a Union restrictive measure.</u> new green line Text Origin: Council Mandate TM6 06112023
Recital 4f				
12f		<u>(4e) In addition, rules on the prohibition of trading, importing, exporting, selling, purchasing, transferring, transiting or transporting goods or services are called for. The violation of such prohibitions, as well as the provision, directly or indirectly, of technical assistance, brokering services, insurance, and any other service related to these goods or services should constitute a criminal offence. For this purpose, the notion of goods includes items, such as military technology and equipment, goods, software and technology, which are included in the Common Military List of the European Union or are listed in Annexes I and IV to Regulation (EU) 2021/821.</u>		<u>(4e) In addition, rules on the prohibition of trading, importing, exporting, selling, purchasing, transferring, transiting or transporting goods or services are called for. The violation of such prohibitions, as well as the provision, directly or indirectly, of technical assistance, brokering services, insurance, and any other service related to these goods or services should constitute a criminal offence. For this purpose, the notion of goods includes items, such as military technology and equipment, goods, software and technology, which are included in the Common Military List of the European Union or are listed in Annexes I and IV to Regulation (EU) 2021/821.</u>

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				<p>new green line</p> <p>Text Origin: Council Mandate TM6 06112023</p>
	Recital 4g			
12g		<p><u>(4f) In addition, other rules on sectoral economic and financial measures adopted under the CFSP are called for. These refer to rules on the provision of financial services or the performance of financial activities which are prohibited or restricted by Union restrictive measures. Such financial services and activities include but are not limited to financing and financial assistance, providing investment and investment services, issuing transferrable securities and money market instruments, accepting deposits, providing specialised financial messaging services, dealing in banknotes, providing credit rating services, and providing crypto assets and wallets.</u></p>		<p><u>(4f) In addition, other rules on sectoral economic and financial measures adopted under the CFSP are called for. These refer to rules on the provision of financial services or the performance of financial activities which are prohibited or restricted by Union restrictive measures. Such financial services and activities include but are not limited to financing and financial assistance, providing investment and investment services, issuing transferrable securities and money market instruments, accepting deposits, providing specialised financial messaging services, dealing in banknotes, providing credit rating services, and providing crypto assets and wallets.</u></p> <p>new green line</p> <p>Text Origin: Council Mandate</p>
	Recital 4h			
12h		<p><u>(4g) These measures also refer to rules on the provision of other</u></p>		<p><u>(4g) These measures also refer to rules on the provision of other</u></p>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
		<u>services which are prohibited or restricted by Union restrictive measures. Such services include but are not limited to the provision of legal advisory services, trust services, public relations services, accounting, auditing, bookkeeping and tax consulting services, business and management consulting, IT consulting, broadcasting, architectural and engineering services.</u>		<u>services which are prohibited or restricted by Union restrictive measures. Such services include but are not limited to the provision of legal advisory services, trust services, public relations services, accounting, auditing, bookkeeping and tax consulting services, business and management consulting, IT consulting, broadcasting, architectural and engineering services.</u> new green line Text Origin: Council Mandate TM6 06112023
Recital 4i				
12i				<u>(4i) None of the provisions of this Directive should be understood as imposing any obligations on natural persons that would prejudice the right not to incriminate oneself and to remain silent, as enshrined in Article 7 of Directive (EU) 2016/343, for the Member States bound by it, and Article 48 of the Charter of Fundamental Rights of the European Union.</u> new green line TM4 09102023 TM5 23102023

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
	Recital 5			
6	13	(5) The effective application of Union restrictive measures also calls for common <u>minimum rules concerning the</u> criminal definitions of conduct circumventing a Union restrictive measure.	(5) The effective application of Union restrictive measures also calls for common criminal definitions of conduct circumventing a Union restrictive measure.	(5) The effective application of Union restrictive measures also calls for common <u>minimum rules concerning the</u> criminal definitions of conduct circumventing a Union restrictive measure. new green line Text Origin: Council Mandate TM6 06112023
	Recital 6			
Y	14	(6) <u>An example of circumvention that is increasingly widespread is the practice by designated persons, and entities and bodies, which are designated individually in Union restrictive measures and subject to those of transferring funds, property or economic resources to a third party with a view to circumventing Union restrictive measures.</u> <u>Therefore, when committed by designated natural persons or by representatives of designated entities or bodies this conduct is covered by the circumvention offence approximated by this Directive. Furthermore, the practice of providing false or</u>	(6) Persons, entities and bodies, which are designated individually in Union restrictive measures and subject to those Union restrictive measures, may often be involved as instigators and, or accomplices <u>of violations or circumventions of such measures</u> . For instance, the practice by designated persons and entities of transferring funds, property or economic resources to a third party with a view to circumvent Union restrictive measures is increasingly widespread <u>and needs to be addressed since it undermines the effectiveness of Union restrictive measures</u> . Therefore, this conduct is covered by the	recital on circumvention (h1 and 2) COM to provide a new drafting proposal Commission to revert TM8 15112023

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
		<p><i>misleading information, may often be involved as instigators and accomplices. For instance, the practice by designated persons and entities of transferring funds, property or economic resources to a third party</i> with a view to <i>circumvent</i> <u>concealing that a designated person, entity or body is the ultimate owner or beneficiary of funds or economic resources subject to</u> Union restrictive measures <i>is increasingly widespread</i> <u>also amounts to a circumvention of Union restrictive measures.</u></p> <p>Therefore, this conduct is covered by the circumvention offence approximated by this Directive.</p>	circumvention offence approximated by this Directive.	
Recital 6a				
14a			<p><u>(6a) The circumvention of sectoral economic and financial measures should also be addressed. Therefore, conduct under the cover of a formal appearance which enables the avoidance of the constituent elements of a violation, but has the same effects, should be covered by the circumvention offence approximated by this Directive, when committed intentionally. Such conduct may in particular occur by the concealment of goods, transactions, services or activities subject to a Union</u></p>	<p>related to recital 4e and line 78a</p> <p>TM8 15112023</p>

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			<u>restrictive measure, or information about them, for instance in situations where a natural or legal person exports goods to a third country with the knowledge that such goods will be transferred to a final destination to which their export is prohibited by a Union restrictive measure.</u>	
Recital 6b				
14b		<u>(6a) Failure to comply with the reporting and cooperation obligations should also be covered by the circumvention offence, to the extent that a corresponding obligation to report and cooperate with the competent administrative authorities is laid down by a Union restrictive measure.</u>		<u>(6b) (6a) Failure to comply with the reporting obligations should also be covered by the circumvention offence, to the extent that a corresponding obligation to report to the competent administrative authorities is laid down by a Union restrictive measure.</u> new green line TM8 15112023
Recital 6c				
14c			<u>(6b) The violation of Union restrictive measures is often linked to other criminal activities and most notably motivated by considerations of financial gain. While generating profits, the circumvention of restrictive measures enables the</u>	<u>(6c) deleted</u> new green line TM6 06112023

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
			<p><u>continued use of assets. It undermines the objectives and effectiveness of those restrictive measures and hence needs to be addressed. Proceeds resulting from the violation of Union restrictive measures or instruments used to pursue the violation of restrictive measures should become the object of confiscation. Where the assets are confiscated in connection with the Russian war of aggression on Ukraine or associated crimes, without prejudice to restitution to and compensation of the victims or the public concerned by the criminal offence, the confiscated assets or the net proceeds resulting from the liquidation of such assets should be assigned to contributions towards the reconstruction efforts of Ukraine.</u></p>	
Recital 6d				
14d		<p><u>(6c) The effective application of Union restrictive measures furthermore calls for common minimum rules concerning the criminal law definition of conduct breaching or failing to fulfil the specific conditions under authorisations granted by the competent authorities to conduct certain activities, which in the absence of such an authorization</u></p>		<p><u>(6c) The effective application of Union restrictive measures furthermore calls for common minimum rules concerning the criminal law definition of conduct breaching or failing to fulfil the specific conditions under authorisations granted by the competent authorities to conduct certain activities, which in the absence of such an authorization</u></p>

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		<u>are prohibited or restricted under a Union restrictive measure. Any activity conducted in the absence of an authorisation would instead constitute a violation of such measures and, as appropriate, could be considered as a breach of asset freeze measures, travel bans, arm embargoes or other sectoral economic and financial measures.</u>		<u>are prohibited or restricted under a Union restrictive measure. Any activity conducted in the absence of an authorisation would instead constitute a violation of such measures and, as appropriate, could be considered as a breach of asset freeze measures, travel bans, arm embargoes or other sectoral economic and financial measures.</u> new green line Text Origin: Council Mandate TM6 06112023
Recital 7				
15	(7) Legal professionals, as defined by the Member States, should be subject to this Directive, including the obligation to report the violation of Union restrictive measures, when providing services in the context of professional activities, such as legal, financial and trade services. Experience shows that there is a clear risk of the services of those legal professionals being misused for the purpose of violating Union restrictive measures. There should, however, be exemptions from any obligation to report information which is obtained in strict connection with judicial, administrative or arbitral	(7) Legal professionals, as defined by the Member States, should be subject to this Directive, including the obligation to report the violation of Union restrictive measures, when providing services in the context of professional activities, such as legal, financial and trade services. Experience shows that there is a clear risk of the services of those legal professionals being misused for the purpose of violating Union restrictive measures. There should, however, be exemptions from any obligation to report information which is obtained in strict connection with judicial, administrative or arbitral	(7) Legal professionals, as defined by the Member States, <u>as well as providers of other professional services, such as accountants, tax advisors, financial and trade advisers, real estate agents and migration consultancies advising on residence by investment and citizenship by investment, amongst others,</u> should be subject to this Directive, including the obligation to report the violation of Union restrictive measures, when providing services in the context of professional activities, such as legal, financial and trade services. Experience shows that there is a clear risk of the services of those	<u>related to line 82 (Art3(5))</u> COM drafting proposal (14/11): recital (7) (line 15) Legal professionals, as defined by the Member States, should be subject to this Directive, including the obligation to report the violation of Union restrictive measures, when providing services in the context of professional activities [COM/EP]. Experience shows that there is a clear risk of the services of those legal professionals being misused for the purpose of violating Union restrictive measures [COM/EP]. There should, however, be exemptions from any obligation to report information that they receive from, or is obtained from,

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
	<p>proceedings, whether before, during or after judicial proceedings, or in the course of ascertaining the legal position of a client. Therefore, legal advice in those circumstances should remain subject to the obligation of professional secrecy, except where the legal professional is taking part in the violation of Union restrictive measures, the legal advice is provided for the purposes of violating Union restrictive measures. Knowledge can be inferred from objective factual circumstances.</p>	<p>proceedings, whether before, during or after. <u>There should, however, be exemptions from any obligation to report information that they receive from, or is obtained from, one of their clients, in the course of ascertaining their legal position or performing the task of defending or representing that client in, or concerning, judicial proceedings, or in the course of ascertaining the legal position of a client including providing advice on instituting or avoiding such proceedings.</u> Therefore, <u>such</u> legal advice in those circumstances should remain subject to the obligation of professional secrecy, except where the legal professional is taking part in the violation of Union restrictive measures, the legal advice is provided for the purposes of violating Union restrictive measures, or the legal professional knows that the client is seeking legal advice for the purposes of violating Union restrictive measures. Knowledge can be inferred from objective factual circumstances.</p>	<p>legal professionals being misused for the purpose of violating Union restrictive measures. <u>For legal professionals,</u> there should, however, be exemptions from any obligation to report information which is obtained in strict connection with judicial, administrative or arbitral proceedings, whether before, during or after judicial proceedings. <u>Information which is obtained by legal professionals</u> or in the course of ascertaining the legal position of a client <u>should be covered by legal privilege.</u> Therefore, legal advice in those circumstances should remain subject to the obligation of professional secrecy, except where the legal professional is taking part in the violation of Union restrictive measures, the legal advice is provided for the purposes of violating Union restrictive measures, or the legal professional knows <u>or has a well-grounded suspicion on the basis of factual circumstances</u> that the client is seeking legal advice for the purposes of violating Union restrictive measures. Knowledge can be inferred from objective factual circumstances.</p>	<p>one of their clients, in the course of ascertaining their legal position or performing the task of defending or representing that client in, or concerning, judicial proceedings, including providing advice on instituting or avoiding such proceedings. Therefore, such legal advice should remain subject to the obligation of professional secrecy, except where the legal professional is taking part in the violation of Union restrictive measures, the legal advice is provided for the purposes of violating Union restrictive measures, or the legal professional knows that the client is seeking legal advice for the purposes of violating Union restrictive measures. Knowledge can be inferred from objective factual circumstances [COM/EP].</p> <p>EP ok if "such as legal, financial and trade services" is still including in the first sentence for the recital</p> <p>Council to revert</p>
Recital 8				
16	(8) The effective application of		(8) The effective application of	(8) The effective application of


	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
	Union restrictive measures furthermore calls for a common criminal law definition of conduct breaching conditions under authorisations granted by competent authorities to conduct certain activities, which in the absence of such an authorization are prohibited or restricted under a Union restrictive measure.	<i>deleted</i>	Union restrictive measures furthermore calls for a common criminal law definition of conduct <u>intentionally</u> breaching conditions under authorisations granted by competent authorities to conduct certain activities, which in the absence of such an authorization are prohibited or restricted under a Union restrictive measure.	Union restrictive measures furthermore calls for a common criminal law definition of conduct breaching conditions under authorisations granted by competent authorities to conduct certain activities, which in the absence of such an authorization are prohibited or restricted under a Union restrictive measure. <u>deleted</u> new green line TM6 06112023
Recital 8a				
y	16a		<u>(8a) Member States should make easily accessible and detailed guidelines on compliance with Union restrictive measures, including detailed information on, inter alia, matters of compliance and enforcement standards.</u>	EP is fine to drop 16a if 16b remains Council to revert TM6 06112023 TM8 15112023
Recital 8b				
y	16b		<u>(8b) When applying measures aimed at preventing the violation or circumvention of Union restrictive measures, credit and financial institutions should ensure that clients are not discriminated against or unduly excluded from access to financial services.</u>	EP is fine to drop line 16a (recital 8a) if 16b remains (recital8b) Council to revert TM6 06112023 TM8 15112023

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
	Recital 9			
17	<p>(9) It is appropriate to exclude from the criminalisation activities which concern the provision of goods and services of daily use for the personal use of designated natural persons, such as food and healthcare products and services, or of petty cash, where it is clearly limited to fulfilling the basic human needs of such persons and their dependent family members. The failure to report such activities should also be excluded from criminalisation. In addition, it is appropriate to exclude from criminalisation the delivery of humanitarian aid to persons in need. Such humanitarian aid must be provided strictly in accordance with international humanitarian law and can notably consist of food and nutrition, shelter, health care, water and sanitation. Furthermore, in implementing this Directive, Member States should take into account that International Humanitarian Law, the law of armed conflict, requires that restrictive measures should not prevent the delivery of humanitarian aid in line with principles of impartiality, humanity, neutrality and independence.</p>	<p><i>deleted</i></p>	<p>(9) It is appropriate to exclude from the criminalisation activities which concern the provision of goods and services of daily use for the personal use of designated natural persons, such as food and healthcare products and services, or of petty cash, where it is clearly limited to fulfilling the basic human needs of such persons and their dependent family members. The failure to report such activities should also be excluded from criminalisation. In addition, <u>and in line with international humanitarian law</u>, it is appropriate to exclude from criminalisation the delivery of humanitarian <u>assistance or activities that support basic human needs by providers of humanitarian services, such as the United Nations, aid to persons in need. Such humanitarian aid must be provided strictly in accordance with international</u> <u>organisations having observer status with the United Nations General Assembly and members of those humanitarian organisations, bilaterally or multilaterally funded non-governmental organisations participating in the United Nations</u> Humanitarian law and can notably consist of food and nutrition, shelter,</p>	<p>related to the humanitarian exemption (Art3(6))</p> <p>COM to provide a new drafting proposal (related to recital 4a)</p> <p>Commission to revert</p> <p>TM8 15112023</p>


	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
			<p>health care, water and sanitation <u>Response Plans, Refugee Response Plans, other United Nations appeals or humanitarian clusters coordinated by the United Nations Office for the Coordination of Humanitarian Affairs (OCHA), public bodies or legal persons, entities or bodies which receive public funding from the Union or from Member States to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs for the civilian population, organisations and agencies to which the Union has granted the Humanitarian Partnership Certificate or which are certified or recognised by a Member State in accordance with national procedures, Member States' specialised agencies, and their employees, grantees, subsidiaries, or implementing partners and organisations specified in relevant EU sanctions decisions. Such humanitarian assistance must be provided strictly in accordance with international humanitarian law.</u></p> <p>Furthermore, in implementing this Directive, Member States should take into account that International Humanitarian Law, the law of armed conflict, requires that restrictive measures should not prevent the delivery of humanitarian aid</p>	


	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
			<u>assistance</u> in line with principles of impartiality, humanity, neutrality and independence.	
Recital 10				
18	(10) Penalties for the offences should be effective, dissuasive and proportionate. To this end, minimum levels for the maximum term of imprisonment should be set for natural persons. Additional penalties or measures should also be available in criminal proceedings. They should include fines, taking into account that the violation of Union restrictive measures is mostly motivated by economic considerations.	(10) Penalties for the offences should be effective, dissuasive and proportionate. To this end, minimum levels for the maximum term of imprisonment should be set for natural persons. Additional penalties or measures should also be available in criminal proceedings. They should <u>may</u> include fines, taking into account that the violation of Union restrictive measures is mostly motivated by economic considerations.	(10) Penalties for the offences should be effective, dissuasive and proportionate. To this end, minimum levels for the maximum term of imprisonment should be set for natural persons. Additional penalties or measures should also be available in criminal proceedings. They should include fines, taking into account that the violation of Union restrictive measures is mostly motivated by economic considerations. <u>Fines should be proportionate to the gravity of the offence as well as to the financial benefits accrued by committing the offence. Additional penalties should also include withdrawal of permits and authorizations to pursue activities which have resulted in committing the offence, disqualification from exercising a leading position within a legal person of the type used for committing the offence, temporary bans on running for elected or public office, national or Union-wide publication of the judicial decision relating to the conviction or any sanctions or measures</u>	depends on the outcome of the trilogue COM to provide a new drafting proposal after Commission to revert TM8 15112023

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
			<u>applied.</u>	
	Recital 10a			
18a		<u>(10a) Inciting, aiding and abetting, and attempt to commit offences under the Directive should also be criminalised.</u>		<u>(10a) (10a) Inciting, aiding and abetting, to commit the offences under the Directive should be criminalised. Attempt to commit some of the offences under the Directive should also be criminalised.</u> new green line TM6 06112023
	Recital 11			
19	<p>(11) Given that legal persons are also subject to Union restrictive measures, legal persons should also be held criminally liable for offences related to the violation of Union restrictive measures according to this Directive. Member States whose national law does not provide for the criminal liability of legal persons should ensure that their administrative sanctioning systems provide for effective, dissuasive and proportionate penalty types and levels.</p>	<p>(11) Given that legal persons are also subject to Union restrictive measures, legal persons should also be held exriminally liable for offences related to the violation of Union restrictive measures <u>according to as defined in this Directive. Legal persons are thereby understood as any legal entity having such status under the applicable law, except for States or public bodies exercising State authority and for public international organisations. Member States whose national law provides for the criminal liability of legal persons should ensure that their national laws provide for</u></p>	<p>(11) Given that legal persons are also subject to Union restrictive measures, legal persons should also be held criminally liable for offences related to the violation of Union restrictive measures according to this Directive. Member States whose national law does not provide for the criminal liability of legal persons should ensure that their administrative sanctioning systems provide for effective, dissuasive and proportionate penalty <u>sanction</u> types and levels.</p>	<p>(11) Given that legal persons are also subject to Union restrictive measures, legal persons should also be held exriminally liable for offences related to the violation of Union restrictive measures <u>according to as defined in this Directive. Legal persons are thereby understood as any legal entity having such status under the applicable law, except for States or public bodies exercising State authority and for public international organisations. Member States whose national law provides for the criminal liability of legal persons should ensure that their national laws provide for</u></p>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
		<p><u>effective, dissuasive and proportionate criminal sanction types and levels as laid down in</u> this Directive <u>in order to achieve its objectives</u>. Member States whose national law does not provide for the criminal liability of legal persons should ensure that their administrative sanctioning systems <u>national laws</u> provide for effective, dissuasive and proportionate <u>non-criminal</u> penalty types and levels, <u>as laid down in this Directive in order to achieve its objectives. The maximum levels of fines provided for in this Directive for the offences referred to therein should apply at least to the most serious forms of such offences. The seriousness of the conduct, as well as the individual, financial and other circumstances of the legal persons, should be taken into account to ensure the effectiveness, dissuasiveness and proportionality of the sanction imposed. With regard to maximum levels of fines in national law, Member States may either use a percentage of the total worldwide turnover of the legal person concerned, or they may determine the maximum level of fines in absolute amounts. Member States should decide which alternative they choose when transposing this Directive.</u></p>		<p><u>effective, dissuasive and proportionate criminal sanction types and levels as laid down in</u> this Directive <u>in order to achieve its objectives</u>. Member States whose national law does not provide for the criminal liability of legal persons should ensure that their administrative sanctioning systems <u>national laws</u> provide for effective, dissuasive and proportionate <u>non-criminal</u> penalty types and levels, <u>as laid down in this Directive in order to achieve its objectives. The maximum levels of fines provided for in this Directive for the offences referred to therein should apply at least to the most serious forms of such offences. The seriousness of the conduct, as well as the individual, financial and other circumstances of the legal persons, should be taken into account to ensure the effectiveness, dissuasiveness and proportionality of the sanction imposed. With regard to maximum levels of fines in national law, Member States may either use a percentage of the total worldwide turnover of the legal person concerned, or they may determine the maximum level of fines in absolute amounts. Member States should decide which alternative they choose when transposing this Directive.</u></p>


