Basic information

2016/0414(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Directive	Procedure completed
Countering money laundering by criminal law See also JHA act 2001/500/JHA 2000/0814(CNS) **Subject** 7.30.30.08 Capital outflow, money laundering 7.40.04 Judicial cooperation in criminal matters	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
LIBE Civil Liberties, Justice and Home Affairs	CORRAO Ignazio (EFDD)	27/02/2017
	Shadow rapporteur HOHLMEIER Monika (PPE) GOMES Ana (S&D) MACOVEI Monica (ECR) JEŽEK Petr (ALDE) CHRYSOGONOS Kostas (GUE/NGL) SARGENTINI Judith (Verts/ALE) FONTANA Lorenzo (ENF)	

Committee for opinion	Rapporteur for opinion	Appointed
AFET Foreign Affairs	The committee decided not to give an opinion.	
DEVE Development	CORRAO Ignazio (EFDD)	08/06/2017
ECON Economic and Monetary Affairs	JOLY Eva (Verts/ALE)	11/04/2017
JURI Legal Affairs	CHRYSOGONOS Kostas (GUE/NGL)	31/01/2017

Council of the European Union	Council configuration	Meetings	Date
	Justice and Home Affairs (JHA)	3528	2017-03-28
	Justice and Home Affairs (JHA)	3546	2017-06-08
	Justice and Home Affairs (JHA)	3641	2018-10-11

European Commission	Commission DG	Commissioner
	Justice and Consumers	JOUROVÁ Věra

Key events

Date	Event	Reference	Summary
21/12/2016	Legislative proposal published	COM(2016)0826	Summary
13/02/2017	Committee referral announced in Parliament, 1st reading		
28/03/2017	Debate in Council		
11/12/2017	Vote in committee, 1st reading		
11/12/2017	Committee decision to open interinstitutional negotiations with report adopted in committee		
20/12/2017	Committee report tabled for plenary, 1st reading	A8-0405/2017	Summary
15/01/2018	Committee decision to enter into interinstitutional negotiations announced in plenary (Rule 72)		
17/01/2018	Committee decision to enter into interinstitutional negotiations confirmed by plenary (Rule 72)		
11/09/2018	Debate in Parliament		
12/09/2018	Decision by Parliament, 1st reading	T8-0339/2018	Summary
12/09/2018	Results of vote in Parliament		
11/10/2018	Act adopted by Council after Parliament's 1st reading		
23/10/2018	Final act signed		
23/10/2018	End of procedure in Parliament		
12/11/2018	Final act published in Official Journal		

Technical information

Procedure reference	2016/0414(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
Amendments and repeals	See also JHA act 2001/500/JHA 2000/0814(CNS)

Legal basis	Treaty on the Functioning of the European Union TFEU 083-p2
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/8/08859

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE609.515	11/09/2017	
Committee opinion	JURI	PE604.691	15/09/2017	
Amendments tabled in committee		PE612.169	12/10/2017	
Committee opinion	DEVE	PE608.037	13/10/2017	
Committee opinion	ECON	PE613.264	07/11/2017	
Committee report tabled for plenary, 1st reading/single reading		A8-0405/2017	20/12/2017	Summary
Text adopted by Parliament, 1st reading/single reading		T8-0339/2018	12/09/2018	Summary

Council of the EU

Document type	Reference	Date	Summary
Coreper letter confirming interinstitutional agreement	GEDA/A/(2018)005739	07/06/2018	
Draft final act	00030/2018/LEX	24/10/2018	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2016)0826	21/12/2016	Summary
Commission response to text adopted in plenary	SP(2018)724	13/11/2018	
Follow-up document	COM(2026)0277	17/06/2026	
Follow-up document	SWD(2026)0148	17/06/2026	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	CZ_CHAMBER	COM(2016)0826	04/04/2017	
Contribution	ES_PARLIAMENT	COM(2016)0826	10/04/2017	

Contribution	CZ_SENATE	COM(2016)0826	04/05/2017	

Additional information		
Source	**Document**	**Date**
European Commission	EUR-Lex	

Final act	
Directive 2018/1673 OJ L 284 12.11.2018, p. 0022	Summary

Countering money laundering by criminal law

2016/0414(COD) - 21/12/2016 - Legislative proposal

PURPOSE: to tackle money laundering by means of criminal law, allowing for better cross-border cooperation between competent authorities.

