# Money laundering: prevention of the use of the financial system (amend. Directive 91/308/EEC)

1999/0152(COD) - 13/06/2001 - Commission opinion on Parliament's position at 2nd reading

Of the fifteen amendments proposed by the European Parliament relating to Directive 91/308/EEC on the prevention of money laundering, none were accepted by the European Commission. Parliamentary suggestions that predicate offenses should be included in the amended Directive were rejected by the Commission on the grounds that limiting the coverage to organised crime only would be too narrow a definition. The Commission could not accept the European Parliament's reference to "legal advice", suggesting that the definition of such a concept has yet to be clarified. Instead, the Commission has a preference for the concept of ascertaining the client's legal position, which it feels is more precise. Concerning Parliamentary suggestions that a fifth category be added to the definition of financial institutions, namely "certain market supervisory authorities", the Commission rejects this on the grounds that the other four categories covering non-bank commercial providers are adequate. The Commission further rejects Parliamentary definitions of "competent authorities", believing that the Council Common Position on this matter, in which Member States are not obliged to create competent (supervisory) authorities where they do not already exist, is both adequate and appropriate. Parliamentary attempts to include "works of art" and "luxury goods" within the scope of the Directive are rejected by the Commission. It holds that both "works of art" and "luxury goods" require greater definition before the obligations of the Directive are imposed on dealers in these goods. Equally, the Commission rejects proposals to include auctioneers, security companies, casinos and customs and tax officials within the boundaries set by the Directive. On the question of life insurance directives and contracts, the Commission holds that any review would have to be based on a detailed technical examination of the issues raised and should be pursued within the context of the Money Laundering Contact Committee rather than the Directive. Proposals to lower the threshold for the purchasing of Casino chips or cheques to EUR 1000 are deemed too low by the European Commission. In any case, the Commission finds that the Parliamentary amendments on customer identification in casinos reiterate, more or less, what was agreed by the common position. The later text, according to the Commission, is more appropriate since it is more specific on money laundering dangers. Importantly, whilst the Commission has some sympathy with Parliamentary attempts to oblige Member States not to furnish information on work relating to professionals, such as lawyers and their client work, the Commission nevertheless can not accept the amendment. The Commission concludes that the Parliamentary amendment would provide an excessive exemption for the non-legal professions and would render their inclusion in the directive virtually meaningless. Lastly, Parliamentary proposals to give the Commission a greater role in cooperation with and exchange of information between Member States' anti-money laundering authorities are rejected on the grounds that the Council has requested the Commission to prepare a separate proposal dealing with this issue, which the Commission is currently doing.