	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
				<p>new green line</p> <p>Text Origin: Council Mandate TM6 06112023</p>
	Recital 11a			
19a		<p><u>(11a) Where, with regards to the determination of fines to be imposed on legal persons, Member States opt to implement the criterion of the total worldwide turnover of a legal person, they should decide whether to calculate the total worldwide turnover based on either the business year preceding the one in which the offence was committed, or the business year preceding the fining decision, when transposing this Directive. They should also consider providing for rules for cases where it is not possible to determine the amount of a fine on the basis of the total worldwide turnover of the legal person in the business year preceding the one in which the offence was committed, or in the business year preceding the fining decision. In such cases, it should be possible to take into account other criteria, such as the total worldwide turnover in one of the other preceding business years. Where those rules include the setting of amounts of fines in</u></p>		<p><u>(11a) Where, with regards to the determination of fines to be imposed on legal persons, Member States opt to implement the criterion of the total worldwide turnover of a legal person, they should decide whether to calculate the total worldwide turnover based on either the business year preceding the one in which the offence was committed, or the business year preceding the fining decision, when transposing this Directive. They should also consider providing for rules for cases where it is not possible to determine the amount of a fine on the basis of the total worldwide turnover of the legal person in the business year preceding the one in which the offence was committed, or in the business year preceding the fining decision. In such cases, it should be possible to take into account other criteria, such as the total worldwide turnover in one of the other preceding business years. Where those rules include the setting of amounts of fines in</u></p>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
		<u>absolute numbers, then the maximum levels of these should not have to reach the levels established in this Directive as the minimum requirement for the maximum level of fines determined in absolute amounts.</u>		<u>absolute numbers, then the maximum levels of these should not have to reach the levels established in this Directive as the minimum requirement for the maximum level of fines determined in absolute amounts.</u> new green line Text Origin: Council Mandate TM6 06112023
Recital 11b				
19b		<u>(11b) Where Member States opt for maximum level of fines determined in absolute amounts, such levels should be laid down in national law. The highest levels of such fines should apply to the most serious forms of offences provided for in this Directive, which are committed by financially strong legal persons. Member States may decide on the method of calculation of those levels of fines including specific conditions for the highest levels of those fines. Member States should be invited to regularly review the levels of fines determined in absolute amounts with regard to rates of inflation and other fluctuations in monetary value, in line with procedures set out in their national law. Member States that do</u>		<u>(11b) Where Member States opt for maximum level of fines determined in absolute amounts, such levels should be laid down in national law. The highest levels of such fines should apply to the most serious forms of offences provided for in this Directive, which are committed by financially strong legal persons. Member States may decide on the method of calculation of those levels of fines including specific conditions for the highest levels of those fines. Member States should be invited to regularly review the levels of fines determined in absolute amounts with regard to rates of inflation and other fluctuations in monetary value, in line with procedures set out in their national law. Member States that do</u>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
		<u>not have the euro as their currency should provide for maximum levels of fines in their currency corresponding to the levels determined in this Directive in euro on the date of adoption of this Directive. Those Member States are invited to regularly review the levels also with regard to the development of the exchange rate.</u>		<u>not have the euro as their currency should provide for maximum levels of fines in their currency corresponding to the levels determined in this Directive in euro on the date of adoption of this Directive. Those Member States are invited to regularly review the levels also with regard to the development of the exchange rate.</u> new green line Text Origin: Council Mandate TM6 06112023
Recital 11c				
19c		<u>(11c) The definition of the maximum level of fines is without prejudice to the discretion of judges or courts in criminal proceedings to impose appropriate sanctions in the individual cases. As this Directive does not set out any minimum levels of fines, the judges or courts should, in any case, impose appropriate sanctions taking into account the individual, financial and other circumstances of the legal person concerned and the seriousness of the conduct. While the maximum level of fine provided for the respective criminal offence by this Directive should be taken into account, the actual fine</u>		<u>(11c) The definition of the maximum level of fines is without prejudice to the discretion of judges or courts in criminal proceedings to impose appropriate sanctions in the individual cases. As this Directive does not set out any minimum levels of fines, the judges or courts should, in any case, impose appropriate sanctions taking into account the individual, financial and other circumstances of the legal person concerned and the seriousness of the conduct. While the maximum level of fine provided for the respective criminal offence by this Directive should be taken into account, the actual fine</u>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
		<u>imposed in an individual case should not have to reach the maximum level of fine determined by this Directive.</u>		<u>imposed in an individual case should not have to reach the maximum level of fine determined by this Directive.</u> new green line Text Origin: Council Mandate TM6 06112023
Recital 12				
20	(12) A further approximation and effectiveness of level of penalties imposed in practice should be fostered through common aggravating circumstances that reflect the severity of the crime committed. The notion of aggravating circumstances should be understood either as facts allowing the national judge or court to pronounce a higher sentence for the same offence than the one incurred without these facts, or as the possibility of retaining several offences cumulatively in order to increase the level of the penalty. Member States should provide for the possibility of at least one of these aggravating circumstances in accordance with applicable rules established by their legal system on aggravating circumstances. In any case, it should remain within the discretion of the judge or the court to	(12) A further approximation and effectiveness of level of penalties imposed in practice should be fostered through common aggravating circumstances that, <u>in accordance with relevant provisions of national law</u> , reflect the severity of the crime committed. The notion of aggravating circumstances should be understood either as facts allowing the national judge or court to pronounce a higher sentence for the same offence than the one incurred without these facts, or as the possibility of retaining several offences cumulatively in order to increase the level of the penalty. Member States should provide for the possibility of at least one of these aggravating circumstances in accordance with applicable rules established by their legal system on aggravating circumstances. In any case, it should remain within the	(12) A further approximation and effectiveness of level of penalties imposed in practice should be fostered through common aggravating circumstances that <u>increase the criminal responsibility of the individual and</u> reflect the severity of the crime committed. The notion of aggravating circumstances should be understood either as <u>circumstances surrounding the commission of an offence and</u> facts allowing the national judge or court to pronounce a higher sentence for the same offence than the one incurred without these facts, or as the possibility of retaining several offences cumulatively in order to increase the level of the penalty. Member States should provide for the possibility of at least one of these aggravating circumstances in accordance with applicable rules established by their legal system on	(12) A further approximation and effectiveness of level of penalties imposed in practice should be fostered through common aggravating circumstances that, <u>in accordance with relevant provisions of national law</u> , reflect the severity of the crime committed. The notion of aggravating circumstances should be understood either as facts allowing the national judge or court to pronounce a higher sentence for the same offence than the one incurred without these facts, or as the possibility of retaining several offences cumulatively in order to increase the level of the penalty. <u>[Other aggravating circumstances may be situations in which the offence was committed by a public official when performing his or her duties, which can be any relevant official, whether holding a formal office in the Union, in the Member</u>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
	<p>determine whether to increase the sentence, taking into account all the circumstances of the individual case.</p>	<p>discretion of the judge or the court to determine whether to increase the sentence, taking into account all the circumstances of the individual case.</p>	<p>aggravating circumstances. In any case, it should remain within the discretion of the judge or the court to determine whether to increase the sentence, taking into account all the circumstances of the individual case.</p>	<p><u><i>States or in third countries, or another person performing a public function, situations in which the offender destroys evidence, or intimidates or influences witnesses or complainants, or situations in which the natural or legal person has previously been definitively convicted.]</i></u> Member States should provide for the possibility of at least one of these aggravating circumstances in accordance with applicable rules established by their legal system on aggravating circumstances. In any case, it should remain within the discretion of the judge or the court to determine whether to increase the sentence, taking into account all the circumstances of the individual case.</p> <p>COM proposal (14/11) to be further define: A further approximation and effectiveness of level of penalties imposed in practice should be fostered through common aggravating circumstances that, in accordance with relevant provisions of national law, reflect the severity of the crime committed. The notion of aggravating circumstances should be understood either as facts allowing the national judge or court to pronounce a higher sentence for the same offence than the one incurred without these facts, or as the possibility of retaining several offences cumulatively in order to</p>


	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
				<p>increase the level of the penalty. Such aggravating circumstances may be situations in which the offence was committed in violation of a Union restrictive measure in the context of an armed conflict or in connection with a generalised situation of human rights violations, situations in which the offence was committed in the framework of a criminal organisation within the meaning of Council Framework Decision 2008/841/JHA, situations in which the offence involved the use by the offender of false or forged documents, situations in which the offence was committed by a professional service provider in violation of the professional obligations of such professional service provider. Other aggravating circumstances may be situations in which the offence was committed by a public official when performing his or her duties, which can be any relevant official, whether holding a formal office in the Union, in the Member States or in third countries, or another person performing a public function, situations in which the offender destroys evidence, or intimidates or influences witnesses or complainants, or situations in which the natural or legal person has previously been definitively convicted for offences covered by this Directive. Member States should provide for the possibility of at least one of these aggravating circumstances in accordance with applicable rules established by their</p>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
			<div data-bbox="1182 156 1554 520" data-label="Image"> </div>	<p>legal system on aggravating circumstances. In any case, it should remain within the discretion of the judge or the court to determine whether to increase the sentence, taking into account all the circumstances of the individual case.</p> <p>COM to provide a new drafting proposal</p> <p>COM to check to add this to recital 12: Other aggravating circumstances may be situations in which the offence was committed by a public official when performing his or her duties, which can be any relevant official, whether holding a formal office in the Union, in the Member States or in third countries, or another person performing a public function, situations in which the offender destroys evidence, or intimidates or influences witnesses or complainants, or situations in which the natural or legal person has previously been definitively convicted</p> <p>EP proposal for the last part of recital 12: Member States should take the necessary measures to ensure that, in the assessment of mitigating circumstances, competent authorities take into account the nature, timing, and extent of the information provided by the offender and the level of cooperation provided by the person in question - related to line 121b</p> <p>new draft?</p>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
				<p>Commission to revert</p> <p>Text Origin: Council Mandate TM6 06112023 TM7 14112023 TM8 15112023</p>
Recital 13				
21	<p>(13) Member States should also ensure that in situations where the offender provides the competent authorities with information they would not otherwise have been able to obtain, helping them to identify or bring to justice other offenders or to find evidence, such conduct may be regarded as mitigating circumstance.</p>	<p>(13) Member States should<u>may</u> also ensure, <u>in accordance with relevant provisions of national law</u>, that in situations where the offender provides the competent authorities with information they would not otherwise have been able to obtain, helping them to identify or bring to justice other offenders or to find evidence, such conduct may be regarded as mitigating circumstance.</p>	<p>(13) Member States should also ensure that in situations where the offender provides the competent authorities with information they would not otherwise have been able to obtain, helping them to identify or bring to justice other offenders or to find evidence, such conduct may be regarded as mitigating circumstance.</p>	<p>(13) Member States should also ensure, <u>in accordance with relevant provisions of national law</u>, that in situations where the offender provides the competent authorities with information they would not otherwise have been able to obtain, helping them to identify or bring to justice other offenders or to find evidence, such conduct may be regarded as mitigating circumstance<u>circumstance. In the assessment of mitigating circumstances, it should remain within the discretion of the judge or the court to determine whether to decrease the sentence, taking into account all the circumstances of the individual case. The latter could notably include the nature, timing and extent of the information provided and the level of cooperation provided by the offender.</u></p> <p>related to ongoing discussions on Art9</p>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
				Text Origin: Commission Proposal TM6 06112023
Recital 14				
22	(14) The freezing of funds and of economic resources imposed by Union restrictive measures is of an administrative nature. As such it should be distinguished from freezing measures of a criminal nature referred to in Directive (EU) [...] [Directive on asset recovery and confiscation].	(14) The freezing of funds and of economic resources imposed by Union restrictive measures is of an administrative nature. As such it should be distinguished from freezing measures of a criminal nature, <u>as</u> referred to in Directive (EU) [...] [Directive on asset recovery] 2014/42/EU. Member States should enable the freezing and confiscation <u>of instrumentalities and proceeds from the offences referred to in this Directive. Member States bound by Directive 2014/42/EU should do so in accordance with that Directive.</u>	(14) The freezing of funds and of economic resources imposed by Union restrictive measures is of an administrative nature. As such it should be distinguished from freezing measures of a criminal nature referred to in Directive (EU) [...] [Directive on asset recovery and confiscation].	(14) The freezing of funds and of economic resources imposed by Union restrictive measures is of an administrative nature. As such it should be distinguished from freezing measures of a criminal nature, <u>as</u> referred to in Directive (EU) [...] [Directive on asset recovery] 2014/42/EU. Member States should enable the freezing and confiscation <u>of instrumentalities and proceeds from the offences referred to in this Directive. Member States bound by Directive 2014/42/EU should do so in accordance with that Directive.</u> new green line Text Origin: Council Mandate TM6 06112023
Recital 15				
23	(15) There is a need to clarify the concept of proceeds specifically in situations in which the designated person, entity or body commits or participates in: (i) concealing funds or economic resources owned, held,	(15) There is a need to clarify the concept of proceeds <u>In addition,</u> specifically in situations in which the designated person, <u>or the representative of a designated</u> entity or body, commits or participates in	(15) There is a need to clarify the concept of proceeds specifically in situations in which the designated person, entity or body commits or participates in: (i) concealing funds or economic resources owned, held,	(15) There is a need to clarify the concept of proceeds <u>In addition,</u> specifically in situations in which the designated person, <u>or the representative of a designated</u> entity or body, commits or participates in

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
	<p>or controlled by a designated person, entity or body, which should be frozen in accordance with a Union restrictive measure, by the transfer of those funds, or economic resources to a third party; or (ii) concealing the fact that a person, entity or body subject to restrictive measures is the ultimate owner or beneficiary of funds or economic resources, through the provision of false or incomplete information. In those circumstances, as a consequence of the conduct of concealing, the designated person, entity or body may continue to access and make full use or dispose of the funds or economic resources subject to Union restrictive measures which have been concealed. Such funds or economic resources should therefore be considered as proceeds of crime for the purposes of Directive (EU) [...] [Directive on asset recovery and confiscation], it being understood that the proportionality of confiscation of such proceeds will have to be observed in each individual case.</p>	<p><u>certain offences concerning the circumvention of a Union restrictive measure</u>: (i) concealing funds<u>transferring funds</u> or economic resources owned, held, or controlled by a designated person, entity or body, which should<u>are to</u> be frozen in accordance with a Union restrictive measure, by the transfer of measure to a third party to conceal those funds; or economic resources; <u>or (ii) providing false or misleading information, to conceal</u> to a third party; or (ii) concealing the fact that a <u>designated</u> person, entity or body subject to restrictive measures is the ultimate owner or beneficiary of funds or economic resources<u>there is a need to enable the freezing and confiscation of funds and economic resources subject to Union restrictive measures, even where they may not constitute instrumentalities or proceeds under Directive 2014/42/EU, through the provision of false or incomplete information</u>. In those circumstances, as a consequence of the conduct of concealing, the designated person, entity or<u>for</u> body may continue to access and make full use or dispose of the funds or economic resources subject to Union restrictive measures which have been concealed. Such funds or economic resources should therefore be considered as proceeds of crime for the purposes of</p>	<p>or controlled by a designated person, entity or body, which should be frozen in accordance with a Union restrictive measure, by the transfer of those funds, or economic resources to a third party; or (ii) concealing the fact that a person, entity or body subject to restrictive measures is the ultimate owner or beneficiary of funds or economic resources, through the provision of false or incomplete information. In those circumstances, as a consequence of the conduct of concealing, the designated person, entity or body may continue to access and make full use or dispose of the funds or economic resources subject to Union restrictive measures which have been concealed. Such funds or economic resources should therefore be considered as proceeds of crime for the purposes of Directive (EU) [...] [Directive on asset recovery and confiscation], it being understood that the proportionality of confiscation of such proceeds will have to be observed in each individual case.</p>	<p><u>certain offences concerning the circumvention of a Union restrictive measure</u>: (i) concealing<u>transferring</u> funds or economic resources owned, held, or controlled by a designated person, entity or body, which should<u>are to</u> be frozen in accordance with a Union restrictive measure, by the transfer of to a third party to conceal those funds, or economic resources; <u>or (ii) providing false or misleading information, including relevant incomplete information, to conceal</u> to a third party; or (ii) concealing the fact that a <u>designated</u> person, entity or body subject to restrictive measures is the ultimate owner or beneficiary of funds or economic resources, through the provision of false or incomplete information <u>there is a need to enable the freezing and confiscation of funds and economic resources subject to Union restrictive measures, even where they may not constitute instrumentalities or proceeds under Directive 2014/42/EU</u>. In those circumstances, as a consequence of the conduct of concealing, the designated person, entity or<u>for</u> body may continue to access and make full use or dispose of the funds or economic resources subject to Union restrictive measures which have been concealed. Such funds or</p>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
		<p><i>Directive (EU) [...] [Directive on asset recovery and confiscation], it being understood that the proportionality of confiscation of such proceeds will have to be observed in each individual case</i><u>subject to freezing and confiscation, in accordance with the safeguards, including the respect for the principle of proportionality in individual cases, set out in Directive 2014/42/EU. The rights of bona fide third parties should not be prejudiced.</u></p>		<p>economic resources should therefore be considered as proceeds of crime for the purposes of Directive (EU) [.../...] <u>subject to freezing and confiscation</u>, it being understood that the proportionality of confiscation of such proceeds will have to be observed in each individual case, <u>in accordance with Directive 2014/42/EU.]</u></p> <p>COM's proposal: ok for EP</p> <p>COM drafting proposal: In addition, specifically in situations in which the designated person, or the representative of a designated entity or body, commits or participates in certain offences concerning the circumvention of a Union restrictive measure: (i) transferring funds or economic resources owned, held, or controlled by a designated person, entity or body, which are to be frozen in accordance with a Union restrictive measure to a third party to conceal those funds, or economic resources; or (ii) providing false or misleading information, including relevant incomplete information, to conceal the fact that a designated person, entity or body is the ultimate owner or beneficiary of funds or economic resources there is a need to enable the freezing and confiscation of funds and economic resources subject to Union restrictive measures, even where they may not constitute</p>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
				<p>instrumentalities or proceeds under Directive 2014/42/EU. In those circumstances, as a consequence of the conduct of concealing, the designated person, entity or body may continue to access and make full use or dispose of the funds or economic resources subject to Union restrictive measures which have been concealed. Such funds or economic resources should therefore be subject to freezing and confiscation, in accordance with Directive 2014/42/EU.</p> <p>recital 15 (line 23) : providing false or misleading information, including relevant incomplete information, to conceal the fact that a designated person, entity or body is the ultimate owner or beneficiary of funds or economic resources</p> <p>TM5 23102023</p> <p>Council to revert</p> <p>TM6 06112023</p> <p>TM8 15112023</p>
Recital 16				
24	(16) Given, in particular, the global activities of the perpetrators of illegal conduct covered by this Directive, together with the cross-border nature of the offences and the possibility of cross-border investigations, Member States	(16) Given, in particular, the global activities of the perpetrators of illegal conduct covered by this Directive, together with the cross-border nature of the offences and the possibility of cross-border investigations, Member States	(16) Given, in particular, the global activities of the perpetrators of illegal conduct covered by this Directive, together with the cross-border nature of the offences and the possibility of cross-border investigations, Member States	(16) Given, in particular, the global activities of the perpetrators of illegal conduct covered by this Directive, together with the cross-border nature of the offences and the possibility of cross-border investigations, Member States

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
	should establish jurisdiction in order to counter such conduct effectively.	should establish jurisdiction in order to counter such conduct effectively.	should establish jurisdiction in order to counter such conduct <u>quickly, consistently and</u> effectively.	should establish jurisdiction in order to counter such conduct effectively. new green line Text Origin: Commission Proposal TM8 15112023
Recital 17				
25	(17) Member States should lay down rules concerning limitation periods necessary to enable them to counter offences related to the violation of Union restrictive measures effectively, without prejudice to national rules that do not set limitation periods for investigation, prosecution and enforcement.	(17) Member States should lay down rules concerning limitation periods necessary to enable them to counter offences related to the violation of Union restrictive measures effectively, without prejudice to national rules that do not set limitation periods for investigation, prosecution and enforcement. <u>Where Member States are permitted to derogate from the limitation periods, provided that the period may be interrupted or suspended in the event of specified acts, such acts may be defined in accordance with the legal system of each Member State.</u>	(17) Member States should lay down rules concerning limitation periods necessary to enable them to counter offences related to the violation of Union restrictive measures effectively, without prejudice to national rules that do not set limitation periods for investigation, prosecution and enforcement.	(17) Member States should lay down rules concerning limitation periods necessary to enable them to counter offences related to the violation of Union restrictive measures effectively, without prejudice to national rules that do not set limitation periods for investigation, prosecution and enforcement. <u>Where Member States are permitted to derogate from the limitation periods, provided that the period may be interrupted or suspended in the event of specified acts, such acts may be defined in accordance with the legal system of each Member State.</u> new green line Text Origin: Council Mandate TM8 15112023
Recital 18				
26				

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
	(18) To ensure an effective, integrated and coherent enforcement system, Member States should organise internal cooperation and communication between all actors along the administrative and criminal enforcement chains.	(18) To ensure an effective, integrated and coherent enforcement system, Member States should organise internal cooperation and communication between all actors along the administrative and criminal enforcement chains.	(18) To ensure an effective, <u>transparent</u> , integrated and coherent enforcement system, Member States should organise internal cooperation and communication between all actors along the administrative and criminal enforcement chains, <u>in full compliance with Member States' national rules on criminal proceedings, as well as with the Charter of Fundamental Rights of the European Union (the Charter) and with the Member State's obligations under Article 6 TEU.</u>	related to Art13 and Art16 EP to revert Council to revert TM8 15112023
Recital 19				
27	(19) To ensure the effective investigation and prosecution of violations of Union restrictive measures, Member States' competent authorities should cooperate through and with Europol, Eurojust and the European Public Prosecutor's Office (EPPO). These competent authorities should also share information among each other and with the Commission on practical issues.	<i>deleted</i>	(19) To ensure the effective investigation and prosecution of violations of Union restrictive measures, Member States' competent authorities should cooperate through and with Europol, Eurojust and the European Public Prosecutor's Office (EPPO). <u>The Commission should establish a permanent network of experts and practitioners to</u> These competent authorities should also share information among each other and with the Commission on practical issues <u>best practices and provide technical and operational support in order to facilitate the coordination of investigations and prosecutions by Member States'</u>	related to Art13 and Art16 EP to revert Council to revert TM8 15112023

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
			<u>competent authorities, Europol, Eurojust, the EPPO, and the European Anti-Fraud Office.</u>	
	Recital 19a			
27a			<p><u>(19a) For the purposes of this Directive, the institutions, bodies, offices and agencies of the Union and the authorities of the Member States which participate in enhanced cooperation on the establishment of the EPPO, should closely cooperate with the central and decentralised levels of the EPPO. They should in particular fulfil the reporting obligations under Regulation (EU) 2017/1939, including where the EPPO is competent in respect of criminal offences for the violation of Union restrictive measures because they constitute offences regarding participation in a criminal organization or criminal offences inextricably linked to offences referred to in Article 22(2) and (3) of Regulation (EU) 2017/1939. In order to optimize criminal prosecution and the effective application of sanctions for any violation or circumvention of Union restrictive measures, it is necessary to extend the EPPO's current competences, including the criminal offences covered by this</u></p>	<p>related to EPPO</p> <p>EP to revert</p> <p>TM8 15112023</p>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
			<u>Directive. Furthermore, all Member States should participate in the EPPO to make it more efficient.</u>	
	Recital 20			
28	<p>(20) Whistleblowers can provide valuable information to competent authorities concerning past, ongoing or planned violations of Union restrictive measures, including attempts to circumvent them. This information can relate, for example, to facts concerning violations of Union restrictive measures, their circumstances and the individuals, companies and third countries involved. Therefore, it should be ensured that adequate arrangements are in place to enable such whistleblowers to alert the competent authorities and to protect them from retaliation. For that purpose, it should be provided that Directive (EU) 2019/1937 of the European Parliament and of the Council¹ is applicable to the reporting of violations of Union restrictive measures and to the protection of persons reporting such violations.</p> <p>¹ Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law, OJ L 305, 26.11.2019, p. 17–56.</p>	<p>(20) Whistleblowers can provide valuable<u>Persons referred to in Article 4 of Directive (EU) 2019/1937 of the European Parliament and of the Council¹ reporting</u> information to competent authorities concerning past, ongoing or planned violations of Union restrictive measures, including attempts to circumvent them, <u>which they have acquired in the context of their work-related activities, risk suffering retaliation in that context. Such whistleblowers' reports can strengthen enforcement by providing information related.</u>This information can relate, for example, to facts concerning violations of Union restrictive measures, their circumstances and the individuals, companies and third countries involved. Therefore, it should be ensured that adequate arrangements are in place to enable such whistleblowers to <u>use confidential channels, to</u> alert the competent authorities and to protect them from retaliation. For that purpose, it should be provided that Directive (EU) 2019/1937 of the European</p>	<p>(20) Whistleblowers can <u>be crucial in providing</u>provide valuable information to competent authorities concerning past, ongoing or planned violations of Union restrictive measures, including attempts to circumvent them. This information can relate, for example, to <u>vital</u> facts concerning violations of Union restrictive measures, their circumstances and, the individuals, companies and third countries involved. Therefore, it should be ensured that adequate arrangements are in place to enable such whistleblowers to alert the competent authorities and to protect them from retaliation. For that purpose, it should be provided that Directive (EU) 2019/1937 of the European Parliament and of the Council¹ is applicable to the reporting of violations of Union restrictive measures and to the protection of persons reporting such violations.</p> <p>¹ <u>[1]</u> Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons</p>	<p>(20) Whistleblowers can provide valuable<u>Persons referred to in Article 4 of Directive (EU) 2019/1937 of the European Parliament and of the Council¹ reporting</u> information to competent authorities concerning past, ongoing or planned violations of Union restrictive measures, including attempts to circumvent them, <u>which they have acquired in the context of their work-related activities, risk suffering retaliation in that context. Such whistleblowers' reports can strengthen enforcement by providing information related.</u>This information can relate, for example, to facts concerning violations of Union restrictive measures, their circumstances and the individuals, companies and third countries involved. Therefore, it should be ensured that adequate arrangements are in place to enable such whistleblowers to <u>use confidential channels, to</u> alert the competent authorities and to protect them from retaliation. For that purpose, it should be provided that Directive (EU) 2019/1937 of the European</p>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
		<p>Parliament and of the Council¹ is applicable to the reporting of violations of Union restrictive measures and to the protection of persons reporting such violations, <u>under the conditions established therein</u>.</p> <p>1. Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law, OJ L 305, 26.11.2019, p. 17–56.</p>	<p>who report breaches of Union law, (OJ L 305, 26.11.2019, p. 17–56).</p>	<p>Parliament and of the Council¹ is applicable to the reporting of violations of Union restrictive measures and to the protection of persons reporting such violations, <u>under the conditions established therein</u>.</p> <p>1. Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law, OJ L 305, 26.11.2019, p. 17–56.</p> <p>Text Origin: Council Mandate TM4 09102023</p>
Recital 21				
29	<p>(21) To ensure the effective investigation and prosecution of violations of Union restrictive measures, those responsible for investigating or prosecuting these measures should have the possibility of using investigative tools such as those which are used in combating organised crime or other serious crimes. The use of such tools, in accordance with national law, should be targeted and take into account the principle of proportionality and the nature and seriousness of the offences under investigation as well as respecting the right to the protection of personal data.</p>	<p>(21) To ensure the effective investigation and prosecution of violations of Union restrictive measures, those responsible for investigating or prosecuting these measures <u>offences</u> should have the possibility of using investigative tools, <u>if and to the extent that the use of these tools is appropriate and proportionate to the nature and gravity of the offences as defined in national law. Where those offences could be considered serious according to national law, and within the criminal category of violation of restrictive measures, investigative tools</u> such as those which are used in combating</p>	<p>(21) To ensure the effective investigation and prosecution of violations of Union restrictive measures, those responsible for investigating or prosecuting these measures should have the possibility of using investigative tools such as those which are used in combating organised crime or other serious crimes. The use of such tools, in accordance with national law, should be targeted and take into account the principle of <u>comply with the principles of necessity and</u> proportionality and the nature and seriousness of the offences under investigation as well as respecting the right to the protection of personal</p>	<p>(21) To ensure the effective investigation and prosecution of violations of Union restrictive measures, those responsible for investigating or prosecuting these measures <u>Member States</u> should have the possibility of using <u>make available effective</u> investigative tools such as those which are used <u>inexist in their national law for</u> combating organised crime or other serious crimes, if and to the extent that the use of such those tools, in accordance with <u>is appropriate and proportionate to the nature as defined in national law and gravity of the offences as defined in</u> national law. <u>Tools such as the</u></p>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
		<p>organised crime or other serious crimes <u>should be available</u>. The use of such tools, in accordance with national law, should be targeted and take into account the principle of proportionality and the nature and seriousness of the offences under investigation as well as respecting<u>respect</u> the right to the protection of personal data.</p>	<p>data.</p>	<p><u>interception of communications, covert surveillance including electronic surveillance, controlled deliveries, the monitoring of bank accounts and other financial investigation tools could be included. These tools</u> ; should be targeted and take into account<u>applied in line with</u> the principle of proportionality and the nature and seriousness<u>in full respect</u> of the offences under investigation as well as respecting<u>Charter of Fundamental Rights of the European Union</u>. The right to the protection of personal data <u>must be respected</u>.</p> <p>DLA (as defined in national law)</p> <p>new green line</p> <p>TM4 09102023 TM8 15112023</p>
Recital 21a				
29a		<p><u>(21a) To ensure the effective investigation and prosecution of violations of Union restrictive measures, Member States' competent authorities should cooperate through and with Europol, Eurojust and the European Public Prosecutor's Office (EPPO), within their</u></p>		<p>related to Art16</p> <p>EP to revert Council to revert</p> <p>TM8 15112023</p>