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

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

BACKGROUND: according to United Nations estimates, the total amount of criminal proceeds in 2009 was approximately USD 2.1 trillion, or **3.6 % of global GDP**. The size of proceeds from criminal activity in the main illicit markets in the European Union for which evidence is available, has been estimated to amount to **EUR 110 billion**.

The cross-border dimension of money laundering and the need to address this phenomenon through judicial cooperation among Member States are confirmed by the number of cases registered by Member States and Liaison Prosecutors at Eurojust.

The Commission considers that the **current legislative framework is neither comprehensive nor sufficiently coherent** to be fully effective. The differences in legal frameworks can be exploited by criminals and terrorists, who can choose to carry out their financial transactions where they perceive anti-money laundering measures to be weakest.

At the operational level, the differences in the definitions, scope and sanctions of money laundering offences affect cross-border police and judicial cooperation between national authorities and the exchange of information.

The European agenda on security adopted in April 2015 called for additional measures in the area of terrorist financing and money laundering.

The Commission presented on 2 February 2016 an action plan to further step up the fight against the financing of terrorism. One of the key actions of the action plan was to consider a possible proposal for a Directive to introduce minimum rules regarding the definition of the criminal offence of money laundering (applying it to terrorist offences and other serious criminal offences) and to approximate sanctions.

The European Parliament resolution of 25 October 2016 on the fight against corruption also pointed out that participation in criminal activities may be linked to terrorist crimes and called for a reinforcement of EU legislation on combating organised crime and money-laundering for the fight against terrorism to be effective.

CONTENT: this proposal for a Directive aims to counter money laundering by means of criminal law. It aims to achieve this objective by **implementing international obligations in this area** and further aligning it with the International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation adopted by the Financial Action Task Force (FATF).

The proposed Directive:

- establishes **minimum rules concerning the definition of criminal offences and sanctions** in the area of money laundering offences: the proposal provides definitions of the term "criminal activity" which constitute predicate offences for money laundering, while allowing Member States to maintain different approaches as regards predicate offences for money laundering (choosing between an all-crimes approach, lists of predicate offences, list of offences with a minimum penalty);
- provides that the three types of money laundering (conversion or transfer, concealment or disguise, and acquisition, possession or use) should be **criminalised** when committed intentionally;
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- requires Member States to criminalise forms of **aiding and abetting, inciting and attempting many of the mentioned offences**. Aiding and abetting a money laundering offence may include a large variety of activities that range from facilitating or providing counselling to the provision of supportive services for the commission of these acts;
- requires Member States to apply effective, proportionate and dissuasive **criminal penalties** and sets the minimum maximum penalty at four years of imprisonment, at least for serious cases;
- qualifies **aggravating circumstances** as when the offence was committed within a criminal organisation or when the perpetrator abused their professional position to enable money laundering, this is considered an aggravating circumstance;
- requires Member States to ensure the **liability of legal persons**, while that such liability is alternative to that of natural persons;
- aims at ensuring that **investigative tools** which are provided for in national law for organised crime or other serious crime cases can also be used in cases of money laundering.

Countering money laundering by criminal law

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Countering money laundering by criminal law

2016/0414(COD) - 12/11/2018 - Final act

PURPOSE: to subject money laundering to effective, proportionate and dissuasive criminal penalties in all Member States.

LEGISLATIVE ACT: Directive (EU) 2018/1673 of the European Parliament and of the Council on combating money laundering by criminal law.

CONTENT: the Directive establishes minimum rules on the definition of criminal offences and penalties in the field of money laundering. It complements and reinforces Directive (EU) 2015/849 of the European Parliament and of the Council on the prevention of the use of the financial system for the purpose of money laundering or terrorist financing.

The main elements of the Directive are as follows:

European definitions of crimes related to money laundering

Member States shall have to ensure that all offences punishable by imprisonment under the Directive are considered predicate offences for money laundering. Tax crimes relating to direct and indirect taxes are included in the definition of criminal activity, in accordance with the revised recommendations of the Financial Action Task Force (FATF).

Money laundering offences

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

As the Directive provides for minimum rules on the definition of criminal offences and penalties in the field of money laundering, Member States shall be free to adopt or maintain stricter criminal rules in this field.