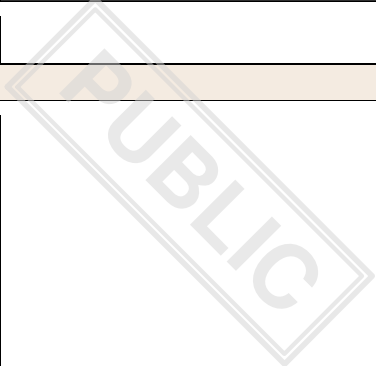
	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
		<u>respective competences and in accordance with the applicable legal framework. These competent authorities should also share information among each other and with the Commission on practical issues.</u>		
Recital 22				
30	<p>(22) An amendment to Directive (EU) 2018/1673 on combatting money laundering by criminal law¹ should ensure that the violation of Union restrictive measures will be considered a predicate offence for money laundering according to that Directive.</p> <p>1. Directive (EU) 2018/1673 of the European Parliament and of the Council of 23 October 2018 on combating money laundering by criminal law, PE/30/2018/REV/1, OJ L 284, 12.11.2018, p. 22-30.</p>	<p>(22) An amendment to Directive (EU) 2018/1673 on combatting money laundering by criminal law¹ should ensure that the violation of Union restrictive measures will be considered a predicate offence for money laundering according to that Directive.</p> <p>1. Directive (EU) 2018/1673 of the European Parliament and of the Council of 23 October 2018 on combating money laundering by criminal law, PE/30/2018/REV/1, OJ L 284, 12.11.2018, p. 22-30.</p>	<p>(22) An amendment to Directive (EU) 2018/1673 on combatting money laundering by criminal law¹ should ensure that the violation of Union restrictive measures will be considered a predicate offence for money laundering according to that Directive.</p> <p>1. Directive (EU) 2018/1673 of the European Parliament and of the Council of 23 October 2018 on combating money laundering by criminal law, PE/30/2018/REV/1, OJ L 284, 12.11.2018, p. 22-30.</p>	<p>(22) An amendment to Directive (EU) 2018/1673 on combatting money laundering by criminal law¹ should ensure that the violation of Union restrictive measures will be considered a predicate offence for money laundering according to that Directive.</p> <p>1. Directive (EU) 2018/1673 of the European Parliament and of the Council of 23 October 2018 on combating money laundering by criminal law, PE/30/2018/REV/1, OJ L 284, 12.11.2018, p. 22-30.</p> <p>new green line</p> <p>Text Origin: Commission Proposal TM8 15112023</p>
Recital 23				
31	<p>(23) The objectives of this Directive, namely to ensure common definitions of offences related to the</p>	<p>(23) The objectives of this Directive, namely to ensure common <u>minimum rules concerning the</u></p>	<p>(23) <u>Since</u> the objectives of this Directive, namely to ensure common definitions of offences related to the</p>	<p>(23) The objectives of this Directive, namely to ensure common <u>minimum rules concerning the</u></p>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
	violation of Union restrictive measures and the availability of effective, dissuasive and proportionate criminal penalties for serious offences related to the violation of Union restrictive measures cannot be sufficiently achieved by Member States but can rather, by reason of the scale and effects of this Directive, be better achieved at Union level, taking into account the inherent cross-border nature of the violation of Union restrictive measures and their potential to undermine the achievement of the Union objectives to safeguard international peace and security as well as to uphold Union common values. Therefore the Union may adopt measures, in accordance with the principle of subsidiarity as set out in accordance with Article 5 TEU. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary to achieve that objective.	definitions of offences related to the violation of Union restrictive measures and the availability of effective, dissuasive and proportionate criminal penalties for serious offences related to the violation of Union restrictive measures cannot be sufficiently achieved by Member States but can rather, by reason of the scale and effects of this Directive, be better achieved at Union level, taking into account the inherent cross-border nature of the violation of Union restrictive measures and their potential to undermine the achievement of the Union objectives to safeguard international peace and security as well as to uphold Union common values. Therefore the Union may adopt measures, in accordance with the principle of subsidiarity as set out in accordance with Article 5 TEU. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary to achieve that objective.	violation of Union restrictive measures and the availability of effective, dissuasive and proportionate criminal penalties for serious offences related to the violation of Union restrictive measures cannot be sufficiently achieved by <u>the</u> Member States but can rather, by reason of the scale and effects of this Directive, be better achieved at Union level, taking into account the inherent cross-border nature of the violation of Union restrictive measures and their <u>its</u> potential to undermine the achievement of the Union objectives to safeguard international peace and security as well as to uphold Union common values. Therefore, 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 accordance with Article 5 TEU. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary to achieve that objective <u>those objectives</u> .	definitions of offences related to the violation of Union restrictive measures and the availability of effective, dissuasive and proportionate criminal penalties for serious offences related to the violation of Union restrictive measures cannot be sufficiently achieved by Member States but can rather, by reason of the scale and effects of this Directive, be better achieved at Union level, taking into account the inherent cross-border nature of the violation of Union restrictive measures and their potential to undermine the achievement of the Union objectives to safeguard international peace and security as well as to uphold Union common values. Therefore the Union may adopt measures, in accordance with the principle of subsidiarity as set out in accordance with Article 5 TEU. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary to achieve that objective. new green line Text Origin: Council Mandate TM8 15112023
	Recital 24			
Y	32			Y

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
	<p>(24) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, including the rights to liberty and security, the protection of personal data, the freedom to conduct a business, the right to property, the right to an effective remedy and to a fair trial, the presumption of innocence and the right of defence including the right not to incriminate oneself and to remain silent, the principles of legality, including the principle of non-retroactivity of criminal penalties and proportionality of criminal offences and penalties, as well as the principle of ne bis in idem. This Directive seeks to ensure full respect for those rights and principles and should be implemented accordingly.</p>	<p>(24) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, including the rights to liberty and security, the protection of personal data, the freedom to conduct a business, the right to property, the right to an effective remedy and to a fair trial, the presumption of innocence and the right of defence including the right not to incriminate oneself and to remain silent, the principles of legality, including the principle of non-retroactivity of criminal penalties and proportionality of criminal offences and penalties, as well as the principle of <u>ne bis in idem</u>ne bis in idem. This Directive seeks to ensure full respect for those rights and principles and should be implemented accordingly.</p>	<p>(24) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, including the rights <u>right</u> to liberty and security, the protection of personal data <u>as further specified by Regulation (EU) 2016/679, Regulation (EU) 2918/1725 and Directive (EU) 2016/680</u>, the freedom to conduct a business, the right to property, the right to an effective remedy and to a fair trial, the presumption of innocence and the right of defence including the right not to incriminate oneself and to remain silent, the principles of legality, including the principle of non-retroactivity of criminal penalties and proportionality of criminal offences and penalties, as well as the principle of ne bis in idem. <u>It is essential that Member States provide for an effective appeal against judgments issued pursuant to this Directive, before a higher court, in accordance with procedures provided for in national law. Where a decision to prosecute has been taken by a competent authority other than a judicial authority, national law should provide for a judicial review of such decision to prosecute, within a reasonable time, before the prosecution is initiated.</u> This</p>	<p>EP to revert Council to revert</p> <p>TM8 15112023</p>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
			Directive seeks to ensure full respect for <u>the aforementioned</u> those rights and principles and should be implemented accordingly.	
Recital 25				
33	<p>(25) In implementing this Directive, Member States should ensure that the procedural rights of suspected or accused persons in criminal proceedings are observed. In this regard, the obligations under this Directive should not affect Member States obligations under Union law on procedural rights in criminal proceedings, in particular Directives 2010/64/EU¹, 2012/13/EU², 2013/48/EU³, (EU) 2016/343⁴, (EU) 2016/800⁵ and (EU) 2016/1919⁶ of the European Parliament and of the Council.</p> <p>1. Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings (OJ L 280, 26.10.2010, p. 1). 2. Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings (OJ L 142, 1.6.2012, p. 1). 3. Directive 2013/48/EU of the European Parliament and of the Council of 22 October 2013 on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third</p>	<p>(25) In implementing this Directive, Member States should ensure that the procedural rights of suspected or accused persons in criminal proceedings are observed. In this regard, the obligations under this Directive should not affect Member States obligations under Union law on procedural rights in criminal proceedings, in particular Directives 2010/64/EU¹, 2012/13/EU², 2013/48/EU³, (EU) 2016/343⁴, (EU) 2016/800⁵ and (EU) 2016/1919⁶ of the European Parliament and of the Council.</p> <p>1. Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings (OJ L 280, 26.10.2010, p. 1). 2. Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings (OJ L 142, 1.6.2012, p. 1). 3. Directive 2013/48/EU of the European Parliament and of the Council of 22 October 2013 on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third</p>	<p>(25) In implementing this Directive, Member States should ensure that the procedural rights of suspected or accused persons in criminal proceedings are observed. In this regard, the obligations under this Directive should not affect Member States obligations under Union law on procedural rights in criminal proceedings, in particular Directives 2010/64/EU¹, 2012/13/EU², 2013/48/EU³, (EU) 2016/343⁴, (EU) 2016/800⁵ and (EU) 2016/1919⁶ of the European Parliament and of the Council.</p> <p>1. Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings (OJ L 280, 26.10.2010, p. 1). 2. Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings (OJ L 142, 1.6.2012, p. 1). 3. Directive 2013/48/EU of the European Parliament and of the Council of 22 October 2013 on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third</p>	<p>(25) In implementing this Directive, Member States should ensure that the procedural rights of suspected or accused persons in criminal proceedings are observed. In this regard, the obligations under this Directive should not affect Member States obligations under Union law on procedural rights in criminal proceedings, in particular Directives 2010/64/EU¹, 2012/13/EU², 2013/48/EU³, (EU) 2016/343⁴, (EU) 2016/800⁵ and (EU) 2016/1919⁶ of the European Parliament and of the Council.</p> <p>1. Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings (OJ L 280, 26.10.2010, p. 1). 2. Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings (OJ L 142, 1.6.2012, p. 1). 3. Directive 2013/48/EU of the European Parliament and of the Council of 22 October 2013 on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third</p>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
	<p>persons and with consular authorities while deprived of liberty (OJ L 294, 6.11.2013, p. 1).</p> <p>4. Directive (EU) 2016/343 of the European Parliament and of the Council of 9 March 2016 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings (OJ L 65, 11.3.2016, p. 1).</p> <p>5. Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings (OJ L 132, 21.5.2016, p. 1).</p> <p>6. Directive (EU) 2016/1919 of the European Parliament and of the Council of 26 October 2016 on legal aid for suspects and accused persons in criminal proceedings and for requested persons in European arrest warrant proceedings (OJ L 297 4.11.2016, p. 1).</p>	<p>persons and with consular authorities while deprived of liberty (OJ L 294, 6.11.2013, p. 1).</p> <p>4. Directive (EU) 2016/343 of the European Parliament and of the Council of 9 March 2016 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings (OJ L 65, 11.3.2016, p. 1).</p> <p>5. Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings (OJ L 132, 21.5.2016, p. 1).</p> <p>6. Directive (EU) 2016/1919 of the European Parliament and of the Council of 26 October 2016 on legal aid for suspects and accused persons in criminal proceedings and for requested persons in European arrest warrant proceedings (OJ L 297 4.11.2016, p. 1).</p>	<p>persons and with consular authorities while deprived of liberty (OJ L 294, 6.11.2013, p. 1).</p> <p>4. Directive (EU) 2016/343 of the European Parliament and of the Council of 9 March 2016 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings (OJ L 65, 11.3.2016, p. 1).</p> <p>5. Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings (OJ L 132, 21.5.2016, p. 1).</p> <p>6. Directive (EU) 2016/1919 of the European Parliament and of the Council of 26 October 2016 on legal aid for suspects and accused persons in criminal proceedings and for requested persons in European arrest warrant proceedings (OJ L 297 4.11.2016, p. 1).</p>	<p>persons and with consular authorities while deprived of liberty (OJ L 294, 6.11.2013, p. 1).</p> <p>4. Directive (EU) 2016/343 of the European Parliament and of the Council of 9 March 2016 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings (OJ L 65, 11.3.2016, p. 1).</p> <p>5. Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings (OJ L 132, 21.5.2016, p. 1).</p> <p>6. Directive (EU) 2016/1919 of the European Parliament and of the Council of 26 October 2016 on legal aid for suspects and accused persons in criminal proceedings and for requested persons in European arrest warrant proceedings (OJ L 297 4.11.2016, p. 1).</p> <p>new green line</p> <p>Text Origin: Commission Proposal TM8 15112023</p>
	Recital 26			
34	<p>(26) In view of the urgent need to hold individuals and legal persons involved in the violation of Union restrictive measures accountable, Member States should bring into force the laws, regulations and administrative provisions necessary to comply with this Directive within six months after the entry into force of this Directive.</p>	<p>(26) In view of the urgent need to hold individuals and legal persons involved in the violation of Union restrictive measures accountable, Member States should bring into force the laws, regulations and administrative provisions necessary to comply with this Directive within six 12 months after the entry into force of this Directive.</p>	<p>(26) In view of the urgent need to hold individuals and legal persons involved in the violation of Union restrictive measures accountable, Member States should bring into force the laws, regulations and administrative provisions necessary to comply with this Directive within six months after the entry into force of this Directive.</p>	<p>related to Art18</p> <p>EP to revert Council to revert</p> <p>TM8 15112023</p>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
	Recital 26a			
34a		<p><u>(26a) The criminalisation of violations of Union restrictive measures under this Directive is aimed to ensure that these violations will be punishable as criminal offences and enforceable in every Member State. In line with the case law of the Court of Justice of the European Union, Member States are required to adopt in their national legal systems all the measures necessary to ensure that the Directive is fully effective, in accordance with the objective which it pursues. Member States may choose the form and method for implementing this requirement, specific express legal provisions not always having to be adopted, while ensuring that provisions of this Directive are implemented with unquestionable binding force, and with the specificity, precision and clarity necessary to satisfy the requirements of legal certainty, granting appropriate publicity for the national measures adopted pursuant to EU rules in such a way as to enable the persons concerned by such measures to ascertain the scope of their rights and obligations.</u></p>		<p>Council to revert</p> <p>TM8 15112023</p>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
Recital 27				
35	(27) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark annexed to the TEU and to the TFEU, Denmark is not taking part in the adoption of this Directive and is not bound by it or subject to its application.	(27) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark annexed to the TEU and to the TFEU, Denmark is not taking part in the adoption of this Directive and is not bound by it or subject to its application.	(27) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark annexed to the TEU and to the TFEU, Denmark is not taking part in the adoption of this Directive and is not bound by it or subject to its application.	<p>(27) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark annexed to the TEU and to the TFEU, Denmark is not taking part in the adoption of this Directive and is not bound by it or subject to its application.</p> <p>new green line</p> <p>Text Origin: Commission Proposal TM8 15112023</p>
Recital 28, first subparagraph				
36	[non-participation:] In accordance with Articles 1 and 2 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, and without prejudice to Article 4 of that protocol, Ireland is not taking part in the adoption of this Directive and is not bound by it or subject to its application.	<i>deleted</i>	[non-participation:] In accordance with Articles 1 and 2 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, and without prejudice to Article 4 of that protocol, Ireland is not taking part in the adoption of this Directive and is not bound by it or subject to its application.	<p>[non-participation:] In accordance with Articles 1 and 2 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, and without prejudice to Article 4 of that protocol, Ireland is not taking part in the adoption of this Directive and is not bound by it or subject to its application. <u>deleted</u></p> <p>new green line</p> <p>TM8 15112023</p>
Recital 28, second subparagraph				
37				

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
	OR [participation:] 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...], its wish to take part in the adoption and application of this Directive,	<u>(28)</u> OR [participation:] 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 f , by letter of ... <u>3 March 2023</u> , its wish to take part in the adoption and application of this Directive,	OR [participation:] 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...], its wish to take part in the adoption and application of this Directive,	OR [participation:] 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 f , by letter of ... <u>3 March 2023</u> , its wish to take part in the adoption and application of this Directive, new green line Text Origin: Council Mandate TM8 15112023
	Formula			
38	HAVE ADOPTED THIS DIRECTIVE:	HAVE ADOPTED THIS DIRECTIVE:	HAVE ADOPTED THIS DIRECTIVE:	HAVE ADOPTED THIS DIRECTIVE: Text Origin: Commission Proposal
	Article 1			
39	Article 1 Subject matter	Article 1 Subject matter	Article 1 Subject matter	Article 1 Subject matter Text Origin: Commission Proposal
	Article 1, first paragraph			
40	This Directive establishes minimum rules concerning the definition of	This Directive establishes minimum rules concerning the definition of	This Directive establishes <u>common</u> minimum rules concerning the	This Directive establishes minimum rules concerning the definition of

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
	criminal offences and penalties with regard to the violation of Union restrictive measures.	criminal offences and penalties with regard to the violation of Union restrictive measures.	definition of criminal offences and penalties with regard to the violation of Union restrictive measures.	criminal offences and penalties with regard to the violation of Union restrictive measures. Text Origin: Commission Proposal TM2 08092023 - confirmation during the second trilogue 26092023
Article 2				
41	Article 2 Scope and definitions	Article 2 Scope and definitions	Article 2 Scope and definitions	Article 2 Scope and definitions Text Origin: EP Mandate TM2 08092023
Article 2(1)				
42	(1) This Directive applies to violations of Union restrictive measures. Those Union restrictive measures cover:	(1) This Directive applies to violations of Union restrictive measures. Those Union restrictive measures cover:	(1) This Directive applies to violations of Union restrictive measures. Those Union restrictive measures cover:	(1) This Directive applies to violations of Union restrictive measures. Those Union restrictive measures cover: Text Origin: Council Mandate - confirmation during the second trilogue 26092023
Article 2(1), point (a)				
43	(a) measures concerning the freezing of funds and economic resources;	deleted	(a) measures concerning the freezing of funds and economic resources;	(a) measures concerning the freezing of funds and economic resources; deleted TM2 08092023 TM3 20092023- confirmation

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
				during the second trilogue 26092023
Article 2(1), point (b)				
44	(b) prohibitions on making funds and economic resources available;	<i>deleted</i>	(b) prohibitions on making funds and economic resources available;	(b) prohibitions on making funds and economic resources available; <u>deleted</u> TM2 08092023 - confirmation during the second trilogue 26092023
Article 2(1), point (c)				
45	(c) prohibitions on entry into, or transit through, the territory of a Member State	<i>deleted</i>	(c) prohibitions on entry into, or transit through, the territory of a Member State	(c) prohibitions on entry into, or transit through, the territory of a Member State <u>deleted</u> TM2 08092023 - confirmation during the second trilogue 26092023
Article 2(1), point (d)				
46	(d) sectoral economic and financial measures; and	<i>deleted</i>	(d) sectoral economic and financial measures; and	(d) sectoral economic and financial measures; and <u>deleted</u> TM2 08092023 TM3 20092023-confirmation during the second trilogue 26092023
Article 2(1), point (e)				
47	(e) arms embargoes.		(e) arms embargoes.	(e) arms embargoes. <u>deleted</u>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
		<i>deleted</i>		TM2 08092023 TM3 20092023-confirmation during the second trilogue 26092023
Article 2(1), point (ea)				
47a		<u>Article 2a</u> <u>Definitions</u>	<u>Article 2a</u> <u>Definitions</u>	<u>Article 2a</u> <u>Definitions</u> Text Origin: Council Mandate TM2 08092023-confirmation during the second trilogue 26092023
Article 2(2)				
48	(2) For the purposes of this Directive, the following definitions apply:	(2) For the purposes of this Directive, the following definitions apply:	(2) For the purposes of this Directive, the following definitions apply:	(2) For the purposes of this Directive, the following definitions apply: Text Origin: Commission Proposal TM2 08092023-confirmation during the second trilogue 26092023
Article 2(2), point (a)				
49	(a) ‘Union restrictive measures’ are restrictive measures adopted by the Union on the basis of Article 29 TEU or Article 215 TFEU;	(a) ‘Union restrictive measures’, means-are restrictive measures adopted by the Union on the basis of Article 29 TEU or Article 215 TFEU;	(a) ‘Union restrictive measures’, means-are restrictive measures adopted by the Union on the basis of Article 29 TEU or Article 215 TFEU;	(a) ‘Union restrictive measures’, means-are restrictive measures adopted by the Union on the basis of Article 29 TEU or Article 215 TFEU; Text Origin: EP Mandate TM2 08092023-confirmation during the second trilogue

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
				26092023
Article 2(2), point (b)				
50	(b) ‘designated person, entity or body’, means those natural or legal persons, entities or bodies subject to Union restrictive measures consisting in the freezing of funds and economic resources and the prohibition to make funds and economic resources available;	(b) ‘designated person, entity or body’, means those <u>person,</u> natural or legal persons, entities or bodies <u>entity or body</u> subject to Union restrictive measures consisting in the freezing of funds and economic resources and the prohibition to make funds and economic resources available;	(b) ‘designated person, entity or body’, means those natural or legal persons, entities or bodies subject to Union restrictive measures consisting in the freezing of funds and economic resources and the prohibition to make funds and economic resources available;	(b) ‘designated person, entity or body’, means those <u>person,</u> natural or legal persons, entities or bodies <u>entity or body</u> subject to Union restrictive measures consisting in the freezing of funds and economic resources and the prohibition to make funds and economic resources available; Text Origin: Council Mandate TM2 08092023-confirmation during the second trilogue 26092023
Article 2(2), point (c)				
51	(c) ‘funds’ means:	(c) ‘funds’ means <u>financial assets and benefits of every kind, including, but not limited to:</u>	(c) ‘funds’ means:	(c) ‘funds’ means <u>financial assets and benefits of every kind, including, but not limited to:</u> Text Origin: Council Mandate TM2 08092023-confirmation during the second trilogue 26092023
Article 2(2), point (c)(i)				
52	(i) cash, cheques, claims on money, drafts, money orders and other payment instruments;	(i) cash, cheques, claims on money, drafts, money orders and other payment instruments;	(i) cash, cheques, claims on money, drafts, money orders and other payment instruments;	(i) cash, cheques, claims on money, drafts, money orders and other payment instruments;

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
				Text Origin: Commission Proposal-confirmation during the second trilogue 26092023
Article 2(2), point (c)(ii)				
53	(ii) deposits with financial institutions or other entities, balances on accounts, debts and debt obligations;	(ii) deposits with financial institutions or other entities, balances on accounts, debts and debt obligations;	(ii) deposits with financial institutions or other entities, balances on accounts, debts and debt obligations;	(ii) deposits with financial institutions or other entities, balances on accounts, debts and debt obligations; Text Origin: Commission Proposal-confirmation during the second trilogue 26092023
Article 2(2), point (c)(iii)				
54	(iii) publicly- and privately-traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivatives contracts;	(iii) publicly -publicly-traded and privately-traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivatives contracts;	(iii) publicly- and privately-traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivatives contracts;	(iii) publicly -publicly-traded and privately-traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivatives contracts; Text Origin: Council Mandate- confirmation during the second trilogue 26092023
Article 2(2), point (c)(iv)				
55	(iv) interest, dividends or other income on or value accruing from or generated by assets;	(iv) interest, dividends or other income on or value accruing from or generated by assets;	(iv) interest, dividends or other income on or value accruing from or generated by assets;	(iv) interest, dividends or other income on or value accruing from or generated by assets; Text Origin: Commission Proposal-confirmation during the second trilogue 26092023

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
	Article 2(2), point (c)(v)			
56	(v) credit, right of set-off, guarantees, performance bonds or other financial commitments;	(v) credit, right of set-off, guarantees, performance bonds or other financial commitments;	(v) credit, right of set-off, guarantees, performance bonds or other financial commitments;	(v) credit, right of set-off, guarantees, performance bonds or other financial commitments; Text Origin: Commission Proposal-confirmation during the second trilogue 26092023
	Article 2(2), point (c)(vi)			
57	(vi) letters of credit, bills of lading, bills of sale;	(vi) letters of credit, bills of lading, bills of sale;	(vi) letters of credit, bills of lading, bills of sale;	(vi) letters of credit, bills of lading, bills of sale; Text Origin: Commission Proposal-confirmation during the second trilogue 26092023
	Article 2(2), point (c)(vii)			
58	(vii) documents showing evidence of an interest in funds or financial resources;	(vii) documents showing evidence of an interest in funds or financial resources;	(vii) documents showing evidence of an interest in funds or financial resources;	(vii) documents showing evidence of an interest in funds or financial resources; Text Origin: Commission Proposal-confirmation during the second trilogue 26092023
	Article 2(2), point (c)(viii)			
59	(viii) crypto assets;	(viii) crypto assets <u>as defined in Regulation xxx/2023 on Markets in Crypto-assets</u> ; ¹	(viii) crypto-assets <u>crypto-assets as defined in Article 3(5) of Regulation (EU) 2023/1114 of the</u>	(viii) crypto-assets <u>crypto-assets as defined in Article 3(5) of Regulation (EU) 2023/1114 of the</u>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
		<u>I. Regulation of the European Parliament and of the Council on Markets in Crypto-assets, and amending Directive (EU) 2019/1937 (MiCA) ...</u>	<u>European Parliament and of the Council¹;:</u> <u>I. Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937 (Text with EEA relevance) (OJ L 150, 9.6.2023, p. 40).</u>	<u>European Parliament and of the Council¹;:</u> <u>I. Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937 (Text with EEA relevance) (OJ L 150, 9.6.2023, p. 40).</u> Text Origin: EP Mandate TM2 08092023-confirmation during the second trilogue 26092023
Article 2(2), point (d)				
60	(d) ‘economic resources’ means assets of every kind, whether tangible or intangible, movable or immovable, which are not funds but may be used to obtain funds, goods or services;	(d) ‘economic resources’ means assets of every kind, whether tangible or intangible, movable or immovable, which are not funds but may be used to obtain funds, goods or services;	(d) ‘economic resources’ means assets of every kind, whether tangible or intangible, movable or immovable, which are not funds but may be used to obtain funds, goods or services;	(d) ‘economic resources’ means assets of every kind, whether tangible or intangible, movable or immovable, which are not funds but may be used to obtain funds, goods or services; Text Origin: Commission Proposal-confirmation during the second trilogue 26092023
Article 2(2), point (e)				
61	(e) ‘freezing of funds’ means preventing any move, transfer, alteration, use of, access to, or dealing with funds in any way that would result in any change in their volume, amount, location,	(e) ‘freezing of funds’ means preventing any move, transfer, alteration, use of, access to, or dealing with funds in any way that would result in any change in their volume, amount, location,	(e) ‘freezing of funds’ means preventing any move, transfer, alteration, use of, access to, or dealing with funds in any way that would result in any change in their volume, amount, location,	(e) ‘freezing of funds’ means preventing any move, transfer, alteration, use of, access to, or dealing with funds in any way that would result in any change in their volume, amount, location,

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
	ownership, possession, character, destination or any other change that would enable the funds to be used, including portfolio management;	ownership, possession, character, destination or any other change that would enable the funds to be used, including portfolio management;	ownership, possession, character, destination or any other change that would enable the funds to be used, including portfolio management;	ownership, possession, character, destination or any other change that would enable the funds to be used, including portfolio management; Text Origin: Commission Proposal-confirmation during the second trilogue 26092023
Article 2(2), point (f)				
62	(f) ‘freezing of economic resources’ means preventing the use of economic resources to obtain funds, goods or services in any way, including, but not limited to, by selling, hiring or mortgaging them.	(f) ‘freezing of economic resources’ means preventing the use of economic resources to obtain funds, goods or services in any way, including, but not limited to, by selling, hiring or mortgaging them.	(f) ‘freezing of economic resources’ means preventing the use of economic resources to obtain funds, goods or services in any way, including, but not limited to, by selling, hiring or mortgaging them.	(f) ‘freezing of economic resources’ means preventing the use of economic resources to obtain funds, goods or services in any way, including, but not limited to, by selling, hiring or mortgaging them. Text Origin: Commission Proposal-confirmation during the second trilogue 26092023
Article 2(2), point (fa)				
62a			<u>(g) ‘public official’ means:</u> <u>(i) a Union official or a national official of a Member State or of a third country;</u> <u>(ii) any other person assigned and exercising a public service function in a Member State or a third country, for an international organisation or for an international court;</u>	<u>(fa) deleted</u> CON: to add in the recital relating to a.c Other aggravating circumstances may be situations in which the offence was committed by a public official when performing his or her duties, which can be any relevant official, whether holding a formal office in the Union, in the Member States or in third countries, or another person performing a public function, situations in which the offender destroys evidence, or

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
			PUBLIC	<p>intimidates or influences witnesses or complainants, or situations in which the natural or legal person has previously been definitively convicted for offences covered by this Directive.</p> <p>COM to check if it suits to the recital</p> <p>Commission to revert new green line</p> <p>TM2 08092023 TM5 23102023 TM6 06112023 TM7 14112023</p>
Article 2(2), point (fb)				
62b			<p><u>(fb) (h) 'Union official' means a person who is:</u></p> <p><u>(i) a member of an institution, body, office or agency of the Union or the staff of such bodies;</u></p> <p><u>(ii) an official or other servant engaged under contract by the Union within the meaning of the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Union laid down in Council Regulation (EEC, Euratom, ECSC) No 259/68 (the 'Staff Regulations');</u></p> <p><u>(iii) seconded to the Union by a Member State or by any public or private body, who carries out functions equivalent to those performed by Union officials or other servants.</u></p>	<p><u>(fb) deletion</u></p> <p>same recital as for the point above (copy paste below):</p> <p>CON: to add in the recital relating to a.c</p> <p>Other aggravating circumstances may be situations in which the offence was committed by a public official when performing his or her duties, which can be any relevant official, whether holding a formal office in the Union, in the Member States or in third countries, or another person performing a public function, situations in which the offender destroys evidence, or intimidates or influences witnesses or complainants, or situations in which the natural or legal person has previously been definitively convicted for offences covered by this Directive.</p>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
				COM to check if it suits to the recital new green line Commission to revert TM2 08092023 TM5 23102023 TM7 14112023
Article 3				
63	Article 3 Violation of Union restrictive measures	Article 3 Violation of Union restrictive measures	Article 3 Violation <u>and circumvention</u> of Union restrictive measures	Article 3 Violation of Union restrictive measures Text Origin: Commission Proposal TM2 08092023
Article 3(1)				
64	(1) Member States shall take the necessary measures to ensure that the violation of a Union restrictive measure constitutes a criminal offence when committed intentionally and provided it falls in one of the categories defined in paragraph 2.	(1) Member States shall take the necessary measures to ensure that the violation of a <u>following conduct in so far as it amounts to an infringement of a prohibition or an obligation set out in a</u> Union restrictive measure constitutes a criminal offence when committed intentionally and provided it falls in one of the categories defined in paragraph 2. <u>or set out in a national provision implementing a Union restrictive measure, where national implementation is required, constitutes a criminal offence, when committed intentionally:</u>	(1) Member States shall take the necessary measures to ensure that the violation of a Union restrictive measure <u>by any natural, legal person, entity or body</u> constitutes a criminal offence when committed intentionally and provided it falls in one of the categories defined in paragraph 2.	(1) Member States shall take the necessary measures to ensure that, <u>where it is intentional and in-the</u> violation of a <u>prohibition or an obligation set in a</u> Union restrictive measure constitutes a criminal offence when committed intentionally and provided it falls in one of the categories defined in paragraph 2. <u>or in a national provision implementing a Union restrictive measure, where national implementation is required, the following conduct constitutes a criminal offence :</u>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
				<p>recital: "in so far as its amount.."</p> <p>new green line</p> <p>Text Origin: Council Mandate TM3 20092023 TM4 09102023 TM5 23102023 TM6 06112023 TM7 14112023</p>
Article 3(2)				
65	(2) For the purposes of this Directive, the following shall be regarded as violation of a Union restrictive measure:	(2) For the purposes of this Directive, the following shall be regarded as violation of a Union restrictive measure:	(2) For the purposes of this Directive, the following shall be regarded as violation of a Union restrictive measure:	<p>(2) For the purposes of this Directive, the following shall be regarded as violation of a Union restrictive measure: <u>deleted</u></p> <p>new green line</p> <p>TM5 23102023</p>
Article 3(2), point (a)				
66	(a) making funds or economic resources available to, or for the benefit of, a designated person, entity or body in violation of a prohibition by a Union restrictive measure;	(a) making funds or economic resources available to, or for the benefit of, a designated person, entity or body in violation of a prohibition <u>imposed</u> by a Union restrictive measure;	(a) making funds or economic resources available <u>directly or indirectly</u> to, or for the benefit of, a designated person, entity or body in violation of a prohibition by a Union restrictive measure;	<p>(a) making funds or economic resources available <u>directly or indirectly</u> to, or for the benefit of, a designated person, entity or body in violation of a prohibition <u>imposed</u> by a Union restrictive measure;</p> <p>Text Origin: EP Mandate TM3 20092023-confirmation during the second trilogue 26092023</p>
Article 3(2), point (b)				

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
G	67	(b) failing to freeze without undue delay funds or economic resources belonging to or owned, held or controlled by a designated person, entity or body in violation of an obligation to do so imposed by <u>set out in</u> a Union restrictive measure;	(b) failing to freeze without undue delay funds or economic resources belonging to or owned, held or controlled by a designated person, entity or body in violation of an obligation to do so imposed by a Union restrictive measure;	(b) failing to freeze without undue delay funds or economic resources belonging to or owned, held or controlled by a designated person, entity or body in violation of an obligation to do so imposed by <u>set out in</u> a Union restrictive measure; Text Origin: Council Mandate TM3 20092023-confirmation during the second trilogue 26092023
Article 3(2), point (c)				
R	68	(c) enabling the entry of designated natural persons into the territory of a Member State , or their transit through the territory of a Member State in violation of a prohibition <u>imposed</u> by a Union restrictive measure;	(c) enabling the entry of designated natural persons into the territory of a Member State, <u>including its territorial seas and airspace</u> , or their transit through the territory of a Member State in violation of a prohibition by a Union restrictive measure <u>including through international zones situated in the territory of the Member State</u> ;	CON proposal (6/11):(4c) Union restrictive measures also lay down restrictions on admission (travel bans) which should be covered by this Directive. Such measures, usually laid down in a Council Decision adopted on the basis of Article 29 TEU and implemented by means of national law, require Member States to take the necessary measures to prevent the entry into, or transit through, all zones of the territory of the Member States . "Union restrictive measures also lay down restrictions on admission (travel bans) which should be covered by this Directive. Such measures, usually laid down in a Council Decision adopted on the basis of Article 29 TEU and implemented by means of national law,

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
			PUBLIC	<p>require Member States to take the necessary measures to prevent the designated persons from the entering into, or transiting through, all zones of the territory of the Member States, including international transit areas.”</p> <p>EP proposal (14/11)“Union restrictive measures also lay down restrictions on admission (travel bans) which should be covered by this Directive. Such measures, usually laid down in a Council Decision adopted on the basis of Article 29 TEU and implemented by means of national law, require Member States to take the necessary measures to prevent the designated persons from the entering into, or transiting through, all zones of the territory of the Member States, including international transit areas.”</p> <p>EP's proposal made during the trilogue on 26/09/2023:</p> <p>(c) enabling the entry of designated natural persons into the territory of a Member State, including its territorial seas and airspace, or their transit through the territory of a Member State in violation of a prohibition by a Union restrictive measure including through international transit areas situated in the ports and airports of the Member States, without prejudice to the appearance, upon invitation, of the designated persons before relevant international organisations or courts located in a Member States;</p>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
			PUBLIC	<p>in a recital: EP agrees to have this it a recital</p> <p>EP proposal: (4c) Union restrictive measures also lay down restrictions on admission (travel bans) which should be covered by this Directive. Such measures, usually laid down in a Council Decision adopted on the basis of Article 29 TEU and implemented by means of national law, require Member States to take the necessary measures to prevent the entry into, or transit through, their territories of the natural persons who are subject to Union restrictive measures. The prevention of entry, or transit would also apply to international transit areas, which are part of the territory of the Member States and under their full jurisdiction, and thus these zones fall under the principle of territoriality of this Directive.</p> <p>CON proposal during the meeting 14112023: "Union restrictive measures also lay down restrictions on admission (travel bans) which should be covered by this Directive. Such measures, usually laid down in a Council Decision adopted on the basis of Article 29 TEU and implemented by means of national law, require Member States to take the necessary measures to prevent the entry into, or transit through, all zones of the territory of the Member States."</p> <p>trilogue</p>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
				<div>TM3 20092023</div> <div>TM4 09102023</div> <div>TM5 23102023</div> <div>TM6 06112023</div> <div>TM7 14112023</div> <div>TM8 15112023</div>
Article 3(2), point (ca)				
68a			<p><u>(ca) enabling the stay in the territory of a Member State of a designated natural person, including by granting citizenship by investments or residence by investments schemes, in violation of a Union restrictive measure;</u></p>	<p><u>(ca) deleted</u></p> <p>CON proposal during the meeting 14112023: Member States are encouraged to pay particular attention to the mechanisms for granting nationality and residence, in order to prevent individuals from countries subject to Union restrictive measures from using them for violating such measures.</p> <p>drafting during the ITM: "Member States are encouraged to pay particular attention to the mechanisms for granting nationality and residence, in order to prevent individuals subject to Union restrictive measures from using them for violating such measures."</p> <p>Recital? EP will propose a recital</p> <p>EP proposal (6/11):Citizenship by investments and residence by investments schemes can also be instrumental to the evasion of Union restrictive measures. These schemes grant freedom of movement to conduct</p>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
			PUBLIC	<p>business in the Union, and can be used by individuals from countries subject to Union restrictive measure to escape scrutiny over activities that are criminalised under this Directive. Increased efforts should be put at national and EU level to phase out citizenship by investment schemes completely, and to take necessary measures to prevent that residence by investments schemes are abused, including for the purpose of violating Union restrictive measures.</p> <p>Council to revert new green line</p> <p>TM3 20092023 TM4 09102023 TM5 23102023 TM6 06112023 TM7 14112023</p>
Article 3(2), point (d)				
69	(d) entering into transactions with a third State, bodies of a third State, entities and bodies owned or controlled by a third State or bodies of a third State, which are prohibited or restricted by Union restrictive measures;	(d) entering into <u>or continuing</u> transactions with a third State, bodies of a third State, entities and <u>or</u> bodies owned or controlled by a third State or bodies of a third State, which are prohibited or restricted by Union restrictive measures, <u>including the award or continued execution of public or concession contracts</u> ;	(d) entering into <u>financial or corporate</u> transactions <u>or public procurement</u> with a third State, bodies of a third State, entities and bodies <u>directly or indirectly</u> owned or controlled by a third State or bodies of a third State, which are prohibited or restricted by Union restrictive measures;	(d) entering into <u>or continuing</u> transactions with a third State, bodies of a third State, entities and <u>bodies or bodies directly or indirectly</u> owned or controlled by a third State or bodies of a third State, which are prohibited or restricted by Union restrictive measures, <u>including the award or continued execution of public or concession contracts</u> ;
				new green line

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
				TM3 20092023 TM5 23102023 TM6 06112023
Article 3(2), point (e)				
70	<p>(e) trading in goods or services whose import, export, sale, purchase, transfer, transit or transport is prohibited or restricted by Union restrictive measures, as well as providing brokering services or other services relating to those goods and services;</p>	<p>(e) trading in goods or services <u>whose import, export, importing, exporting, sale, purchase, transfer, transit or transport is prohibited or restricted by Union restrictive measures, selling, purchasing, transferring, transiting or transporting goods</u> as well as providing brokering services, <u>technical assistance</u> or other services relating to those goods and services, in violation of a prohibition imposed by a Union restrictive measure;</p>	<p>(e) trading in goods, <u>services or technology</u> or services whose import, export, sale, purchase, transfer, transit or transport is prohibited or restricted by Union restrictive measures, as well as <u>acting as an intermediary or</u> providing brokering services or other services relating to those goods and services;</p>	<p>(e) trading in goods or services <u>whose import, export, importing, exporting, sale, purchase, transfer, transit or transport is prohibited or restricted by Union restrictive measures, selling, purchasing, transferring, transiting or transporting goods</u> as well as providing brokering services, <u>technical assistance</u> or other services relating to those goods and services, in violation of a prohibition imposed by a Union restrictive measure;</p> <p>related to Recital (4b)</p> <p>Text Origin: Council Mandate TM3 20092023-confirmation during the second trilogue 26092023</p>
Article 3(2), point (f)				
71	<p>(f) providing financial activities which are prohibited or restricted by Union restrictive measures, such as financing and financial assistance, providing investment and investment services, issuing transferrable</p>	<p>(f) providing financial <u>services or performing financial</u> activities which are prohibited or restricted by Union restrictive measures, such as financing and financial assistance, providing investment and investment</p>	<p>(f) providing financial activities which are prohibited or restricted by Union restrictive measures, such as financing and financial assistance, providing investment and investment services, issuing transferrable</p>	<p>(f) providing financial <u>services or performing financial</u> activities which are prohibited or restricted by Union restrictive measures, such as financing and financial assistance, providing investment and investment</p>


	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
	securities and money market instruments, accepting deposits, providing specialised financial messaging services, dealing in banknotes, provide credit rating services, providing crypto assets and wallets;	services, issuing transferrable securities and money market instruments, accepting deposits, providing specialised financial messaging services, dealing in banknotes, provide credit rating services, providing crypto assets and wallets;	securities and money market instruments, accepting deposits, providing specialised financial messaging services, dealing in banknotes, provide credit rating services, providing crypto assets and wallets;	services, issuing transferrable securities and money market instruments, accepting deposits, providing specialised financial messaging services, dealing in banknotes, provide credit rating services, providing crypto assets and wallets; Text Origin: Council Mandate TM3 20092023-confirmation during the second trilogue 26092023
Article 3(2), point (g)				
72	(g) providing other services which are prohibited or restricted by Union restrictive measures, such as legal advisory services, trust services, public relations services, accounting, auditing, bookkeeping and tax consulting services, business and management consulting, IT consulting, public relations services, broadcasting, architectural and engineering services;	(g) providing other services which are prohibited or restricted by Union restrictive measures, such as legal advisory services, trust services, public relations services, accounting, auditing, bookkeeping and tax consulting services, business and management consulting, IT consulting, public relations services, broadcasting, architectural and engineering services;	(g) providing other services which are prohibited or restricted by Union restrictive measures, such as legal advisory services, trust services, public relations services, accounting, auditing, bookkeeping and tax consulting services, business and management consulting, IT consulting, public relations services, broadcasting, architectural and engineering services;	(g) providing other services which are prohibited or restricted by Union restrictive measures, such as legal advisory services, trust services, public relations services, accounting, auditing, bookkeeping and tax consulting services, business and management consulting, IT consulting, public relations services, broadcasting, architectural and engineering services; Text Origin: Council Mandate TM3 20092023-confirmation during the second trilogue 26092023
Article 3(2), point (h)				
73	(h) circumventing a Union restrictive measure by:	(h) circumventing a Union restrictive measure by:	(h) circumventing a Union restrictive measure by:	(h) circumventing a Union restrictive measure by:

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
				Text Origin: Commission Proposal-confirmation during the second trilogue 26092023
Article 3(2), point (h)(i)				
74	(i) concealing funds or economic resources owned, held, or controlled by a designated person, entity or body, which should be frozen in accordance with a Union restrictive measure, by the transfer of those funds, or economic resources to a third party;	(i) concealing <u>transferring</u> funds or economic resources owned, held, or controlled by a designated person, entity or body, which should are to be frozen in accordance with a Union restrictive measure, by the transfer of <u>measure to a third party to conceal</u> those funds, or economic resources to a third party ;	(i) concealing <u>(i) moving, transferring, altering, using, accessing, dealing with, selling, hiring or mortgaging</u> funds or economic resources <u>directly or indirectly</u> owned, held, or controlled by a designated person, entity or body, which should be frozen in accordance with a Union restrictive measure, <u>to a third party to conceal</u> by the transfer of those funds, or economic resources <u>enabling the designated persons to continue to use them</u> to a third party ;	(i) concealing <u>Using, transferring to a third party or otherwise disposing of</u> funds or economic resources <u>directly or indirectly</u> owned, held, or controlled by a designated person, entity or body, which should are to be frozen in accordance with a Union restrictive measure, by the transfer of <u>in order to conceal</u> those funds, or economic resources to a third party ; new green line Text Origin: Council Mandate TM4 09102023 TM5 23102023 TM6 06112023
Article 3(2), point (h)(ii)				
75	(ii) concealing the fact that a person, entity or body subject to restrictive measures is the ultimate owner or beneficiary of funds or economic resources, through the provision of false or incomplete information;	(ii) concealing <u>providing false or misleading information, to conceal</u> the fact that a <u>designated</u> person, entity or body subject to restrictive measures is the ultimate owner or beneficiary of funds or economic resources, through the provision of false or incomplete information <u>which are to be frozen in</u>	(ii) concealing the fact that a person, entity or body subject to <u>Union</u> restrictive measures is the ultimate owner or beneficiary of funds or economic resources, through the provision of false or incomplete information;	(ii) concealing <u>providing false or misleading information, to conceal</u> the fact that a <u>designated</u> person, entity or body subject to restrictive measures is the ultimate owner or beneficiary of funds or economic resources, through the provision of false or incomplete information <u>which are to be frozen in</u>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
		<u>accordance with a Union restrictive measure</u> ;		<u>accordance with a Union restrictive measure</u> ; recital 15 (line 23) : providing false or misleading information, including relevant incomplete information, to conceal the fact that a designated person, entity or body is the ultimate owner or beneficiary of funds or economic resources CON: for recital: incomplete relevant information COM proposal : for recital 15 ok for co-legislators (6/11) new green line TM3 20092023 TM5 23102023 TM6 06112023
Article 3(2), point (h)(iii)				
76	(iii) failing by a designated person, entity or body to comply with an obligation under Union restrictive measures to report funds or economic resources within the jurisdiction of a Member State, belonging to, owned, held, or controlled by them;	(iii) failing by a designated <u>natural</u> person, <u>or by a representative of a designated</u> entity or body, to comply with an obligation under <u>imposed by</u> Union restrictive measures to report funds or economic resources within the jurisdiction of a Member State, belonging to, owned, held, or controlled by them;	(iii) failing by a designated person, entity or body to comply with an obligation under Union restrictive measures to report funds or economic resources within the jurisdiction of a Member State, belonging to, owned, held, or controlled by them;	(iii) failing by a designated <u>natural</u> person, <u>or by a representative of a designated</u> entity or body, to comply with an obligation under <u>imposed by</u> Union restrictive measures to report funds or economic resources within the jurisdiction of a Member State, belonging to, owned, held, or controlled by them; Text Origin: Council Mandate TM3 20092023-confirmation during the second trilogue