Sanctions against natural persons

Money laundering activities shall be punishable by a maximum term of imprisonment of at least 4 years, and judges may impose additional measures and sanctions such as fines, exclusion from access to finance, temporary prohibition from engaging in commercial activity or running for elected office or from holding public office.

Aggravating circumstances shall be recognised in cases involving criminal organisations or for offences committed in the exercise of certain professional activities.

Legal perons

The Directive also provides for the possibility of holding legal persons liable for certain money laundering activities and applying a series of sanctions to them, such as exclusion from public aid, placing them under judicial supervision, a judicial winding-up measure or the temporary or permanent closure of the establishment used to commit the offence.

Judicial and police cooperation

The Directive removes obstacles to cross-border judicial and police cooperation by introducing common provisions to improve the conduct of investigations.

In cross-border cases, the new rules establish more precisely which Member State exercises jurisdiction and define cooperation between the Member States concerned, as well as how to involve Eurojust. Where an offence falls within the jurisdiction of more than one Member State, the Member States concerned shall cooperate to decide which of them will prosecute the offender with the aim of centralising prosecution in a single Member State.

ENTRY INTO FORCE: 2.12.2018.

TRANSPOSITION: no later than 3.12.2020.

Countering money laundering by criminal law

2016/0414(COD) - 20/12/2017 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Civil Liberties, Justice and Home Affairs adopted the report by Ignazio CORRAO (EFDD, IT) on the proposal for a directive of the European Parliament and of the Council on countering money laundering by criminal law.

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

Objective and scope: Members stressed the need for a strengthened Union legal framework making it possible to deal more effectively with terrorist funding and to reduce the threat from terrorist organisations by making it harder for them to finance their activities.

The definition of '**criminal activity'** within the meaning of the Directive shall include any type of criminal involvement in carry out the offences set out in Directive (EU) 2017/541 on combating terrorism and related criminal tax offences, direct and indirect taxes, as defined by national law.

Members pointed out that Member States shall ensure that certain types of money laundering activity are also punishable **when committed by the perpetrator of the criminal activity** through which the property was obtained ("self-laundering").

Sanctions applicable to natural persons: whereas the Commission proposed that money laundering offences should be punishable by a maximum term of imprisonment of at least four years, at least in serious cases, Members considered that the offences shall be punishable by a **maximum term of imprisonment of at least five years** and a **minimum term of imprisonment of at least two years** where one of the aggravating factors referred to in the Directive applies.

Incitement, aiding and abetting, and attempt: each Member State shall ensure that inciting, aiding and abetting and attempting an offence 3 shall be punishable by a maximum term of imprisonment of at least **three years**.

Penalties for natural persons: each Member State shall also ensure that the offences may be punishable, at the judge's discretion, by complementary, temporary or permanent sanctions including: (a) a ban on entering into contracts with public authorities; (b) a disqualification from the practice of certain commercial activities; and (c) a ban on running for elected offices.

As for **legal persons**, they could be excluded from the entitlement to public aid or benefits, in particular from European Union programmes or funds, or be banned, temporarily or permanently, from concluding contracts with the public authorities.

Aggravating circumstances: the following shall be qualified as an aggravating circumstance:

- the money or property that is being laundered derives from terrorist activities or arms trafficking or the purpose of the laundering is to finance terrorist activities or arms trafficking;
- the offence was committed in whole or in part on the territory of a non-cooperative jurisdiction listed by the Union;
- the offender is a politically exposed person;
- the property or money being laundered is of a value equal to or exceeding EUR 500 000.

Confiscation of property and of the proceeds of criminal activities: each Member State shall provide for the confiscation of all property and proceeds derived from, and instrumentalities used or intended to be used in the commission of, any criminal activity as defined in this Directive. They shall take the necessary measures to ensure **cooperation in the freezing and confiscation of property** derived from, and instrumentalities used or intended to be used in the commission or contribution to the commission of, any of the offences.

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

Investigative tools: sufficient personnel and adequate targeted training, resources and technological capacity shall be made available to the services responsible for investigating or prosecuting the offences.

Lastly, Member States are called on to take the necessary measures to improve data exchange and cooperation within the Union and to increase cooperation with third countries and international organisations countering money laundering and terrorist financing.