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
				26092023
Article 3(2), point (h)(iv)				
77	(iv) failing to comply with an obligation under Union restrictive measures to provide without undue delay information on funds or economic resources frozen or information held about funds and economic resources within the territory of the Member States, belonging to, owned, held or controlled by designated persons, entities or bodies and which have not been frozen, to the competent administrative authorities;	(iv) failing to comply with an obligation under imposed by Union restrictive measures to provide <u>information obtained in the performance of professional duty on frozen</u> without undue delay information on funds or economic resources frozen or information held about funds and or economic resources within the territory of the Member States, belonging to, owned, held or controlled by designated persons, entities or bodies and which have not been frozen, to the competent administrative authorities;	(iv) failing to comply with an obligation under Union restrictive measures to provide without undue delay information on funds or economic resources frozen or information held about funds and economic resources within the territory of the Member States, belonging to, owned, held or controlled by designated persons, entities or bodies and which have not been frozen, to the competent administrative authorities;	(iv) failing to comply with an obligation under imposed by Union restrictive measures to provide <u>information obtained in the performance of professional duty on frozen</u> without undue delay information on funds or economic resources frozen or information held about funds and or economic resources within the territory of the Member States, belonging to, owned, held or controlled by designated persons, entities or bodies and which have not been frozen, to the competent administrative authorities; Text Origin: Council Mandate TM3 20092023-confirmation during the second trilogue 26092023
Article 3(2), point (h)(v)				
78	(v) failing to cooperate with the competent administrative authorities in any verification of information under points (iii) and (iv), upon their reasoned request;	<i>deleted</i>	(v) failing to cooperate with the competent administrative authorities in any verification of information under points (iii) and (iv), upon their reasoned request;	(v) failing to cooperate with the competent administrative authorities in any verification of information under points (iii) and (iv), upon their reasoned request; deleted new green line

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
				<div>TM3 20092023</div> <div>TM5 23102023</div> <div>TM6 06112023</div> <div>TM7 14112023</div>
Article 3(2), point (h)(va)				
R 78a			<div>(va) <u>conduct that has the same effect as one of the offences referred to in points (d) to (g) of this paragraph, in particular the concealment of goods, transactions, services or activities subject to a Union restrictive measure, or information about their nature, origin, destination or the identity of parties involved;</u></div>	<div>CON suggests to have a revision clause as in the environmental crimes Directive - COM to come back on this point</div> <div>COM proposal: (h) Circumventing a Union restrictive measure by [...] (va) Importing or exporting goods from or to a third country, in view of transferring these goods to a destination to which their import, export, sale, purchase, transfer, transit or transport is prohibited by a Union restrictive measure; for CON: already covered in letter (e)?</div> <div>CON: to add this (va) in a recital related to letter (e) and a revision-clause possible (as in the envicrime's Directive: art25para3)</div> <div>CON suggest a new recital 4e (14/11): (4e) In addition, rules on the prohibition of trading, importing, exporting, selling, purchasing, transferring, transiting or transporting goods or services are called for. The violation of such prohibitions, including</div>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
				<p>the cases of importing or exporting goods from or to a third country in order to have them transferred to a destination to which their import, export, sale, purchase, transfer, transit or transport is prohibited by a Union restrictive measure, should constitute a criminal offence. The provision, directly or indirectly, of technical assistance, brokering services, insurance, and any other service related to these goods or services, should also constitute a criminal offence. For this purpose, the notion of goods includes items, such as military technology and equipment, goods, software and technology, which are included in the Common Military List of the European Union or are listed in Annexes I and IV to Regulation (EU) 2021/821</p> <p>CON proposal: revision clause (envicrime): By [OP – please insert the date - five years after the transposition period of this Directive is over], the Commission shall carry out an evaluation of the impact of this Directive addressing the need to update the list of environmental criminal offences and submit a report to the European Parliament and to the Council. Member States shall provide the Commission with necessary information for the preparation of that report, including a summary about the implementation and actions taken in accordance with Articles 16 to 20 and statistical data,</p>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
			PUBLIC	<p>with particular attention to cross-border cooperation. The report shall be accompanied by a legislative proposal, if necessary.</p> <p>The Commission shall regularly consider if there is a need to amend the offences defined in Article 3[1] of this Directive.</p> <p>trilogue</p> <p>TM3 20092023 TM5 23102023 TM6 06112023 TM7 14112023 TM8 15112023</p>
Article 3(2), point (i)				
79	(i) breaching or failing to fulfil conditions under authorizations granted by competent authorities to conduct activities, which in the absence of such an authorization are prohibited or restricted under a Union restrictive measure.	(i) breaching or failing to fulfil conditions under authorizations granted by competent authorities to conduct activities, which in the absence of such an authorization are prohibited or restricted under a Union restrictive measure.	(i) breaching or failing to fulfil conditions under authorizations granted by competent authorities to conduct activities, which in the absence of such an authorization are prohibited or restricted under a Union restrictive measure.	<p>(i) breaching or failing to fulfil conditions under authorizations granted by competent authorities to conduct activities, which in the absence of such an authorization are prohibited or restricted under a Union restrictive measure.</p> <p>Text Origin: Commission Proposal-confirmation during the second trilogue 26092023</p>
Article 3(2), point (ia)				
79a		<u>(2a) Member States may provide that the violations referred to in paragraph 1, points (a), (b) and (h) of this Article do not constitute a criminal offence where they involve</u>		<u>(ia) Member States may provide that the violations referred to in paragraph 1, points (a), (b) and (h) of this Article do not constitute a criminal offence where they involve</u>


	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
		<u>funds or economic resources of a value of less than EUR 10 000.</u>		<u>funds or economic resources of a value of less than EUR 10 000.</u> new green line Text Origin: Council Mandate TM5 23102023
	Article 3(2), point (ib)			
79b		<u>(2b) Member States may provide that the violations referred to in paragraph 1, points (d) to (g) and (i) of this Article do not constitute a criminal offence where they involve goods, services, transactions or activities of a value of less than EUR 10 000.</u>		<u>(ib) Member States may provide that the violations referred to in paragraph 1, points (d) to (g) and (i) of this Article do not constitute a criminal offence where they involve goods, services, transactions or activities of a value of less than EUR 10 000.</u> new green line Text Origin: Council Mandate TM5 23102023
	Article 3(2), point (ic)			
79c		<u>(2c) Member States may provide that the violation referred to in paragraph 1, point (c) of this Article does not constitute a criminal offence in minor cases.</u>		<u>(ic) (2d) Member States shall take the necessary measures to ensure that the threshold of EUR 10 000 or more may also be met through a series of linked violations of the same kind referred to in paragraph 1, points (a), (b), (d) to (i) of this Article, when committed by the same offender.</u>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
				<p>modify the related recital</p> <p>new green line</p> <p>TM3 20092023 - decision during second trilogue 26092023</p> <p>TM4 09102023</p> <p>TM5 23102023</p>
Article 3(3)				
R	80	<p>(3) The conduct referred to in paragraph 2, points (a) to (g) shall constitute a criminal offence also if committed with serious negligence.</p>	<p><i>deleted</i></p>	<p>(3) The conduct referred to in paragraph 2, points (a) to (g) shall constitute a criminal offence also if committed with serious negligence.</p> <p>CON serious negligence: only for letters (a) and (b), for EP: more extensive list needed</p> <p>CON: serious negligence only for letter (e) (arms)</p> <p>trilogue</p> <p>TM3 20092023</p> <p>TM4 09102023</p> <p>TM5 23102023</p> <p>TM7 14112023</p>
Article 3(4)				
G	81	<p>(4) Nothing in paragraph 2 shall be understood as imposing obligations on natural persons contrary to the right not to incriminate oneself and to remain silent as enshrined in the Charter of Fundamental Rights of the European Union and Directive (EU) 2016/343.</p>	<p><i>deleted</i></p>	<p>(4) Nothing in paragraph 2 shall be understood as imposing obligations on natural persons contrary to the right not to incriminate oneself and to remain silent as enshrined in the Charter of Fundamental Rights of the European Union and Directive (EU) 2016/343. <u>deleted</u></p>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
				TM3 20092023 - agreement during trilogue TM4 09102023
	Article 3(5)			
82	<p>(5) Nothing in paragraph 2 shall be understood as imposing an obligation on legal professionals to report information which is obtained in strict connection with judicial, administrative or arbitral proceedings, whether before, during or after judicial proceedings, or in the course of ascertaining the legal position of a client. Legal advice in those circumstances shall be protected by professional secrecy, except where the legal professional is taking part in the violation of Union restrictive measures, the legal advice is provided for the purposes of violating Union restrictive measures, or the legal professional knows that the client is seeking legal advice for the purposes of violating Union restrictive measures.</p>	<p>(5) Nothing in paragraph 2¹ shall be understood as imposing an obligation on legal professionals to report information which is obtained in strict connection with judicial <u>that they receive from, administrative or arbitral proceedings, whether before, during or after judicial proceedings, or</u> <u>or obtain on, one of their clients,</u> in the course of ascertaining the legal position of a^{their} client. Legal advice in those circumstances shall be protected by professional secrecy, except where the legal professional is taking part in the violation of Union restrictive measures, the legal advice is provided for the purposes of violating Union restrictive measures, or the legal professional knows that the client is seeking legal, or <u>performing the task of defending or representing that client in, or concerning, judicial proceedings, including providing</u> advice for the purposes of violating Union restrictive measures. <u>on instituting or avoiding such proceedings.</u></p>	<p>(5) Nothing in paragraph 2 shall be understood as imposing an obligation on legal professionals to report information which is obtained in <u>the performance of the task of defending or representing a client in, or concerning</u> strict connection with judicial, administrative or arbitral proceedings, whether before, during or after judicial proceedings, or in the course of ascertaining the legal position of a client. Legal advice in those circumstances shall be protected by professional secrecy, except where the legal professional is taking part in the violation of Union restrictive measures, the legal advice is provided for the purposes of violating Union restrictive measures, or the legal professional knows <u>or has a well-grounded suspicion on the basis of factual circumstances</u> that the client is seeking legal advice for the purposes of violating <u>or circumventing</u> Union restrictive measures.</p>	<p>(5) (5)¹ Nothing in paragraph 2¹ shall be understood as imposing an obligation on legal professionals to report information which is obtained in strict connection with judicial <u>that they receive from, administrative or arbitral proceedings, whether before, during or after judicial proceedings, or</u> <u>or obtain on, one of their clients,</u> in the course of ascertaining the legal position of a^{their} client, <u>or performing the task of defending or representing that client in, or concerning, judicial proceedings, including providing advice on instituting or avoiding such proceedings.</u> Legal advice in those circumstances shall be protected by professional secrecy, except where the legal professional is taking part in the violation of Union restrictive measures, the legal advice is provided for the purposes of violating Union restrictive measures, or the legal professional knows that the client is seeking legal advice for the purposes of violating Union restrictive measures.¹</p>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
			PUBLIC	<p>COM drafting proposal (14/11): recital (7) (line 15) Legal professionals, as defined by the Member States, should be subject to this Directive, including the obligation to report the violation of Union restrictive measures, when providing services in the context of professional activities [COM/EP]. Experience shows that there is a clear risk of the services of those legal professionals being misused for the purpose of violating Union restrictive measures [COM/EP]. There should, however, be exemptions from any obligation to report information that they receive from, or is obtained from, one of their clients, in the course of ascertaining their legal position or performing the task of defending or representing that client in, or concerning, judicial proceedings, including providing advice on instituting or avoiding such proceedings. Therefore, such legal advice should remain subject to the obligation of professional secrecy, except where the legal professional is taking part in the violation of Union restrictive measures, the legal advice is provided for the purposes of violating Union restrictive measures, or the legal professional knows that the client is seeking legal advice for the purposes of violating Union restrictive measures. Knowledge can be inferred from objective factual circumstances [COM/EP].</p> <p>EP ok if "such as legal, financial and</p>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
			PUBLIC	<p>trade services" is still including in the first sentence for the recital</p> <p>EP proposal (15/11): "including but not limited to legal, financial and trade services"</p> <p>related to recital 7 COM is fine to have this clarification in a recital (last part)</p> <p>CON: recital for the last part in brackets</p> <p>COM new drafting proposal for the related recital (7)</p> <p>Council to revert EP to revert</p> <p>TM3 20092023 TM5 23102023 TM6 06112023 TM7 14112023</p>
Article 3(6)				
83	(6) Paragraphs 1, 2 and 3 shall not apply to:	<i>deleted</i>	(6) Paragraphs 1, 2 and 3 shall not apply to:	(6) <u>[Nothing in paragraphs 1, 2 and 3 shall not apply to be understood as criminalising humanitarian assistance for persons in need or activities in support of basic human needs provided in accordance with the principles of impartiality, humanity, neutrality and independence, and where applicable, with international humanitarian law.]</u>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
				<p>CON's proposal: Nothing in paragraphs 1, 2 and 3 shall be understood as imposing an obligation on Member States to criminalize humanitarian assistance for persons in need in accordance with international humanitarian law, or activities in support of basic human needs or human rights in line with principles of impartiality, humanity, neutrality and independence."</p> <p>EP's proposal: Nothing in paragraphs 1, 2 and 3 shall be understood as restricting the provision of humanitarian assistance for persons in need, in accordance with international humanitarian law, or activities in support of basic human needs or human rights in line with principles of impartiality, humanity, neutrality and independence.</p> <p>COM's proposal: Nothing in paragraphs 1, 2 and 3 shall be understood as criminalising humanitarian assistance for persons in need or activities in support of basic human needs provided in accordance with the principles of impartiality, humanity, neutrality and independence, and where applicable, with international humanitarian law. CON is fine with the COM's proposal.</p> <p>EP accepts the last COM proposal. CON to revert.</p> <p>Council to revert</p>


	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
				TM3 20092023 TM4 09102023 TM5 23102023 TM7 14112023
Article 3(6), first indent				
y	84 - the provision of goods or services of daily use for the personal use of designated natural persons, such as food and healthcare products and services, or of petty cash, where it is clearly limited to fulfilling the basic human needs of such persons and their dependent family members,	<i>deleted</i>	- the provision of goods or services of daily use for the personal use of designated natural persons, such as food and healthcare products and services, or of petty cash, where it is clearly limited to fulfilling the basic human needs of such persons and their dependent family members,	Council to revert TM3 20092023 TM4 09102023 TM5 23102023 TM7 14112023
Article 3(6), second indent				
y	85 - to the failure to report such activities;	<i>deleted</i>	<i>deleted</i>	Council to revert TM3 20092023 TM4 09102023 TM5 23102023 TM7 14112023
Article 3(6), third indent				
y	86 - to humanitarian aid provided for persons in need.	<i>deleted</i>	- to <u>the provision of humanitarian assistance or activities in support of basic human needs and/or human rights, as defined in the relevant EU sanctions regimes;</u> aid provided for persons in need.	Council to revert TM3 20092023 TM4 09102023 TM5 23102023 TM7 14112023

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
	Article 3(6), fourth indent			
Y	86a		<u><i>the failure to report the activities referred in this paragraph.</i></u>	<div>Council to revert</div> <div>TM3 20092023</div> <div>TM4 09102023</div> <div>TM5 23102023</div> <div>TM7 14112023</div>
	Article 4			
G	87	Article 4 Inciting, aiding and abetting, and attempt	Article 4 Inciting, aiding and abetting, and attempt	Article 4 Inciting, aiding and abetting, and attempt <div>Text Origin: Commission Proposal</div>
	Article 4(1)			
G	88	(1) Member States shall take the necessary measures to ensure that inciting, aiding and abetting the offences referred to in Article 3 is punishable as a criminal offence.	(1) Member States shall take the necessary measures to ensure that inciting, aiding and abetting the offences referred to in Article 3 is punishable as a criminal offence.	(1) Member States shall take the necessary measures to ensure that inciting, aiding and abetting the offences referred to in Article 3 is punishable as a criminal offence. <div>Text Origin: Commission Proposal</div> <div>TM2 08092023-confirmation during the second trilogue 26092023</div>
	Article 4(2)			
G	89	(2) Member States shall take the	(2) Member States shall take the	(2) Member States shall take the

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
	necessary measures to ensure that the attempt to commit any of the offences referred to in Article 3 (2), points (a) to (g), (h (i), (ii) and point (i), is punishable as a criminal offence.	necessary measures to ensure that the attempt to commit any of the offences referred to in Article 3 (2)(1) , points (a), <u>(d) to (g) and (h)(i) and (ii)</u> to (g), (h (i), (ii) and point (i) , is punishable as a criminal offence.	necessary measures to ensure that the attempt to commit any of the offences referred to in Article 3 <u>3(2)</u> , points (a) to (g), (h (i) points (h)(i), (ii) and (va) and point (i), is punishable as a criminal offence.	necessary measures to ensure that the attempt to commit any of the offences referred to in Article 3 (2)(2)(1) , points (a), <u>(c)</u> to (g), (h (i), (ii) and point (i) and (h)(i) and (ii) , is punishable as a criminal offence. new green line TM2 08092023 TM3 20092023 TM5 23102023 TM6 06112023
Article 5				
90	Article 5 Criminal penalties for natural persons	Article 5 Criminal penalties for natural persons	Article 5 Criminal penalties for natural persons	Article 5 Criminal penalties for natural persons Text Origin: Commission Proposal
Article 5(1)				
91	(1) Member States shall ensure that the criminal offences referred to in Articles 3 and 4 are punishable by effective, proportionate and dissuasive criminal penalties.	(1) Member States shall ensure that the criminal offences referred to in Articles 3 and 4 are punishable by effective, proportionate and dissuasive criminal penalties.	(1) Member States shall ensure that the criminal offences referred to in Articles 3 and 4 are punishable by effective, proportionate and dissuasive criminal penalties.	(1) Member States shall ensure that the criminal offences referred to in Articles 3 and 4 are punishable by effective, proportionate and dissuasive criminal penalties. Text Origin: Commission Proposal TM1 07092023-confirmation during the second trilogue 26092023

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
Article 5(2)				
92	(2) Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 3 are punishable by a maximum penalty which provides for imprisonment.	(2) Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 3 are punishable by a maximum penalty which provides for imprisonment.	(2) Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 3 are punishable by a maximum penalty which provides for imprisonment.	(2) Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 3 are punishable by a maximum penalty which provides for imprisonment. Text Origin: Commission Proposal TM1 07092023-confirmation during the second trilogue 26092023
Article 5(3)				
93	(3) Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 3(2), points (h)(iii), (iv) and (v), are punishable by a maximum penalty of at least one year of imprisonment when they involve funds or economic resources of a value of at least EUR 100 000. Member States shall ensure that the threshold of EUR 100 000 or more may also be met through a series of linked offences referred to in Article 3(2), points (h)(iii), (iv) and (v), when committed by the same offender.	(3) Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 3(2) <u>3(1)</u> , points (h)(iii), (iv) and (v) <u>and (iv)</u> , are punishable by a maximum penalty of at least one year of imprisonment when they involve funds or economic resources of a value of at least EUR 100 000. <i>Member States shall ensure that the threshold of EUR 100 000 or more may also be met through a series of linked offences referred to in Article 3(2), points (h)(iii), (iv) and (v), when committed by the same offender.</i>	(3) Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 3(2), points (h)(iii), (iv), <u>(v) and (va)</u> and (v) , are punishable by a maximum penalty of at least one year of imprisonment when they involve funds or economic resources of a value of at least EUR 100 000 <u>50 000</u> . Member States shall ensure that the threshold of EUR 100 000 <u>50 000</u> or more may also be met through a series of linked offences referred to in Article 3(2), points (h)(iii), (iv), <u>(v) and (va)</u> and (v) , when committed by the same offender.	(3) Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 3(2) <u>3(1)</u> , points (h)(iii), (iv) and (v) <u>and (iv)</u> , are punishable by a maximum penalty of at least one year of imprisonment when they involve funds or economic resources of a value of at least EUR 100 000. <i>Member States shall ensure that the threshold of EUR 100 000 or more may also be met through a series of linked offences referred to in Article 3(2), points (h)(iii), (iv) and (v), when committed by the same offender.</i> new green line Text Origin: Council Mandate

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
				TM5 23102023
Article 5(4)				
94	<p>(4) Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 3(2), points (a) to (g), (h)(i) and (ii), and point (i), are punishable by a maximum penalty of at least five years of imprisonment when they involve funds or economic resources of a value of at least EUR 100 000. Member States shall ensure that the threshold of EUR 100 000 or more may also be met through a series of linked offences referred to in Article 3(2), points (a) to (g), (h)(i) and (ii), and point (i), by the same offender.</p>	<p>(4) Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 3(2)<u>3(1)</u>, points (a), (b) and to (g), (h)(i) and (ii), and point (i), are punishable by a maximum penalty of at least five years of imprisonment when they involve funds or economic resources of a value of at least EUR 100 000: <i>Member States shall ensure that the threshold of EUR 100 000 or more may also be met through a series of linked offences referred to in Article 3(2), points (a) to (g), (h)(i) and (ii), and point (i), by the same offender, on the date when the offence was committed.</i></p>	<p>(4) Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 3(2), points (a) to (g), <u>points</u> (h)(i) and (ii), and point (i), are punishable by a maximum penalty of at least five years of imprisonment when they involve funds or economic resources of a value of at least EUR 100 000. Member States shall ensure that the threshold of EUR 100 000 or more may also be met through a series of linked offences referred to in Article 3(2), points (a) to (g), <u>points</u> (h)(i) and (ii), and point (i), by the same offender.</p>	<p>CON: deletion of point c: no harmonized penalty for the travel ban: discussion to have at political level</p> <p>CON to propose 1 year for letter (c) EP: 5 years or 3 years for travel ban</p> <p>trilogue</p> <p>TM1 07092023 TM3 20092023 TM4 09102023 TM5 23102023 TM7 14112023</p>
Article 5(4a)				
94a		<p><u>(4a) Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 3(1), points (d) to (g) and (i), are punishable by a maximum penalty of at least five years of imprisonment when they involve goods, services, transactions or activities of a value of at least EUR 100 000 on the date when the</u></p>		<p><u>4a. Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 3(1), points (d) to (g) and (i), are punishable by a maximum penalty of at least five years of imprisonment when they involve goods, services, transactions or activities of a value of at least EUR 100 000 on the date when the</u></p>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
		<p><u>offence was committed. Where the criminal offence referred to in Article 3(1), point (e) involves items included in the Common Military List of the European Union or dual-use items listed in Annexes I and IV to Regulation (EU) 2021/821, Member States shall take the necessary measures to ensure that it is punishable by a maximum penalty of at least five years of imprisonment irrespective of the value of the items involved.</u></p>		<p><u>offence was committed. Where the criminal offence referred to in Article 3(1), point (e) involves items included in the Common Military List of the European Union or dual-use items listed in Annexes I and IV to Regulation (EU) 2021/821, Member States shall take the necessary measures to ensure that it is punishable by a maximum penalty of at least five years of imprisonment irrespective of the value of the items involved.</u></p> <p>new green line</p> <p>Text Origin: Council Mandate TM5 23102023</p>
Article 5(4b)				
94b		<p><u>(4b) Member States shall take the necessary measures to ensure that the threshold of EUR 100 000 or more may also be met through a series of linked offences of the same kind referred to in Article 3(1), when committed by the same offender.</u></p>		<p><u>4b. Member States shall take the necessary measures to ensure that the threshold of EUR 100 000 or more may also be met through a series of linked offences of the same kind referred to in Article 3(1), when committed by the same offender.</u></p> <p>new green line</p> <p>Text Origin: Council Mandate TM5 23102023</p>
Article 5(5)				

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
95	<p>(5) Member States shall take the necessary measures to ensure that natural persons who have committed the offences referred to in Articles 3 and 4 may be subject to additional penalties. Those additional penalties shall include fines.</p>	<p>(5) Member States shall take the necessary measures to ensure that natural persons who have committed the offences referred to in Articles 3 and 4 may be subject to additional penalties. Those additional penalties shall<u>criminal or non-criminal sanctions or measures which may</u> include fines.</p>	<p>(5) Member States shall take the necessary measures to ensure that natural persons who have committed the offences referred to in Articles 3 and 4 may be subject to additional penalties, <u>which shall include fines. Such fines shall be proportionate to the amount of funds or economic resources involved in the offence and the maximum limit of such fines shall be not less than EUR 10 000 000 where those offences involve funds or economic resources of a value of at least EUR 100 000.</u> Those additional penalties shall <u>also</u> include:</p> <ul style="list-style-type: none"> <u>(a) withdrawal of permits and authorisations to pursue activities which have resulted in committing the offence;</u> <u>(b) disqualification from exercising a leading position within a legal person of the type used for committing the offence;</u> <u>(c) temporary bans on running for elected or public office;</u> <u>(d) national or Union-wide publication of the judicial decision relating to the conviction or any sanctions or measures applied</u>fines. 	<p>(5) <u>Member States shall take the necessary measures to ensure that natural persons who have committed the offences referred to in Articles 3 and 4 may be subject to additional penalties, which shall include fines. Such fines shall be proportionate to the amount of funds or economic resources involved in the offence and the maximum limit of such fines shall be not less than EUR 10 000 000 where those offences involve funds or economic resources of a value of at least EUR 100 000.</u> Those additional penalties shall <u>also</u> include:</p> <ul style="list-style-type: none"> <u>(a) withdrawal of permits and authorisations to pursue activities which have resulted in committing the offence;</u> <u>(b) disqualification from exercising a leading position within a legal person of the type used for committing the offence;</u> <u>(c) temporary bans on running for elected or public office;</u> <u>(d) where there is a public interest, publication of all or part of the judicial decision that relates to the criminal offence committed and the sanctions or measures imposed following a case-by-case assessment. The personal data of convicted persons may be published only in duly justified exceptional cases</u>fines.<u>]]</u>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
			<div data-bbox="1187 143 1556 518" data-label="Image"> </div>	<p>related recital for penalties: recital (10)</p> <p>additional penalties: related to the environmental crimes' Directive</p> <p>CON: fines mandatory and recital for the rest? (as in the AMLcriminal 2018) and a "may-clause"for the rest CON: "Member States shall take the necessary measures to ensure that natural persons who have committed the offences referred to in Articles 3 and 4 may be subject to additional [penalties which shall include additional or alternative fines]."</p> <p>EP: points (a) and (b) important CON: ok for (a),(b) and (c) if may COM and CON: point "c" : "not elected position" - changes in envicrime</p> <p>COM proposal for (d): where there is a public interest, publication of all or part of the judicial decision that relates to the criminal offence committed and the sanctions or measures imposed following a case-by-case assessment. The personal data of convicted persons may be published only in duly justified exceptional cases. (like in the envicrime's Directive)</p> <p>trilogue</p> <p>Text Origin: EP Mandate</p>
Article 6				

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
96	Article 6 Liability of legal persons	Article 6 Liability of legal persons	Article 6 Liability of legal persons	Article 6 Liability of legal persons Text Origin: Commission Proposal
Article 6(1)				
97	(1) Member States shall take the necessary measures to ensure that legal persons can be held liable for offences referred to in Articles 3 and 4 committed for their benefit by any person, acting either individually or as part of an organ of the legal person, and having a leading position within the legal person, based on:	(1) Member States shall take the necessary measures to ensure that legal persons can be held liable for offences referred to in Articles 3 and 4 <u>where such offences have been committed for their benefit by any person who has a leading position within the legal person</u> , acting either individually or as part of an organ of the legal person, and having a leading position within the legal person, based on:	(1) Member States shall take the necessary measures to ensure that legal persons can be held liable for offences referred to in Articles 3 and 4 committed for their benefit by any person, acting either individually or as part of an organ of the legal person, and having a leading position within the legal person, based on:	(1) Member States shall take the necessary measures to ensure that legal persons can be held liable for offences referred to in Articles 3 and 4 <u>where such offences have been committed for their benefit by any person who has a leading position within the legal person</u> , acting either individually or as part of an organ of the legal person, and having a leading position within the legal person, based on: Text Origin: Council Mandate TMI 07092023-confirmation during the second trilogue 26092023
Article 6(1), point (a)				
98	(a) a power of representation of the legal person;	(a) a power of representation of the legal person;	(a) a power of representation of the legal person;	(a) a power of representation of the legal person; Text Origin: Commission Proposal-confirmation during the second trilogue 26092023
Article 6(1), point (b)				

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
99	(b) an authority to take decisions on behalf of the legal person;	(b) an authority to take decisions on behalf of the legal person;	(b) an authority to take decisions on behalf of the legal person;	(b) an authority to take decisions on behalf of the legal person; Text Origin: Commission Proposal-confirmation during the second trilogue 26092023
Article 6(1), point (c)				
100	(c) an authority to exercise control within the legal person.	(c) an authority to exercise control within the legal person.	(c) an authority to exercise control within the legal person.	(c) an authority to exercise control within the legal person. Text Origin: Commission Proposal-confirmation during the second trilogue 26092023
Article 6(2)				
101	(2) Member States shall also 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 any of the criminal offences referred to in Article 3 and 4 for the benefit of that legal person.	(2) Member States shall also 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 any of the criminal offences <u>of an offence</u> referred to in Article <u>Articles</u> 3 and 4 for the benefit of that <u>the</u> legal person <u>by a person under its authority</u> .	(2) Member States shall also 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 any of the criminal offences referred to in Article 3 and 4 for the benefit of that legal person.	(2) Member States shall also 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 any of the criminal offences <u>of an offence</u> referred to in Article <u>Articles</u> 3 and 4 for the benefit of that <u>the</u> legal person <u>by a person under its authority</u> . Text Origin: Council Mandate TM1 07092023-confirmation during the second trilogue 26092023

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
	Article 6(3)			
G	102	(3) Liability of legal persons under paragraphs 1 and 2 of this Article shall not exclude the possibility of criminal proceedings against natural persons who are perpetrators, inciters or accessories in the offences referred to in Articles 3 and 4.	(3) Liability of legal persons under paragraphs 1 and 2 of this Article shall not exclude the possibility of criminal proceedings against natural persons who are perpetrators, inciters or accessories in the offences referred to in Articles 3 and 4.	(3) Liability of legal persons under paragraphs 1 and 2 of this Article shall not exclude the possibility of criminal proceedings against natural persons who are perpetrators, inciters or accessories in the offences referred to in Articles 3 and 4. Text Origin: Council Mandate TM1 07092023-confirmation during the second trilogue 26092023
	Article 7			
G	103	Article 7 Penalties for legal persons	Article 7 Penalties <u>Sanctions</u> for legal persons	Article 7 Penalties <u>Sanctions</u> for legal persons Text Origin: EP Mandate TM1 07092023-confirmation during the second trilogue 26092023
	Article 7(1)			
R	104	(1) Member States shall take the necessary measures to ensure that a legal person held liable pursuant to Article 7 is subject to effective, proportionate and dissuasive penalties, which shall include criminal or non-criminal	(1) Member States shall take the necessary measures to ensure that a legal person held liable pursuant to Article 7 <u>is subject to 6</u> <u>is punishable</u> <u>by</u> effective, proportionate and dissuasive penalties, which shall include criminal or non-criminal	(1) Member States shall take the necessary measures to ensure that a legal person held liable pursuant to Article 7 <u>6</u> is subject to effective, proportionate and dissuasive penalties <u>sanctions</u> , which shall include criminal or non-criminal "may -clause": to be solved at political level trilogue TM1 07092023

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
	exclusion from entitlement to public benefits or aid, exclusion from access to public funding, including tender procedures, grants and concessions and may include other penalties, such as:	finer, exclusion from entitlement to public benefits or aid, exclusion from access to public funding, including tender procedures, grants and concessions and may include other penalties <u>sanctions or measures, which shall include criminal or non-criminal fines and may include other criminal or non-criminal sanctions or measures</u> , such as:	finer, exclusion from entitlement to public benefits or aid, exclusion from access to public funding, including tender procedures, grants and concessions and may include other penalties <u>sanctions</u> , such as:	TM3 20092023 TM4 09102023 TM5 23102023
Article 7(1), point (-a)				
R	104a	<u>(a-1) exclusion from entitlement to public benefits or aid;</u>		trilogue TM1 07092023 TM3 20092023 TM5 23102023
Article 7(1), point (-b)				
R	104b	<u>(a-2) exclusion from access to public funding, including tender procedures, grants and concessions;</u>		trilogue TM1 07092023 TM3 20092023 TM5 23102023
Article 7(1), point (a)				
G	105	(a) disqualification from the practice of business activities;	(a) <u>temporary or permanent</u> disqualification from the practice of business activities;	(a) disqualification from the practice of business activities; Text Origin: Commission

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
				Proposal-confirmation during the second trilogue 26092023
Article 7(1), point (b)				
106	(b) withdrawal of permits and authorisations to pursue activities which have resulted in committing the offence;	(b) withdrawal of permits and authorisations to pursue activities which have resulted in committing the offence;	(b) withdrawal of permits and authorisations to pursue activities which have resulted in committing the offence;	(b) withdrawal of permits and authorisations to pursue activities which have resulted in committing the offence; Text Origin: Commission Proposal-confirmation during the second trilogue 26092023
Article 7(1), point (c)				
107	(c) placing under judicial supervision;	(c) placing under judicial supervision;	(c) placing under judicial supervision;	(c) placing under judicial supervision; Text Origin: Commission Proposal-confirmation during the second trilogue 26092023
Article 7(1), point (d)				
108	(d) judicial winding-up;	(d) judicial winding-up;	(d) judicial winding-up;	(d) judicial winding-up; Text Origin: Commission Proposal-confirmation during the second trilogue 26092023
Article 7(1), point (e)				
109	(e) closure of establishments, which have been used for committing the criminal offence.	(e) closure of establishments, which have been used for committing the criminal offence.	(e) closure of establishments, which have been used for committing the criminal offence.	(e) closure of establishments, which have been used for committing the criminal offence.

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
				Text Origin: Commission Proposal-confirmation during the second trilogue 26092023
	Article 7(1), point (ea)			
G	109a		<u>(ea) national or Union-wide publication of the judicial decision relating to the conviction or any sanctions or measures applied, including by referring such judicial decision, sanctions or measures to relevant Union institutions.</u>	<u>(ea) (ea) where there is a public interest, publication of all or part of the judicial decision that relates to the criminal offence committed and the sanctions or measures imposed, without prejudice to rules on privacy and the protection of personal data</u> new green line TM1 07092023 TM3 20092023 TM5 23102023
	Article 7(2)			
R	110	(2) Member States shall take the necessary measures to ensure that for legal persons held liable pursuant to Article 7 the criminal offences referred to in Article 3(2), points (h) (iii) to (v), are punishable by fines, the maximum limit of which should be not less than 1 percent of the total worldwide turnover of the legal person in the business year preceding the fining decision.	(2) Member States shall take the necessary measures to ensure that for legal persons held liable pursuant to Article 7 the criminal <u>6</u> , offences referred to in Article 3(2), points (h) (iii) to (v), <u>3(1)</u> are punishable by <u>criminal or non-criminal</u> fines, the maximum limit <u>amount</u> of which should be not less than 1 percent <u>shall be proportionate to the seriousness</u> of the total worldwide turnover <u>conduct and to the</u>	(2) Member States shall take the necessary measures to ensure that for legal persons held liable pursuant to Article 7 <u>6</u> the criminal offences referred to in Article 3(2), points (h) (iii) to (v) <u>(va)</u> , are punishable by fines, the maximum limit of which should be not less than 1 <u>five</u> percent of the total <u>consolidated</u> worldwide turnover of the legal person in the business year preceding the fining decision. trilogue TM1 07092023 TM3 20092023 TM4 09102023 TM5 23102023

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
		<i><u>individual, financial and other circumstances</u> of the legal person in the business year preceding the fining decision concerned. Member States shall take the necessary measures to ensure that the maximum level of the fines is not less than:</i>		
Article 7(2a)				
R 110a		<i><u>(a) 1 percent of the total worldwide turnover of the legal person, either in the business year preceding the one in which the offence was committed, or in the business year preceding the fining decision, for offences referred to in Article 3(1), points (h) (iii) to (iv), and 5 percent of the total worldwide turnover of the legal person, either in the business year preceding the one in which the offence was committed, or in the business year preceding the fining decision, for offences referred to in Article 3(1) points (a) to (g), (h)(i) and (ii), and point (i);</u></i>		trilogue TM1 07092023 TM3 20092023 TM4 09102023 TM5 23102023
Article 7(2b)				
R 110b		<i><u>or, alternatively</u></i>		trilogue TM1 07092023 TM3 20092023 TM4 09102023

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
				TM5 23102023
	Article 7(2c)			
R	110c	<u>(b) an amount corresponding to EUR 8 million for offences referred to in Article 3(1), points (h) (iii) to (iv) and EUR 40 million for offences referred to in Article 3(1) points (a) to (g), (h)(i) and (ii), and point (i).</u>		trilogue TM1 07092023 TM3 20092023 TM4 09102023 TM5 23102023
	Article 7(2d)			
R	110d	<u>When providing for fines pursuant to Article 7(2) point (a), Member States may provide for 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 the one in which the offence was committed, or in the business year preceding the fining decision.</u>		trilogue TM1 07092023 TM3 20092023 TM4 09102023 TM5 23102023
	Article 7(3)			
R	111	deleted	(3) Member States shall take the necessary measures to ensure that for legal persons held liable pursuant to Article 76 the criminal offences referred to in Article 3(2), points (a)	trilogue TM3 20092023 TM4 09102023 TM5 23102023

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
	to (f), (h)(i) and (ii), and point (i), are punishable by fines, the maximum limit of which should be not less than 5 percent of the total worldwide turnover of the legal person in the business year preceding the fining decision.		to (f), <u>points</u> (h)(i) and (ii), and point (i), are punishable by fines, the maximum limit of which should be not less than 5 <u>15</u> percent of the total <u>consolidated</u> worldwide turnover of the legal person in the business year preceding the fining decision.	
Article 8				
112	Article 8 Aggravating circumstances	Article 8 Aggravating circumstances	Article 8 Aggravating circumstances	Article 8 Aggravating circumstances Text Origin: Commission Proposal
Article 8, first paragraph				
113	In so far as the following circumstances do not already form part of the constituent elements of the criminal offences referred to in Articles 3 and 4, Member States shall take the necessary measures to ensure that one or several of the following circumstances may be regarded as aggravating circumstances:	In so far as the following circumstances do not already form part of the constituent elements of the criminal offences referred to in Articles 3 and 4, Member States shall take the necessary measures to ensure that one or several of the following circumstances may, <u>in accordance with the relevant provisions of national law</u> , be regarded as aggravating circumstances:	In so far as the following circumstances do not already form part of the constituent elements of the criminal offences referred to in Articles 3 and 4, Member States shall take the necessary measures to ensure that one or several of the following circumstances may be regarded as aggravating circumstances:	In so far as the following circumstances do not already form part of the constituent elements of the criminal offences referred to in Articles 3 and 4, Member States shall take the necessary measures to ensure that one or several of the following circumstances may, <u>in accordance with the relevant provisions of national law</u> , be regarded as aggravating circumstances: new green line Text Origin: Council Mandate TM6_06112023

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
	Article 8, first paragraph, point (-a)			
G 113a			<p><u>(-a) (-a) the offence was committed in violation of a Union restrictive measure imposed in relation to crimes within the jurisdiction of the International Criminal Court including the crime of genocide, crimes against humanity, war crimes and the crime of aggression or of a Union restrictive measure imposed in relation to serious human rights violations and abuses;</u></p>	<p><u>(-a) deleted</u></p> <p>new green line</p> <p>TM1 07092023 TM5 23102023 TM6 06112023 TM7 14112023 TM8 15112023</p>
	Article 8, first paragraph, point (a)			
G 114	<p>(a) the offence was committed in the framework of a criminal organisation within the meaning of Council Framework Decision 2008/841/JHA¹;</p> <p>1. Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime OJ L 300, 11.11.2008, p. 42-45.</p>	<p>(a) the offence was committed in the framework of a criminal organisation within the meaning of Council Framework Decision 2008/841/JHA¹;</p> <p>1. Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime OJ L 300, 11.11.2008, p. 42-45.</p>	<p>(a) the offence was committed in the framework of a criminal organisation within the meaning of Council Framework Decision 2008/841/JHA¹;</p> <p>1. Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime OJ L 300, 11.11.2008, p. 42-45.</p>	<p>(a) the offence was committed in the framework of a criminal organisation within the meaning of Council Framework Decision 2008/841/JHA¹;</p> <p>1. Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime OJ L 300, 11.11.2008, p. 42-45.</p> <p>Text Origin: Commission Proposal-confirmation during the second trilogue 26092023</p>
	Article 8, first paragraph, point (aa)			
G 114a				

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
			<u>(aa) the offence involves the export of military technology or equipment as defined in Council Common Position 2008/944/CFSP;</u>	<u>(aa) deleted</u> related with Article 5 paragraph 4(a) (line 94a) new green line TM1 07092023 TM5 23102023
Article 8, first paragraph, point (ab)				
114b			<u>(ab) the offence involved serious acts of corruption or the use of false or forged documents;</u>	<u>(ab) [the offence involved the use by the offender of false or forged documents];</u> new green line Text Origin: EP Mandate TM5 23102023 TM6 06112023
Article 8, first paragraph, point (b)				
115	(b) the offence was committed by a professional service provider in violation of his professional obligations;	(b) the offence was committed by a professional service provider in violation of his <u>or her</u> professional obligations;	(b) the offence was committed by a professional service provider in violation of his professional obligations;	(b) the offence was committed by a professional service provider in violation of his <u>the</u> professional obligations <u>of such professional service provider;</u> Text Origin: Council Mandate TM1 07092023-confirmation during the second trilogue 26092023
Article 8, first paragraph, point (c)				

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
116	(c) the offence was committed by a public official when performing his or her duties;	(c) the offence was committed by a public official when performing his or her duties; <u>or another person performing a public function.</u>	(c) the offence was committed by a public official, <u>whether a member of the civil service or the government including at the highest level,</u> when performing his or her duties;	(c) the offence was committed by a public official when performing his or her duties; <u>or another person performing a public function.</u> new green line Text Origin: Council Mandate TM6 06112023
Article 8, first paragraph, point (d)				
117	(d) the offence was committed by another person when performing a public function.	<i>deleted</i>	(d) the offence was committed by another person when performing a public function.	(d) the offence was committed by another person when performing a public function. <u>deleted</u> related to line 116 new green line TM1 07092023 TM5 23102023 TM6 06112023
Article 8, first paragraph, point (da)				
117a			<u>(da) the offence generated or was expected to generate substantial financial benefits, or avoided substantial expenses, directly or indirectly;</u>	<u>(da) the offence generated or was expected to generate substantial financial benefits, or avoided substantial expenses, directly or indirectly, to the extent that they can be determined;</u> new green line TM1 07092023

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
				TM5 23102023 TM6 06112023
	Article 8, first paragraph, point (db)			
G	117b		<u>(db) the offender actively obstructs the inspection, custom controls or investigation activities, destroys evidence, or intimidates or interferes with witnesses or complainants;</u>	<u>(db) the offender destroys evidence, or intimidates witnesses or complainants;</u> new green line TM1 07092023 TM5 23102023 TM6 06112023
	Article 8, first paragraph, point (dc)			
G	117c		<u>(dc) the offender does not provide assistance to inspection and other enforcement authorities when legally required;</u>	<u>(dc) deleted</u> new green line TM1 07092023 TM5 23102023
	Article 8, first paragraph, point (dd)			
G	117d		<u>(dd) in the case of legal persons, the offence was committed by a person having a leading position within the legal person concerned;</u>	<u>(dd) deleted</u> already in article 6 (1) (line 97) new green line TM1 07092023 TM5 23102023
	Article 8, first paragraph, point (de)			

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
117e			<u>(de) the natural or legal person has previously committed offences covered by Articles 3 and 4.</u>	<u>(de) the natural or legal person has previously been definitively convicted for offences covered by Articles 3 and 4.</u> Text Origin: EP Mandate TMI 07092023-confirmation during the second trilogue 26092023
Article 9				
118	Article 9 Mitigating circumstance	Article 9 Mitigating circumstance	Article 9 Mitigating circumstance	Article 9 Mitigating circumstance <u>circumstances</u> Text Origin: Commission Proposal
Article 9, first paragraph				
119	Provided this is not already an obligation under Union restrictive measures, Member States shall take the necessary measures to ensure that, in relation to the offences referred to in Articles 3 and 4, the following may be regarded as a mitigating circumstance:	Provided this is not already an obligation under Union restrictive measures, Member States shall <u>may</u> take the necessary measures to ensure that, in relation to the offences referred to in Articles 3 and 4, <u>and in accordance with the relevant provisions of national law, it the following</u> may be regarded as a mitigating circumstance: <u>that the offender provides the competent authorities with information they would not otherwise have been able to obtain, helping them to identify</u>	<u>1.</u> Provided this is not already an obligation under Union restrictive measures, Member States shall take the necessary measures to ensure that, in relation to the offences referred to in Articles 3 and 4, the following <u>circumstances</u> may be regarded as a mitigating circumstance:	Provided this is not already an obligation under Union restrictive measures, <u>“Member States shall/shall/may</u> take the necessary measures to ensure that, in relation to the <u>relevant</u> offences referred to in Articles 3 and 4, <u>one or several of the following circumstances may, in accordance with the relevant provisions of national law, may</u> be regarded as a mitigating circumstance <u>circumstances:</u> ” <u>”</u> for EP related to line 121a

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
		<u>or bring to justice the other offenders or provides the competent authorities with information they would not otherwise have been able to obtain, helping them to find evidence.</u>		<p>Council to revert</p> <p>TM1 07092023 TM5 23102023 TM6 06112023 TM7 14112023 TM8 15112023</p>
Article 9, first paragraph, point (a)				
120	(a) the offender provides the competent authorities with information they would not otherwise have been able to obtain, helping them to identify or bring to justice the other offenders;	<i>deleted</i>	(a) the offender provides the competent authorities with information they would not otherwise have been able to obtain, helping them to identify or bring to justice the other offenders;	<p>(a) the offender provides the competent authorities with information they would not otherwise have been able to obtain, helping them to identify or bring to justice the other offenders;</p> <p>new green line</p> <p>Text Origin: Commission Proposal TM6 06112023</p>
Article 9, first paragraph, point (b)				
121	(b) the offender provides the competent authorities with information they would not otherwise have been able to obtain, helping them to find evidence.	<i>deleted</i>	(b) the offender provides the competent authorities with information they would not otherwise have been able to obtain, helping them to find evidence.	<p>(b) the offender provides the competent authorities with information they would not otherwise have been able to obtain, helping them to find evidence.</p> <p>new green line</p> <p>Text Origin: Commission Proposal TM6 06112023</p>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
	Article 9, first paragraph, point (ba)			
Y	121a		<p><u>(ba) the offender reports the offence to the competent authorities, before the offence is detected by the competent authorities;</u></p>	<p>to add it at the end of (a)? : to discuss: EP to propose a new draft EP: Member States should take the necessary measures to ensure that, in the assessment of mitigating circumstances, competent authorities take into account the nature, timing, and extent of the information provided by the offender and the level of cooperation provided by the person in question</p> <p>for CON already covered</p> <p>EP ok to delete it if "shall" in the "chapeau" (coherent with a.c (art8)) (line 119)</p> <p>EP to revert Council to revert</p> <p>TM1 07092023 TM5 23102023 TM6 06112023 TM7 14112023</p>
	Article 9, first paragraph a			
G	121b		<p><u>1a. Member States shall take the necessary measures to ensure that, in the assessment of mitigating circumstances, competent authorities take into account the nature, timing, and extent of the information provided by the</u></p>	<p><u>deleted</u></p> <p>related to recital 12</p> <p>new green line</p> <p>TM1 07092023 TM5 23102023</p>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
			<u>offender and the level of cooperation provided by the person in question</u>	TM6 06112023
Article 10				
122	Article 10 Freezing and confiscation	Article 10 Freezing and confiscation	Article 10 Freezing and confiscation	Article 10 Freezing and confiscation Text Origin: Commission Proposal
Article 10, first paragraph -a				
122a		<u>(1) Member States shall take the necessary measures to enable the freezing and confiscation of instrumentalities and proceeds from the criminal offences referred to in Articles 3 and 4. Member States bound by Directive 2014/42/EU of the European Parliament and of the Council shall do so in accordance with that Directive.</u>		<u>Member States shall take the necessary measures to enable the freezing and confiscation of instrumentalities and proceeds from the criminal offences referred to in Articles 3 and 4. Member States bound by Directive 2014/42/EU of the European Parliament and of the Council shall do so in accordance with that Directive.</u> new green line Text Origin: Council Mandate TM5 23102023
Article 10, first paragraph				
123	Member States shall take the necessary measures to ensure that funds or economic resources subject	<u>(2) Member States shall also take the necessary measures to ensure <u>that enable the freezing and</u></u>	<u>1. Member States shall take the necessary measures to ensure that funds or economic resources subject</u>	<u>(2) [Member States shall also take the necessary measures to enable the freezing and confiscation of</u>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
	to Union restrictive measures in respect of which the designated person, entity or body commits or participates in an offence referred to in Article 3(2), points (h)(i) or (ii), are considered as ‘proceeds’ of crime for the purposes of Directive (EU) [...] [Directive on asset recovery and confiscation].	<u>confiscation of</u> funds or economic resources subject to Union restrictive measures in respect of which the designated <u>natural</u> person, <u>or the representative of a designated</u> entity or body, commits or participates in an offence referred to in Article 3(2) <u>3 (1)</u> , points (h)(i) or (ii), are considered as ‘proceeds’ of crime. <u>Member States shall do so in accordance with the safeguards set out in Directive 2014/42/EU, including the respect for the purposes of Directive (EU) [.../...] [Directive on asset recovery and confiscation]<u>principle of proportionality in individual cases. This paragraph shall not prejudice the rights of bona fide third parties.</u></u>	to Union restrictive measures in respect of which the designated person, entity or body commits or participates in an offence referred to in Article 3(2), points (h)(i) or (ii), are considered as ‘proceeds’ of crime for the purposes of Directive (EU) [...] <u>of the European Parliament and the of the Council</u> [Directive on asset recovery and confiscation].	<u>funds or economic resources subject to Union restrictive measures in respect of which the designated natural person, or the representative of a designated entity or body, commits or participates in an offence referred to in Article 3(1), points (h)(i) or (ii).</u> Member States shall do so in accordance with Member States shall take the necessary measures to ensure that funds or economic resources subject to Union restrictive measures in respect of which the designated person, entity or body commits or participates in an offence referred to in Article 3(2), points (h)(i) or (ii), are considered as ‘proceeds’ of crime for the purposes of Directive (EU) [.../...] [Directive on asset recovery and confiscation] <u>2014/42/EU</u>]- new green line TM1 07092023 TM5 23102023 TM6 06112023
Article 10, first paragraph a				
123a			<u>1a. Member States shall ensure that funds or economic resources subject to Union restrictive measures in respect of which the designated person, entity or body,</u>	deleted new green line TM1 07092023 TM5 23102023

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
			<p><u>listed in Council Regulation (EU) No 269/2014¹ and in Council Regulation (EU) No 833/2014², commits or participates in an offence referred to in Article 3(2) of this Directive shall be frozen and confiscated in accordance with Articles 11 to 18a of Directive [on asset recovery and confiscation].</u></p> <p><u>1. Council Regulation (EU) No 269/2014 of 17 March 2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ L 78, 17.3.2014, p. 6).</u></p> <p><u>2. Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine (OJ L 229, 31.7.2014, p. 1).</u></p>	
	Article 10, fourth paragraph			
R 123b			<p><u>1b. The Commission shall issue guidelines on the use of the confiscated instrumentalities, proceeds and property for compensation, restitution and reparations towards States, especially in the circumstances of war of aggression insofar as the interests at stake are directly or indirectly affected by the criminal activities covered by this Directive and by the Directive [on asset recovery and confiscation].</u></p>	<p>COM proposal for a recital :Member States could consider using the confiscated instrumentalities, proceeds and property stemming from the criminal offences covered by this Directive for compensation, restitution and reparations towards States, especially in the circumstances of war of aggression.</p> <p>CON: softer wording</p> <p>related to the ARC's Directive</p>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
			PUBLIC	<p>COM and CON : better to address this in the ARC's Directive</p> <p>CON:to propose "guidelines" as in the ARC's Directive- to have the same text here</p> <p>EP insists to have "guidance/guidelines" here or in the ARC's Directive</p> <p>COM: quid to use the same wording as in the envicrime? (MS may consider the use of confiscated instrumentalities, proceeds and property, for compensation restitution and reparations towards States, especially in the circumstances)</p> <p>trilogue</p> <p>TM1 07092023 TM5 23102023 TM6 06112023 TM7 14112023 TM8 15112023</p>
Article 11				
124	Article 11 Jurisdiction rules	Article 11 Jurisdiction rules	Article 11 Jurisdiction rules	Article 11 Jurisdiction rules Text Origin: Commission Proposal
Article 11(1)				
125	(1) Each Member State shall take	(1) Each Member State <u>States</u> shall	(1) Each Member State shall take	(1) Each Member State <u>States</u> shall

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
	the necessary measures to establish its jurisdiction over the criminal offences referred to in Articles 3 and 4 where:	take the necessary measures to establish its <u>their</u> jurisdiction over the criminal offences referred to in Articles 3 and 4 where:	the necessary measures to establish its jurisdiction over the criminal offences referred to in Articles 3 and 4 where:	take the necessary measures to establish its <u>their</u> jurisdiction over the criminal offences referred to in Articles 3 and 4 where: Text Origin: Council Mandate TM2 08092023-confirmation during the second trilogue 26092023
Article 11(1), point (a)				
126	(a) the criminal offence was committed in whole or in part within its territory, including its airspace;	(a) the criminal offence was committed in whole or in part within its territory, including its airspace ;	(a) the criminal offence was committed in whole or in part within its territory, including its airspace <u>and territorial sea</u> ;	(a) the criminal offence was committed in whole or in part within its territory, including its airspace ; Text Origin: Council Mandate-confirmation during the second trilogue 26092023
Article 11(1), point (b)				
127	(b) the criminal offence was committed on board of any aircraft or any vessel under the jurisdiction of a Member State;	(b) the criminal offence was committed on board of any aircraft or any vessel under the jurisdiction of a Member State <u>a ship or an aircraft registered in it or flying its flag</u> ;	(b) the criminal offence was committed on board of any aircraft or any vessel under the jurisdiction of a Member State;	(b) the criminal offence was committed on board of any aircraft or any vessel under the jurisdiction of a Member State <u>a ship or an aircraft registered in it or flying its flag</u> ; Text Origin: Council Mandate TM2 08092023-confirmation during the second trilogue 26092023
Article 11(1), point (c)				
128	(c) the offender is one of its	(c) the offender is one of its	(c) the offender is one of its	

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
	nationals or habitual residents;	nationals or habitual residents ;	nationals or habitual residents;	related to envicrime trilogue TM2 08092023 TM5 23102023 TM7 14112023
Article 11(1), point (d)				
129	(d) the offender is one of its officials who acts in his or her official duty;	<i>deleted</i>	(d) the offender is one of its officials who acts in his or her official duty;	trilogue TM2 08092023 TM5 23102023
Article 11(1), point (e)				
130	(e) the offence is committed for the benefit of a legal person which is established on its territory;	<i>deleted</i>	(e) the offence is committed for the benefit of a <u>natural or</u> legal person which is established on its territory;	trilogue TM2 08092023 TM5 23102023
Article 11(1), point (f)				
131	(f) the offence is committed for the benefit of a legal person in respect of any business done in whole or in part on its territory.	<i>deleted</i>	(f) the offence is committed for the benefit of a <u>natural or</u> legal person in respect of any business done in whole or in part on its territory.	trilogue TM2 08092023 TM5 23102023
Article 11(1), point (fa)				
131a		<u>(1a) A Member State shall inform the Commission where it decides to</u>		trilogue

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
		<u><i>extend its jurisdiction to one or more offences referred to in Articles 3 and 4 which have been committed outside its territory, where:</i></u>		TM2 08092023 TM5 23102023
	Article 11(1), point (fb)			
R	131b	<u><i>(a) the offender is one of its habitual residents;</i></u>		trilogue TM2 08092023 TM5 23102023
	Article 11(1), point (fc)			
R	131c	<u><i>(b) the offender is one of its officials who acts in his or her official duty;</i></u>		trilogue TM2 08092023 TM5 23102023
	Article 11(1), point (fd)			
R	131d	<u><i>(c) the offence is committed for the benefit of a legal person which is established on its territory;</i></u>		trilogue TM2 08092023 TM5 23102023
	Article 11(1), point (fe)			
R	131e	<u><i>(d) the offence is committed for the benefit of a legal person in respect of any business done in whole or in</i></u>		trilogue

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
		<u>part on its territory.</u>		TM2 08092023 TM5 23102023
Article 11(2)				
132	<p>(2) Where an offence referred to in Articles 3 and 4 falls within the jurisdiction of more than one Member State, these Member States shall cooperate to determine which Member State is to conduct criminal proceedings. The matter shall, where appropriate, be referred to Eurojust in accordance with Article 12 of Council Framework Decision 2009/948/JHA¹.</p> <p>1. 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 of 15.12.2009, p. 42.</p>	<p>(2) Where an offence referred to in Articles 3 and 4 falls within the jurisdiction of more than one Member State, these Member States shall cooperate to determine which Member State is to conduct criminal proceedings. The matter shall, where appropriate, be referred to Eurojust in accordance with Article 12 of Council Framework Decision 2009/948/JHA¹.</p> <p>1. 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 of 15.12.2009, p. 42.</p>	<p>(2) Where an offence referred to in Articles 3 and 4 falls within the jurisdiction of more than one Member State, these Member States shall cooperate to determine which Member State is to conduct criminal proceedings. The matter shall, where appropriate, be referred to Eurojust in accordance with Article 12 of Council Framework Decision 2009/948/JHA¹.</p> <p>1. 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 of 15.12.2009, p. 42.</p>	<p>(2) Where an offence referred to in Articles 3 and 4 falls within the jurisdiction of more than one Member State, these Member States shall cooperate to determine which Member State is to conduct criminal proceedings. The matter shall, where appropriate, be referred to Eurojust in accordance with Article 12 of Council Framework Decision 2009/948/JHA¹.</p> <p>1. 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 of 15.12.2009, p. 42.</p> <p>Text Origin: Commission Proposal-confirmation during the second trilogue 26092023</p>
Article 11(3)				
133	<p>(3) In cases referred to in paragraph 1, point (c), Member States shall take the necessary measures to ensure that the exercise of their jurisdiction is not subject to the condition that a prosecution can be initiated only following a report made by the victim in the place</p>	<p>(3) In cases referred to in paragraph 1, point (c), Member States shall take the necessary measures to ensure that the exercise of their jurisdiction is not subject to the condition that a prosecution can be initiated only following a report <i>made by the victim in the place</i></p>	<p>(3) In cases referred to in paragraph 1, point (c), Member States shall take the necessary measures to ensure that the exercise of their jurisdiction is not subject to the condition that a prosecution can be initiated only following a report made by the victim in the place</p>	<p>(3) In cases referred to in paragraph 1, point (c), Member States shall take the necessary measures to ensure that the exercise of their jurisdiction is not subject to the condition that a prosecution can be initiated only following a report <i>made by the victim in the place</i></p>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
	where the criminal offence was committed, or a denunciation from the State of the place where the criminal offence was committed.	where the criminal offence was committed, or a denunciation from the State of the place where the criminal offence was committed.	where the criminal offence was committed, or a denunciation from the State of the place where the criminal offence was committed.	where the criminal offence was committed, or a denunciation from the State of the place where the criminal offence was committed. Text Origin: Council Mandate TM2 08092023-confirmation during the second trilogue 26092023
Article 12				
134	Article 12 Limitation periods	Article 12 Limitation periods	Article 12 Limitation periods	Article 12 Limitation periods Text Origin: Commission Proposal
Article 12(1)				
135	(1) Member States shall take the necessary measures to provide for a limitation period that enables the investigation, prosecution, trial and judicial decision of criminal offences referred to in Articles 3 and 4 for a sufficient period of time after the commission of those criminal offences, so that those criminal offences can be tackled effectively.	(1) Member States shall take the necessary measures to provide for a limitation period that enables the investigation, prosecution, trial and judicial decision of criminal offences referred to in Articles 3 and 4 for a sufficient period of time after the commission of those criminal offences, so that those criminal offences can be tackled effectively.	(1) Member States shall take the necessary measures to provide for a limitation period that enables the investigation, prosecution, trial and judicial decision of criminal offences referred to in Articles 3 and 4 for a sufficient period of time after the commission of those criminal offences, so that those criminal offences can be tackled effectively.	(1) Member States shall take the necessary measures to provide for a limitation period that enables the investigation, prosecution, trial and judicial decision of criminal offences referred to in Articles 3 and 4 for a sufficient period of time after the commission of those criminal offences, so that those criminal offences can be tackled effectively. Text Origin: Commission Proposal-confirmation during the second trilogue 26092023
Article 12(2)				

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
136	(2) Member States shall take the necessary measures to enable the investigation, prosecution, trial and judicial decision of criminal offences referred to in Articles 3 and 4 which are punishable by a maximum penalty of at least five years of imprisonment, for a period of at least five years from the time when the offence was committed.	(2) Member States shall take the necessary measures to enable the investigation, prosecution, trial and judicial decision of criminal offences referred to in Articles 3 and 4 which are punishable by a maximum penalty of at least five years of imprisonment, for a period of at least five years from the time when the offence was committed.	(2) Member States shall take the necessary measures to enable the investigation, prosecution, trial and judicial decision of criminal offences referred to in Articles 3 and 4 which are punishable by a maximum penalty of at least five years of imprisonment, for a period of at least five years from the time when the offence was committed.	(2) Member States shall take the necessary measures to enable the investigation, prosecution, trial and judicial decision of criminal offences referred to in Articles 3 and 4 which are punishable by a maximum penalty of at least five years of imprisonment, for a period of at least five years from the time when the offence was committed. Text Origin: Commission Proposal-confirmation during the second trilogue 26092023
Article 12(3)				
137	(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 the period may be interrupted or suspended in the event of specified acts.	<i>deleted</i>	(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 the period may be interrupted or suspended in the event of specified acts.	(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 the period may be interrupted or suspended in the event of specified acts. new green line TM2 08092023 TM5 23102023
Article 12(4), first subparagraph				
138	Member States shall take the necessary measures to enable the	<u>(3)</u> Member States shall take the necessary measures to enable the	<u>(4)</u> Member States shall take the necessary measures to enable the	Member States shall take the necessary measures to enable the

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
	enforcement of:	enforcement of:	enforcement of:	enforcement of: new green line Text Origin: Council Mandate TM5 23102023
Article 12(4), first subparagraph, point (a)				
139	(a) a penalty of more than one year of imprisonment; or alternatively	(a) a penalty of more than one year of imprisonment; or alternatively	(a) a penalty of more than one year of imprisonment; or alternatively	(a) a penalty of more than one year of imprisonment; or alternatively Text Origin: Commission Proposal-confirmation during the second trilogue 26092023
Article 12(4), first subparagraph, point (b)				
140	(b) a penalty of imprisonment in the case of a criminal offence which is punishable by a maximum penalty of at least four years of imprisonment,	(b) a penalty of imprisonment in the case of a criminal offence which is punishable by a maximum penalty of at least four five years of imprisonment,	(b) a penalty of imprisonment in the case of a criminal offence which is punishable by a maximum penalty of at least four five years of imprisonment,	(b) a penalty of imprisonment in the case of a criminal offence which is punishable by a maximum penalty of at least four five years of imprisonment, Text Origin: EP Mandate TM2 08092023-confirmation during the second trilogue 26092023
Article 12(4), second subparagraph				
141	imposed following a final conviction for a criminal offence referred to in Articles 3 and 4 for at least five years from the date of the final conviction. That period may include	imposed following a final conviction for a criminal offence referred to in Articles 3 and 4, for at least five years from the date of the final conviction. That period may include	imposed following a final conviction for a criminal offence referred to in Articles 3 and 4 for at least five years from the date of the final conviction. That period may include	imposed following a final conviction for a criminal offence referred to in Articles 3 and 4, for at least five years from the date of the final conviction. That period may include

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
	extensions of the limitation period arising from interruption or suspension.	extensions of the limitation period arising from interruption or suspension.	extensions of the limitation period arising from interruption or suspension.	extensions of the limitation period arising from interruption or suspension. new green line Text Origin: Council Mandate TM5 23102023
Article 12(4a)				
141a		<u>(4) By way of derogation from paragraphs 2 and 3, Member States may establish a limitation period that is shorter than five years, but not shorter than three years, provided that the period may be interrupted or suspended in the event of specified acts.</u>		<u>4a. By way of derogation from paragraphs 2 and 3, Member States may establish a limitation period that is shorter than five years, but not shorter than three years, provided that the period may be interrupted or suspended in the event of specified acts.</u> new green line Text Origin: Council Mandate TM5 23102023
Article 13				
142	Article 13 Coordination and cooperation between competent authorities within a Member State	Article 13 Coordination and cooperation between competent authorities within a Member State	Article 13 Coordination and cooperation between competent authorities within a Member State	Article 13 Coordination and cooperation between competent authorities within a Member State Text Origin: Commission Proposal
Article 13, first paragraph				

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
143	Member States shall take the necessary measures to establish appropriate mechanisms for coordination and cooperation at strategic and operational levels among all their competent administrative, law enforcement and judicial authorities.	Member States shall take the necessary measures to establish appropriate mechanisms for coordination and cooperation at strategic and operational levels among all their competent administrative, law enforcement and judicial authorities.	<u>Each</u> Member States <u>State</u> shall <u>set up or designate a dedicated unit body for the purpose of</u> take the necessary measures to establish appropriate mechanisms for coordination and cooperation at strategic and operational levels among all their competent administrative, law enforcement and judicial authorities <u>within a Member State</u> .	<p>CON: if mechanisms and tasks (ok for should)- COM original proposal- related to 1a (line 149a)</p> <p>COM proposal: same in the envicrime Directive</p> <p>avenue: to come back to COM proposal</p> <p>CON: "among all their competent authorities"</p> <p>EP can be open for: "MS shall designate (and not set up) a dedicated unit body"</p> <p>CON: proposal: appropriate mechanisms in para 1 / in para 2: list of mandatory aim (but not tasks): CON to provide a draft (close to COM's text)</p> <p>EP to revert back to the CON's proposal</p> <p>EP to revert</p> <p>TM2 08092023 TM5 23102023 TM7 14112023 TM8 15112023</p>
Article 13, second paragraph				
144	Such mechanisms shall be aimed at least at:	Such mechanisms shall be aimed at least at <u>could include</u> :	Such mechanisms shall be aimed at least at <u>The dedicated body referred to in the first subparagraph shall have the following tasks:</u>	<p>EP to revert</p> <p>TM2 08092023 TM5 23102023 TM7 14112023</p>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
Article 13, second paragraph, point (a)				
Y	145 (a) ensuring common priorities and understanding of the relationship between criminal and administrative enforcement;	(a) ensuring common priorities and understanding of the relationship between criminal and administrative enforcement;	(a) ensuring <u>to ensure</u> common priorities and understanding of the relationship between criminal and administrative enforcement;	EP to revert TM2 08092023 TM5 23102023
Article 13, second paragraph, point (b)				
Y	146 (b) exchange of information for strategic and operational purposes;	(b) exchange of information for strategic and operational purposes, <u>within the limits set out in applicable rules</u> ;	(b) <u>to</u> exchange of information for strategic and operational purposes;	EP to revert Council to revert TM2 08092023 TM5 23102023
Article 13, second paragraph, point (c)				
Y	147 (c) consultation in individual investigations;	(c) consultation in individual investigations, <u>within the limits set out in applicable rules</u> ;	(c) consultation <u>to consult</u> in individual investigations;	EP to revert Council to revert TM2 08092023 TM5 23102023
Article 13, second paragraph, point (d)				
Y	148 (d) the exchange of best practices;	(d) the exchange of best practices;	(d) the to exchange of best practices;	EP to revert Council to revert TM2 08092023 TM5 23102023
Article 13, second paragraph, point (e)				
Y	149 (e) assistance to networks of	(e) assistance to networks of	(e) assistance <u>to assist</u> to networks	

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
	practitioners working on matters relevant to investigating and prosecuting offences related to the violation of Union restrictive measures.	practitioners working on matters relevant to investigating and prosecuting offences related to the violation of Union restrictive measures ⁻¹ .	of practitioners working on matters relevant to investigating and prosecuting offences related to the violation of Union restrictive measures.	EP to revert Council to revert TM2 08092023 TM5 23102023
Article 13, second paragraph, point (ea)				
R	149a		<u>(ea) 1a. Member States shall ensure that the competent national authorities are provided with the human, technical and financial resources, premises and infrastructure necessary for the effective investigation and prosecution of violation of Union restrictive measures, and that specialised training is provided to the competent administrative, law enforcement and judicial authorities involved in such tasks.</u>	CON suggests to have this in a recital EP flexible to have it in a recital if new proposal on para1 and 2 is fine Council to revert EP to revert TM2 08092023 TM5 23102023
Article 13, second paragraph a				
R	149b	<u>and may, as appropriate, take the form of specialised coordination bodies, memoranda of understanding between competent authorities, national enforcement networks and joint training activities.</u>		EP to revert Council to revert TM2 08092023 TM5 23102023
Article 14				
G	150			

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
	<p>Article 14</p> <p>Reporting of offences and protection of persons who report offences related to the violation of Union restrictive measures or assist the investigation</p>	<p>Article 14</p> <p>Reporting of offences and protection of persons who report offences related to the violation of Union restrictive measures or assist the investigation <u>violations of Union restrictive measures and protection of persons who report such violations</u></p>	<p>Article 14</p> <p>Reporting of offences and protection of persons who report offences related to the violation of Union restrictive measures or assist the investigation</p>	<p>Article 14</p> <p>Reporting of offences and protection of persons who report offences related to the violation of Union restrictive measures or assist the investigation <u>violations of Union restrictive measures and protection of persons who report such violations</u></p> <p>Text Origin: Council Mandate TM2 08092023-confirmation during the second trilogue 26092023</p>
Article 14, first paragraph				
151	<p>Member States shall take the necessary measures to ensure that the protection granted under Directive (EU) 2019/1937¹, is applicable to persons reporting criminal offences referred to in Articles 3 and 4 of this Directive.</p> <p>1. Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law, OJ L 305, 26.11.2019, p. 17-56.</p>	<p>Member States shall take the necessary measures to ensure that the protection granted under Directive (EU) 2019/1937¹, is applicable to persons <u>the</u> reporting criminal offences <u>of violations of Union restrictive measures</u> referred to in Articles 3 and 4 of this Directive <u>and to the protection of persons reporting such violations, under the conditions established therein.</u></p> <p>1. Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law, OJ L 305, 26.11.2019, p. 17-56.</p>	<p>Member States shall take the necessary measures to ensure that the protection granted under Directive (EU) 2019/1937¹, is applicable to persons reporting criminal offences referred to in Articles 3 and 4 of this Directive.</p> <p>1. Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law, OJ L 305, 26.11.2019, p. 17-56.</p>	<p>Member States shall take the necessary measures to ensure that the protection granted under Directive (EU) 2019/1937¹, is applicable to persons <u>the</u> reporting criminal offences <u>of violations of Union restrictive measures</u> referred to in Articles 3 and 4 of this Directive <u>and to the protection of persons reporting such violations, under the conditions established therein.</u></p> <p>1. Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law, OJ L 305, 26.11.2019, p. 17-56.</p> <p>Text Origin: Council Mandate TM2 08092023-confirmation</p>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
				during the second trilogue 26092023
Article 15				
152	Article 15 Investigative tools	Article 15 Investigative tools	Article 15 Investigative tools	Article 15 Investigative tools Text Origin: Commission Proposal
Article 15, first paragraph				
153	Member States shall take the necessary measures to ensure that effective investigative tools, such as those which are used in investigating organised crime or other serious crime cases, are also available for investigating or prosecuting offences referred to in Articles 3 and 4.	Member States shall take the necessary measures to ensure that effective <u>and proportionate</u> investigative tools, such as those which are used in investigating organised crime or other serious crime cases, are also available for investigating or prosecuting offences referred to in Articles 3 and 4 <u>are available for investigating or prosecuting offences referred to in Articles 3 and 4. Where those offences are serious, special investigative tools, such as those used in countering organised crime, shall be available.</u>	Member States shall take the necessary <u>and appropriate</u> measures to ensure that effective investigative tools, such as those which are used in investigating organised crime or other serious crime cases, are also available for investigating or prosecuting offences referred to in Articles 3 and 4.	Member States shall take the necessary measures to ensure that effective <u>and proportionate</u> investigative tools, such as those which are used in investigating organised crime or other serious crime cases, are also available for investigating or prosecuting offences referred to in Articles 3 and 4 <u>are available for investigating or prosecuting offences referred to in Articles 3 and 4. Where appropriate, these tools shall include special investigative tools, such as those which are used in countering organised crime or other serious crime cases.</u> Text Origin: Council Mandate TM3 20092023-confirmation during the second trilogue 26092023
Article 16				

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
154	Article 16 Cooperation between Member States' authorities, the Commission, Europol, Eurojust and the European Public Prosecutor's Office	Article 16 Cooperation between Member States' authorities, the Commission, Europol, Eurojust and the European Public Prosecutor's Office	Article 16 Cooperation between Member States' authorities, the Commission, Europol, Eurojust and , the European Public Prosecutor's Office <u>and the European Anti-Fraud Office</u>	EP to revert TM2 08092023 TM3 20092023 TM5 23102023 TM7 14112023
Article 16(1)				
155	(1) Without prejudice to the rules on cross-border cooperation and mutual legal assistance in criminal matters, Member States' authorities, Europol, Eurojust, the European Public Prosecutor's Office, and the Commission shall, within their respective competences, cooperate with each other in the fight against the criminal offences referred to in Articles 3 and 4. To that end, the Commission, and where appropriate, Europol and Eurojust, shall provide technical and operational assistance in order to facilitate the coordination of investigations and prosecutions by the competent authorities.	(1) Without prejudice to the rules on cross-border cooperation and mutual legal assistance in criminal matters, Member States' authorities, Europol, Eurojust, the European Public Prosecutor's Office, and the Commission shall, within their respective competences, cooperate with each other in the fight against the criminal offences referred to in Articles 3 and 4. To that end, the Commission, and where appropriate, Europol and Eurojust, shall provide technical and operational assistance in order to facilitate the coordination of investigations and prosecutions by the competent authorities.	(1) Without prejudice to the rules on cross-border cooperation and mutual legal assistance in criminal matters, Member States' <u>national dedicated bodies set up or designated in accordance with [Article 13] of this Directive</u> authorities , Europol, Eurojust, the European Public Prosecutor's <u>EPPO, the European Anti-Fraud</u> Office, and the Commission shall, within their respective competences, <u>meet regularly in a structured format in order to coordinate and</u> cooperate with each other in the fight against the criminal offences referred to in Articles 3 and 4 <u>of this Directive</u> . To that end, the Commission, and where appropriate, Europol and Eurojust, shall <u>shall establish a permanent network of experts and practitioners to share best practices and</u> provide technical and operational assistance in order to facilitate the coordination of investigations and prosecutions by	COM drafting proposal: 1. Where the criminal offences referred to in Articles 3 and 4 are suspected to be of a cross-border nature, the competent authorities of the Member States shall consider referring the information related to these cases to appropriate competent bodies. Without prejudice to the rules on cross-border cooperation and mutual legal assistance in criminal matters, the Member States, Eurojust, Europol, the European Public Prosecutor's Office, [the European Anti-Fraud Office (OLAF)] and the Commission shall, within their respective competences, cooperate with each other in the fight against the criminal offences referred to in Articles 3 and 4. To that end Eurojust and Europol shall, where appropriate, provide such technical and operational assistance as the competent national authorities need to facilitate coordination of their investigations . The Commission may, where appropriate, provide assistance. (COM

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
			<p>the competent authorities, <u>Europol and Eurojust, the EPPO, and the European Anti-Fraud Office, in compliance with Union law. That permanent network of experts and practitioners shall also provide a publicly available and regularly updated mapping of the risks of violations or circumvention of Union restrictive measures in specific geographic areas, and with respect to specific sectors and activities.</u></p>	<p>provided also a new drafting for a recital)</p> <p>EP: third countries and dedicated body not mentioned CON: for third country: no mutual recognition so more difficult</p> <p>CON proposal: 1. Where the criminal offences referred to in Articles 3 and 4 are suspected to be of a cross-border nature, the competent authorities of the Member States shall consider referring the information related to those offences to appropriate competent bodies. Without prejudice to the rules on cross-border cooperation and mutual legal assistance in criminal matters, the Member States, Eurojust, Europol, the European Public Prosecutor's Office, [the European Anti-Fraud Office (OLAF)] and the Commission shall, where appropriate within their respective competences, cooperate with each other in the fight against the criminal offences referred to in Articles 3 and 4. To that end Eurojust and Europol shall, where appropriate, provide such technical and operational assistance as the competent national authorities need to facilitate coordination of their investigations . The Commission may, where appropriate, provide assistance.</p> <p>EP: cross-border nature, the competent authorities of the Member States shall consider referring the information</p>


	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
			<div data-bbox="1182 154 1552 520" data-label="Image"> </div>	<p>related to these cases to appropriate competent bodies. Without prejudice to the rules on cross-border cooperation and mutual legal assistance in criminal matters, the Member States, including the national units designated by the Member States in accordance with [Article 13] of this Directive, Eurojust, Europol, the European Public Prosecutor's Office, [the European Anti-Fraud Office (OLAF)] and the Commission shall, within their respective competences, meet regularly in order to coordinate and cooperate with each other in the fight against the criminal offences referred to in Articles 3 and 4. To that end, Eurojust and Europol shall, where appropriate, provide such technical and operational assistance as the competent national authorities need to facilitate coordination of their investigations and prosecutions. The Commission may, where appropriate, provide assistance. Where relevant, the expert group on Union restrictive measures and extra-territoriality can facilitate this cooperation.</p> <p>1a. When the cooperation referred to in paragraph 1 involves cooperation with competent authorities of third countries, this shall take place with full respect of fundamental rights and international law.</p> <p>2. Member States' competent authorities shall also on a frequent and regular basis regularly share information on practical issues, in</p>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
			PUBLIC	<p>particular, on patterns of circumvention, for example e.g. structures to conceal the beneficial ownership and control of assets, with the Commission and other competent authorities.</p> <p>EP to revert</p> <p>TM2 08092023 TM3 20092023 TM5 23102023</p>
Article 16(2)				
R 156	(2) Member States' competent authorities shall also regularly share information on practical issues, in particular, patterns of circumvention, e.g. structures to conceal the beneficial ownership and control of assets, with the Commission and other competent authorities.	(2) Member States' competent authorities shall also regularly share information on practical issues, in particular, patterns of circumvention, e.g. structures to conceal the beneficial ownership and control of assets, with the Commission and other competent authorities.	(2) Member States' competent authorities shall also <u>on a frequent and regular basis</u> regularly share information on practical issues, in particular, <u>on</u> patterns of circumvention, <u>for example e.g.</u> structures to conceal the beneficial ownership and control of assets, with the Commission and other competent authorities.	<p>EP to revert</p> <p>TM2 08092023 TM5 23102023</p>
Article 16a				
R 156a			<u>Article 16a</u> <u>International Cooperation</u>	<p>EP to revert</p> <p>TM2 08092023 TM5 23102023</p>
Article 16b				

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
R	156b		<p><u>Without prejudice to the rules on cross-border cooperation and mutual legal assistance in criminal matters, Member State's competent authorities, Europol, Eurojust, the EPPO and the Commission shall, within their respective competences and in the limits of their respective remit, cooperate with competent authorities of third countries in the fight against the criminal offences referred to in Articles 3 and 4, in full respect of fundamental rights and international law.</u></p>	<p>same provision in the environmental crimes' Directive</p> <p>CON new proposal: "Without prejudice to the rules on cross-border cooperation and mutual legal assistance in criminal matters, Member State's competent authorities, Europol, Eurojust, the EPPO and the Commission shall, where appropriate within their respective competences and within the international legal framework, cooperate with competent authorities of third countries in the fight against the criminal offences referred to in Articles 3 and 4, in full respect of fundamental rights and international law."</p> <p>EP to revert</p> <p>TM2 08092023 TM5 23102023</p>
Article 17				
G	157	Article 17 Amendments to Directive (EU) 2018/ 1673	<p>Article 17</p> <p>Amendments to Directive (EU) 2018/ 1673 <u>on combating money laundering by criminal law</u></p>	<p>Article 17</p> <p>Amendments to Directive (EU) 2018/ 1673 <u>on combating money laundering by criminal law</u></p> <p>Text Origin: EP Mandate TM2 08092023-confirmation during the second trilogue 26092023</p>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
Article 17, first paragraph				
158	In Article 2(1) of Directive (EU) 2018/1673, the following point is added:	In Article 2(1) of Directive (EU) 2018/1673, the following point is added:	In Article 2(1) of Directive (EU) 2018/1673, the following point is added:	In Article 2(1) of Directive (EU) 2018/1673, the following point is added: Text Origin: Commission Proposal-confirmation during the second trilogue 26092023
Article 17, first paragraph, amending provision, first paragraph				
159	(w) violation of Union restrictive measures.	(w) (w) violation of Union restrictive measures.	(w) violation of Union restrictive measures.	(w) (w) violation of Union restrictive measures. Text Origin: Council Mandate-confirmation during the second trilogue 26092023
Article 18				
160	Article 18 Transposition	Article 18 Transposition	Article 18 Transposition	Article 18 Transposition Text Origin: Commission Proposal
Article 18(1)				
161	(1) Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [OP- please insert the data- within	(1) Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [OP- please insert the data- within	(1) Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [OP- please insert the data- within	trilogue TM2 08092023 TM5 23102023 TM7 14112023

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
	six months after entry into force of the Directive]. They shall immediately inform the Commission thereof. Member States shall communicate to the Commission the text of the main measures of national law which they adopt in the field covered by the Directive.	six <u>12</u> months after entry into force of the Directive]. They shall immediately inform the Commission thereof. Member States shall communicate to the Commission the text of the main measures of national law which they adopt in the field covered by the Directive.	six months after entry into force of the Directive]. They shall immediately inform the Commission thereof. Member States shall communicate to the Commission the text of the main measures of national law which they adopt in the field covered by the Directive.	
Article 18(2)				
G	162	(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 method of making such a reference shall be laid down by Member States.	(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 method of making such a reference shall be laid down by Member States.	(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 method of making such a reference shall be laid down by Member States. Text Origin: Commission Proposal-confirmation during the second trilogue 26092023
Article 18a				
Y	162a		<u>Article 18a</u> <u>Statistics</u>	EP fine with the new COM proposal COM drafting proposal: • Article 19 Data collection and statistics 1. Member States shall ensure that a system is in place for the recording, production and provision of anonymised statistical data measuring the reporting, investigative and judicial

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
				<p>phases concerning the offences referred to in Articles 3 and 4 in order to monitor the effectiveness of their systems to combat the violation of Union restrictive measures.</p> <p>2. Without prejudice to reporting obligations laid down in other Union legal acts, Member States shall, on an annual basis, submit to the Commission the following statistical data on the criminal offences referred to in Articles 3 and 4, which shall, as a minimum, include existing data on:</p> <ul style="list-style-type: none"> (a) the number of offences registered and adjudicated by the Member States; (aa) the number of dismissed court cases, including due to the expiry of the limitation period; (b) the number of natural persons that are <ul style="list-style-type: none"> (i) prosecuted, (ii) convicted; (c) the number of legal persons that are <ul style="list-style-type: none"> (i) prosecuted, (ii) convicted or fined; (d) the types and levels of [penalties and] sanctions imposed [on natural and legal persons]; (e) the value of [the proceeds and instrumentalities and of] the funds and economic resources frozen and confiscated; <p>3. Member States shall ensure that a consolidated review of their statistics is published at least every three years.</p> <p>4. Member States shall annually submit to the Commission the statistical data referred to in paragraph 2 using the</p>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
				<p>dedicated reporting tools set up by the Commission for reporting in the context of Union restrictive measures.</p> <p>COM drafting proposal for related recital: recital 32 as provisionally agreed in ECD:</p> <p>To effectively tackle the criminal offences referred to in this Directive, it is necessary that competent authorities in the Member States collect accurate, consistent and comparable statistical data on the violation of Union restrictive measures. Member States should therefore be obliged to ensure that an adequate system is in place for the recording, production and transmission of existing statistical data on the offences referred to in this Directive. Those statistics should be used to serve the operational and strategic planning of enforcement activities, to analyse the scale of and trends in environmental offences, as well as for providing information to citizens. Member States should transmit to the Commission relevant statistical data on proceedings related to the violation of Union restrictive measures collected from such data that already exist at a centralised level or a decentralised level throughout the whole Member State. The Commission should regularly assess and publish the results based on the data transmitted by the Member States</p> <p>related to Article 19 paragraph 2 (lines</p>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
			<div>PUBLIC</div>	<div>165 and f.)</div> <div>CON: suggests to have the same as in the envicrime's Directive: recital centralized/decentralized level for statistics (recital 32) -</div> <div>EP sent a non-paper on this article</div> <div>CON suggests to have the same article as in the envicrime/ COM to come back with a new draft</div> <div>Council to revert</div> <div>TM2 08092023</div> <div>TM5 23102023</div> <div>TM6 06112023</div> <div>TM7 14112023</div> <div>TM8 15112023</div>
Article 18a(1)				
y	162b		<div>1. <u>Member States shall collect and maintain comprehensive statistics at central level on the measures taken under this Directive.</u></div>	<div>PB for the CON: "central level"</div> <div>Council to revert</div> <div>TM2 08092023</div> <div>TM5 23102023</div>
Article 18a(2)				
y	162c		<div>2. <u>Without prejudice to the reporting obligations laid down in other Union legal acts, Member States shall, three times per year for</u></div>	<div>points (a) to (e) : same as in the COM's proposal</div> <div>EP: ok to drop (f) / defend letter (g) / (h)</div>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
			<p><u>the first two years after ... /six months after the date of entry into force of this Directive], and on an annual basis thereafter, make publicly available and submit to the Commission the following statistics on the criminal offences referred to in Articles 3 and 4, specified per type of Union restrictive measure:</u></p> <p><u>(a) the number of criminal proceedings initiated;</u> <u>(b) the number of criminal proceedings dismissed;</u> <u>(c) the number of criminal proceedings resulting in an acquittal;</u> <u>(d) the number of criminal proceedings resulting in a conviction;</u> <u>(e) the number of ongoing criminal proceedings;</u> <u>(f) the number of criminal proceedings referred to the EPPO;</u> <u>(g) the average length of criminal proceedings;</u> <u>(h) the number of criminal proceedings that involved cross-border cooperation among Member States competent authorities,</u> <u>relevant Union bodies and agencies, and competent authorities from third countries;</u></p>	<p>ok to drop it / (i) and (j):important for CON: biggest PB: number of statistics (too large for CON) EP: to propose a new draft in Art19 directly</p> <p>COM: limitation of the statistics to the minimum cf Art19para2 in envicrime: reference in a recital: central and decentralized level - delegated act: not necessary</p> <p>Council to revert</p> <p>TM2 08092023 TM5 23102023</p>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
			<p><u>(i) the value of the funds and economic resources frozen;</u></p> <p><u>(j) the value of the funds and economic resources confiscated.</u></p> <p><u>The statistics to be submitted shall also include the types and levels of penalties and sanctions imposed for violation of Union restrictive measures.</u></p>	
	Article 18a(3)			
162d			<p><u>3. The Commission is empowered to adopt delegated acts in accordance with [Article 18b] concerning the establishment of detailed rules on the information to be collected and on the methodology for the collection of the statistics referred to in paragraph 2 of this Article and the arrangements for their transmission to the Commission.</u></p>	<p>Council to revert</p> <p>TM2 08092023</p> <p>TM5 23102023</p>
	Article 18a(4)			
162e			<p><u>4. Within two weeks after receipt of the statistics referred to in paragraph 2, the Commission shall make them publicly available on its website, maintaining the breakdown by</u></p>	<p>related to Article 19 paragraph 4 : for the COM the report is already made public</p> <p>Council to revert</p>


	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
			<u>Member State.</u>	TM2 08092023 TM5 23102023
	Article 18a(5)			
G	162f		<u>Article 18b</u> <u>Exercise of the delegation</u>	<u>5. deleted</u> new green line TM2 08092023 TM5 23102023
	Article 18a(6)			
G	162g		<u>1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article</u>	<u>6. deleted</u> new green line TM2 08092023 TM5 23102023
	Article 18a(7)			
G	162h		<u>2. The power to adopt delegated acts referred to in [Article 18a] shall be conferred on the Commission for an indeterminate period of time from ... [date of entry into force of this Directive].</u>	<u>7. deleted</u> new green line TM2 08092023 TM5 23102023
	Article 18a(8)			
G	162i		<u>3. The delegation of power referred to in [Article 18a] may be revoked</u>	<u>8. deleted</u>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
			<u>at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.</u>	new green line TM2 08092023 TM5 23102023
	Article 18a(9)			
G	162j		<u>4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.</u>	9. <u>deleted</u> new green line TM2 08092023 TM5 23102023
	Article 18a(10)			
G	162k		<u>5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.</u>	10. <u>deleted</u> new green line TM2 08092023 TM5 23102023
	Article 18a(11)			
G	162l			

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
			<p><u>6. A delegated act adopted pursuant to [Article 18a] shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of [two months] of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by [two months] at the initiative of the European Parliament or of the Council.</u></p>	<p><u>11. deleted</u></p> <p>new green line</p> <p>TM2 08092023 TM5 23102023</p>
Article 19				
163	Article 19 Evaluation and reporting	Article 19 Evaluation and reporting	Article 19 Evaluation and reporting	<p>Article 19 Evaluation, <u>reporting and review</u> and reporting</p> <p>new green line</p> <p>Text Origin: Commission Proposal TM2 08092023</p>
Article 19(1)				
164	(1) By [OP- please insert the date-two years after the transposition period is over] the Commission shall submit a report to the European Parliament and the Council,	(1) By [OP- please insert the date-two years after the transposition period is over] the Commission shall submit a report to the European Parliament and the Council,	(1) By [OP- please insert the date-two years after the transposition period is over] the Commission shall submit a report to the European Parliament and the Council,	(1) By [OP- please insert the date- two years after the transposition period is over], the Commission shall submit a report to the European Parliament and <u>to</u> the Council,

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
	<p>assessing the extent to which the Member States have taken the necessary measures in order to comply with this Directive. Member States shall provide the Commission with the necessary information for the preparation of that report.</p>	<p>assessing the extent to which the Member States have taken the necessary measures in order to comply with this Directive. Member States shall provide the Commission with the necessary information for the preparation of that report.</p>	<p>assessing the extent to which the Member States have taken the necessary measures in order to comply with this Directive. Member States shall provide the Commission with the necessary information for the preparation of that report.</p>	<p>assessing the extent to which the Member States have taken the necessary measures in order to comply with this Directive. Member States shall provide the Commission with the necessary information for the preparation of that report.</p> <p>new COM drafting proposal: •</p> <p>Article 19a</p> <p>Evaluation, reporting and review</p> <p>1. By two years after the transposition period is over], 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. Member States shall provide the Commission with the necessary information for the preparation of that report.</p> <p>2. By five years after the transposition period is over], the Commission shall carry out an evaluation of the impact and effectiveness of this Directive, taking into account the annual statistical data provided by the Member States, addressing the need to update the list of the criminal offences related to the violation of Union restrictive measures, and submit a report to the European Parliament and to the Council. Member States shall provide the Commission with necessary information for the preparation of that report. The report shall be accompanied by a legislative proposal, if necessary.</p>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
				<p>COM proposal for line 164 and line 169</p> <p>new green line</p> <p>Text Origin: Commission Proposal-confirmation during the second trilogue 26092023 TM8 15112023</p>
Article 19(2)				
G 164a				<p><u>2. 2. By five years after the transposition period is over], the Commission shall carry out an evaluation of the impact and effectiveness of this Directive, taking into account the annual statistical data provided by the Member States, addressing the need to update the list of the criminal offences related to the violation of Union restrictive measures, and submit a report to the European Parliament and to the Council. Member States shall provide the Commission with necessary information for the preparation of that report. The report shall be accompanied by a legislative proposal, if necessary.</u></p> <p>new green line</p> <p>TM8 15112023</p>
Article 19(2)				

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
Y	165 (2) Without prejudice to reporting obligations laid down in other Union legal acts, Member States shall, on an annual basis, submit the following statistics on the criminal offences referred to in Articles 3 and 4 to the Commission:	(2) Without prejudice to reporting obligations laid down in other Union legal acts, Member States shall, on an annual basis, submit the following statistics on the criminal offences referred to in Articles 3 and 4 to the Commission, <u>if they are available at a central level in the Member State concerned</u> :	deleted 	<i>related to Article 18a: statistics</i> EP to revert TM2 08092023 TM5 23102023
Article 19(2), point (a)				
Y	166 (a) the number of criminal proceedings initiated, dismissed, resulting in an acquittal, resulting in a conviction and ongoing;	(a) the number of criminal proceedings initiated, dismissed, resulting in an acquittal, resulting in a conviction and ongoing;	deleted	<i>related to Article 18a</i> EP to revert TM2 08092023 TM5 23102023
Article 19(2), point (b)				
Y	167 (b) the types and levels of penalties imposed for violation of Union restrictive measures.	(b) the types and levels of penalties <u>and sanctions</u> imposed for violation of Union restrictive measures.	deleted	<i>related to Article 18a</i> EP to revert TM2 08092023 TM5 23102023
Article 19(2), point (ba)				
R	167a		<u>(ba) By ... /18 months from the date of entry into force of this</u>	<i>related to Article 119 EPPO's Regulation</i>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
			<p><u>Directive] the Commission shall assess the cooperation between the Member States and the Commission and other Union institutions, bodies, offices and agencies. That assessment shall include an assessment of the need for and modalities of the extension of the competences of the EPPO to include the criminal offence of violating and circumventing Union restrictive measures.</u></p>	<p>CON: By ... [18 months from the date of entry into force of this Directive] the Commission shall assess the cooperation between the Member States and the Commission and other Union institutions, bodies, offices and agencies. That assessment shall include an assessment of the need for and modalities of the extension of the competences of the EPPO to include the criminal offence of violating and circumventing Union restrictive measures</p> <p>CON: doesn't want to mention EPPO</p> <p>trilogue</p> <p>TM2 08092023 TM5 23102023 TM6 06112023 TM7 14112023</p>
Article 19(3)				
168	<p>(3) Member States shall submit the statistical data referred to in paragraph 2 to the Commission using the dedicated reporting tools set up by the Commission for reporting in the field of restrictive measures.</p>	<p>(3) Member States shall submit the statistical data referred to in paragraph 2 to the Commission using the dedicated reporting tools set up by the Commission for reporting in the field of restrictive measures.</p>	<p><i>deleted</i></p>	<p>(3) Member States shall submit the statistical data referred to in paragraph 2 to the Commission using the dedicated reporting tools set up by the Commission for reporting in the field of restrictive measures.</p> <p>new green line</p> <p>Text Origin: Commission Proposal</p>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
				TM5 23102023
Article 19(4)				
169	<p>(4) By [OP-please insert the data-five years after the transposition period is over], the Commission shall carry out an evaluation of the impact of this Directive and submit a report to the European Parliament and to the Council. Member States shall provide the Commission with necessary information for the preparation of that report.</p>	<p>(4) By [OP-please insert the data-five years after the transposition period is over], the Commission shall carry out an evaluation of the impact of this Directive and submit a report to the European Parliament and to the Council. Member States shall provide the Commission with necessary information for the preparation of that report.</p>	<p>(4) By ... [OP-please insert the data-five years after the transposition period is over] <u>66 months from the date of entry into force of this Directive</u>, <u>and every three years thereafter</u>, the Commission shall carry out an evaluation of the impact <u>and effectiveness</u> of this Directive, <u>taking into account the annual statistics provided by the Member States</u>, and submit a report to the European Parliament and to the Council, <u>which shall be made public</u>. Member States shall provide the Commission with necessary information for the preparation of that report. <u>On the basis of that evaluation, the Commission shall decide on the appropriate follow-up actions, including, if necessary, a legislative proposal.</u></p>	<p>(4) By [OP-please insert the data-five years after the transposition period is over], the Commission shall carry out an evaluation of the impact of this Directive and submit a report to the European Parliament and to the Council. Member States shall provide the Commission with necessary information for the preparation of that report.</p> <p>new COM drafting proposal: • Article 19a Evaluation, reporting and review</p> <p>1. By two years after the transposition period is over], 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. Member States shall provide the Commission with the necessary information for the preparation of that report.</p> <p>2. By five years after the transposition period is over], the Commission shall carry out an evaluation of the impact and effectiveness of this Directive, taking into account the annual statistical data provided by the Member States, addressing the need to update the list of the criminal offences related</p>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
			PUBLIC	<p>to the violation of Union restrictive measures, and submit a report to the European Parliament and to the Council. Member States shall provide the Commission with necessary information for the preparation of that report. The report shall be accompanied by a legislative proposal, if necessary.</p> <p>COM proposal for line 164 and line 169</p> <p>new green line</p> <p>TM2 08092023 TM5 23102023 TM8 15112023 TM8 15112023</p>
Article 20				
170	Article 20	Article 20	Article 20	<p>Article 20</p> <p>Text Origin: Commission Proposal TM2 08092023</p>
Article 20, first paragraph				
171	<p>This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.</p>	<p>This Directive shall enter into force on the twentieth day following that of its publication in the <u>Official Journal of the European Union</u>Official Journal of the European Union.</p>	<p>This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.</p>	<p>This Directive shall enter into force on the twentieth day following that of its publication in the <u>Official Journal of the European Union</u>Official Journal of the European Union.</p> <p>Text Origin: Council Mandate-</p>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
				confirmation during the second trilogue 26092023
Article 21				
172	Article 21	Article 21	Article 21	Article 21 Text Origin: Commission Proposal TM2 08092023
Article 21, first paragraph				
173	This Directive is addressed to the Member States in accordance with the Treaties.	This Directive is addressed to the Member States in accordance with the Treaties.	This Directive is addressed to the Member States in accordance with the Treaties.	This Directive is addressed to the Member States in accordance with the Treaties. Text Origin: Commission Proposal-confirmation during the second trilogue 26092023
Formula				
174	Done at Brussels,	Done at Brussels,	Done at Brussels,	Done at Brussels, Text Origin: Commission Proposal
Formula				
175	For the European Parliament	For the European Parliament	For the European Parliament	For the European Parliament Text Origin: Commission Proposal

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
Formula				
176	The President	The President	The President	The President Text Origin: Commission Proposal
Formula				
177	For the Council	For the Council	For the Council	For the Council Text Origin: Commission Proposal
Formula				
178	The President	The President	The President	The President Text Origin: Commission Proposal